

Audit Report on the Six-Stage Complaint Handling Process

July 2024



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Introduction

An effective police complaints system is essential in securing and maintaining public trust and confidence in the police. Dealing with complaints timeously, and ‘getting it right’ helps to restore trust, deliver improvements in policing, and ensure that measures are introduced to prevent what has gone wrong from happening again. In contrast, where complaints are not dealt with effectively, public confidence in the police and the police complaints system can be damaged.

Complaints are a valuable source of information for the police about the service they provide. Public perception of policing is just as important as the outcomes, or the service delivered. Therefore, it is essential that the police value complaints and embrace the opportunity for improvement they present.

Current Context

Between 1 April and 31 December 2023, Police Scotland received 5,512 complaint files (CO files) containing a total of 8,235 individual complaint allegations. This represents an increase of 10.7% from the same period in 2022/23 and an overall increase of 11.6% when compared against the five-year average¹. Police Scotland has acknowledged that the increased demand has impacted upon their ability to investigate and respond to complaints within 56 days² of their receipt in accordance with the Police Scotland’s Complaints About the Police Standard Operating Procedure (internal guidance)³ and the PIRC Statutory Guidance⁴.

In February 2024, Police Scotland reported that 49.7% of CO files were resolved by Frontline Resolution (FLR)⁵. Of those, 90.2% were successfully resolved within 56 days⁶. However, only 11.7% of non-criminal complaints were concluded within 56 days of receipt⁷.

The average time to conclude a complaint from the date of receipt for Q3 2023/24 was reported as 225 days – an increase of 35 days in comparison to Q3 2022/23 and a significant increase from the five-year average of 129 days⁸.

¹ Professional Standards Department (PDS) SPA Performance Report – Quarter 3 of 2023/23 – 27 February 2024.

² All reference to ‘days’ within the report is calendar days as opposed to working days.

³ Police Scotland Complaints about the Police Standard Operating Procedure (“CAP SOP”) Version 9

⁴ [Statutory Guidance - October 2022 | Police Investigation & Review Commissioner \(pirc.scot\)](#)

⁵ FLR allows complaints to be resolved at an early stage by way of explanation, assurance, or apology, usually over the phone or in person.

⁶ Professional Standards Department (PDS) SPA Performance Report – Quarter 3 of 2023/23 – 27 February 2024.

⁷ Professional Standards Department (PDS) SPA Performance Report – Quarter 3 of 2023/23 – 27 February 2024.

⁸ Professional Standards Department (PDS) SPA Performance Report – Quarter 3 of 2023/23 – 27 February 2024.

Aim

The aim of this audit is to provide assurance that:

- The complaints process is accessible.
- All relevant complaints are correctly identified and progressed in accordance with Police Scotland's internal guidance and the PIRC Statutory Guidance.
- Complaint determinations are recorded and supported by key material information.
- Complaints are resolved as quickly and efficiently as possible but not to the detriment of the complaint enquiry and the service offered to complainers.
- Opportunities for learning and improvement are identified.
- Complainers are advised and made aware of their right of recourse to the PIRC for a complaint handling review should they remain dissatisfied with how their complaint was handled.

It also seeks to identify opportunities for learning and improvement; highlight good practice and identify any weaknesses in Police Scotland's complaint handling.

What is a complaint?

A complaint about the police is defined as:

*"A statement, (whether oral, written or electronic) expressing dissatisfaction about an act or omission...by Police Scotland, or a person who, at the time of the act or omission, was a person serving with the police."*⁹

A relevant complaint may relate to actions or omissions, or the standard of any service provided or not provided, which occur on-duty and off-duty.

A complaint can be made by any of the following:

- "(a) a member of the public who claims to be the person in relation to whom the act or omission took place.*
- (b) a member of the public who claims to have been adversely affected by the act or omission.*
- (c) a member of the public who claims to have witnessed the act or omission.*
- (d) a person acting on behalf of a person falling within any of the above."*¹⁰

⁹ Section 34(2) of the 2006 Act.

¹⁰ Section 34(6) of the 2006 Act.

A complaint does not include dissatisfaction by a person who is serving or has served with the police about their terms and conditions of service or any allegation of an act or omission that constitutes a crime.¹¹

The purpose of a complaint enquiry is to:

- Establish what, if anything, has gone wrong and to correct it where possible.
- Identify opportunities for learning and improvement; and
- Upon conclusion of the enquiry, provide a full and transparent response to the complainer explaining the outcome and any action taken as a result of the complaint.

National Complaints Model And The Six-Stage Process

In May 2021, Police Scotland introduced a centralised national complaints model, where all complaints about the police are retained within and dealt with by their Professional Standards Department (PSD). PSD comprises three regional hubs – PSD East, PSD North, and PSD West – supported by the National Complaints Assessment & Resolution Unit (NCARU). When a complaint about the police is received, it is assessed by NCARU who decide whether it is a relevant complaint and how best to deal with it.

If a complaint is suitable for FLR, NCARU will contact the complainer and seek to resolve the complaint by providing an explanation, assurance, and/or an apology. If a complaint is not suitable for FLR or where early resolution has not been achieved, NCARU will pass the complaint to one of three Investigation Teams within PSD, namely:

- Criminal Investigation Team – deals with criminal allegations and where appropriate refers them to the Criminal Allegations Against Police Division (CAAP-D) of the Crown Office and Procurator Fiscal Service (COPFS) or the PIRC.
- Proportionate Investigation Team – deals with complaints that are otherwise suitable for FLR but not achieved and/or low-level complaints that can be responded to following a proportionate level of enquiry.
- Non-Criminal Investigation Team – deals with all other non-criminal complaints that fall out-with the scope of the Proportionate Investigation Team.

Each PSD region has its own non-criminal team, supported by the ‘Proportionate Investigation Team’ based in PSD West. The teams are managed by an Inspector

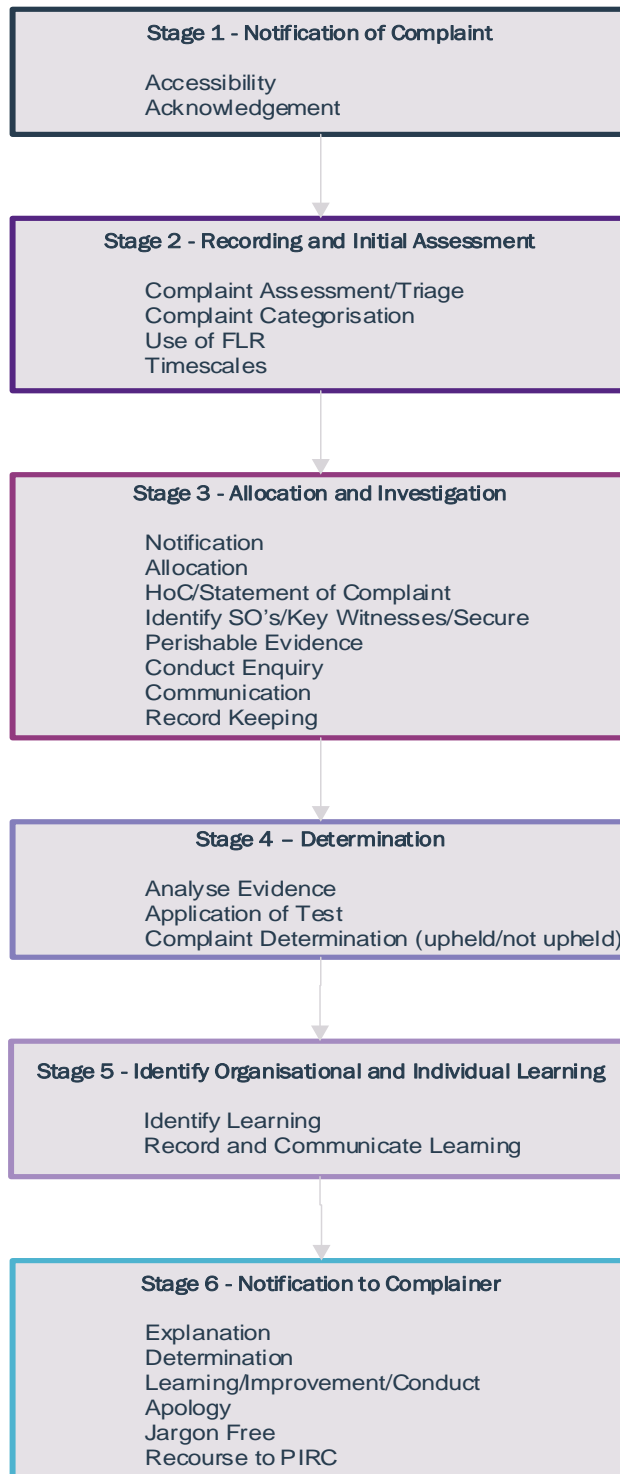
¹¹ Section 34(3) of the 2006 Act.

(who oversees the day-to-day running of the team) and approximately six Enquiry Officers¹² (EOs) (primarily Sergeants) responsible for investigating complaints.

The centralised national complaints model has been a positive development in bringing about consistency of approach in complaint handling practice, but it is evident that increasing backlogs and resourcing challenges, heightens the need to identify opportunities for PSD to work smarter, more efficiently, and to do 'more with less' without compromising the quality of complaint handling.

¹² The Enquiry Officer (EO) is a complaint handler within PSD responsible for investigating and responding to complaints about the police.

The six-stage complaint process



Applicable Guidance

PIRC has issued Statutory Guidance setting standards for police complaint handling in Scotland and providing practical advice on how to handle complaints. The Police Scotland Complaints About the Police Standard Operating Procedure Version 9 (internal guidance) outlines their procedures and approach to complaint handling. Together, these documents provide a complaint handling framework for processing complaints received by members of the public.

Scope of Audit

During the audit, we examined:

- **The Six-Stage Complaint Form & Complaint Enquiry, including:**
 - the accuracy and content of the record keeping.
 - the proportionality of the complaint handling.
 - the user – friendliness of the six-stage complaint form/process.
- **Communication & Complainer Contact, including:**
 - the regularity of contact with the complainer.
 - the content of the contact logs.
 - compliance with Police Scotland guidance on updating the complainer whilst a complaint enquiry is ongoing.
 - the accessibility of the complaint process.
 - where requested, the provision of reasonable adjustments.
- **Final Response Letters, including:**
 - the clarity of the final response, including whether there is a clear explanation of enquiries undertaken and a determination on whether the complaint is upheld/not upheld.
 - whether the letter is tailored to the individual needs of the complainer.
 - whether complainers are being advised of their right of recourse to PIRC.
- **Learning, including:**
 - identified learning (individual/organisational) is being accurately recorded and acted upon.
 - compliance with procedures for recording and disseminating learning.
 - whether learning identified is recorded and informs future complaints handling.
- **Timescales, including:**
 - compliance with the 56-day timescale for investigating and responding to complaints.
 - any bottlenecks that may be contributing to delays.
 - any opportunities for processes to be streamlined to improve efficiency.

Our audit does not include the work of NCARU and the initial complaints triage. This was the subject of our previous audit, (NCARU audit) published in April 2023, and will be the subject of a follow up audit in early 2024/25.

Methodology

We adopted a mixed-method approach which combined the following evidence gathering methods:

- **File Review**

- We reviewed a statistically significant sample of files that had progressed through the full six-stage process to conclusion, between 1 July and 30 September 2023 (i.e., Q2 2023/24).
- Our sample was selected at random using a randomisation tool applied against a list of all CO files concluded by PSD during Q2 2023/24.
- The files were assessed against an agreed question set, designed to fulfil the audit aims and objectives.
- The files were provided electronically by PSD via Egress, which allowed for the file review to take place at PIRC's offices in December 2023.

- **Document Review**

- We assessed PSD's compliance with the relevant guidance extant during our audit, namely Police Scotland Complaints About the Police Standard Operating Procedure (version 9) and the PIRC Statutory Guidance (last updated May 2022).

- **Interviews**

- PIRC staff conducted interviews between 10 and 22 January 2024 via MS Teams with 10 PSD Staff working within non-criminal investigation teams – 3 x Inspectors (one from each PSD region) and 7 x Sergeants (one from the Proportionate Investigation Team and two from each of PSD region).
- Each staff member interviewed was asked an agreed set of questions aligned with the following themes:
 - Leadership, Governance and Workload
 - Training and Guidance
 - Processes and Procedures
 - Effectiveness
 - Quality Assurance/Control Measures
 - User Engagement/Service Improvement

- Communication and Accessibility
- Learning
- Conduct
- Resourcing

File Review

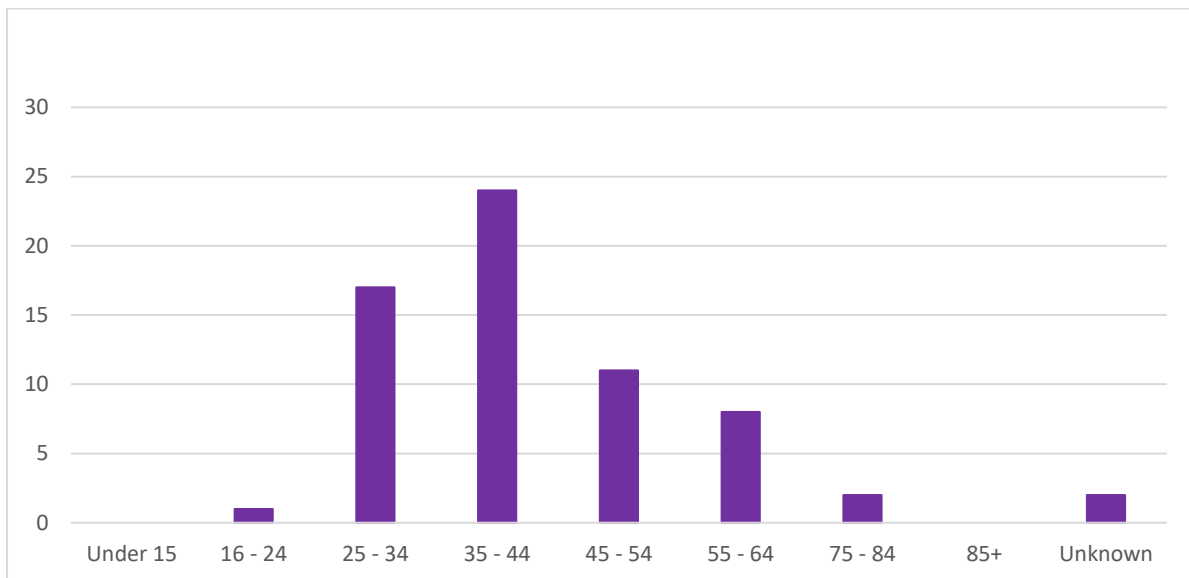
We selected 66 complaint (CO) files which had progressed through the six-stage process to conclusion between 1 July 2023 and 30 September 2023. Two files had two individual complainers¹³, which were considered separately, resulting in a total sample of 68 files which were equally allocated across the three geographical PSD regions.

Age Profile & Gender

Of the 68 files, 40 complainers were male or self-identified as male, 27 were female or self-identified as female, and one complainer did not specify their gender¹⁴.

Chart 1 depicts the age profile of the sample.

Chart 1



¹³ Each complainer had a different level of interaction and engagement with PSD during the complaint enquiry. As a result, a separate record was created for each complainer.

¹⁴ An anonymous complaint.

Protected Characteristics

Five files contained information indicating that the complaint related to a protected characteristic¹⁵. Three concerned the complainer's disability; one concerned the complainer's age; one concerned the complainer's sexual orientation, and one concerned their race.

Acknowledgement

We wish to thank all those who shared their knowledge and experiences with us. We met with committed professionals whose contributions assisted in forming our findings and recommendations.

¹⁵ The characteristics protected under the Equality Act 2010 include: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. In one file, the complaints related to the protected characteristics of sexual orientation and age.

Recommendations

Recommendation 1

Police Scotland should review the accessibility of the complaints system for members of the public whose first language is not English.

Recommendation 2

Police Scotland should review the existing online complaint form, with a view to introducing more options in relation to recording gender.

Recommendation 3

Police Scotland should revise the initial complaint acknowledgement letter and include an explanation on next steps as the complaint passes through the complaint process, when complainers should expect to be contacted, and estimated timescales.

Recommendation 4

Police Scotland should enhance the existing six-stage form to prompt NCARU to secure perishable evidence at the earliest opportunity.

Recommendation 5

Police Scotland should consider separating the complainer contact and the enquiry log into two distinct logs that require to be updated by EOs.

Recommendation 6

Police Scotland should develop supporting guidance to accompany the new six-stage form that is being developed by PSD.

Recommendation 7

Police Scotland should revise their guidance to provide greater clarity on the processes for dealing with and managing complaints involving a mix of criminal and non-criminal complaints.

Recommendation 8

Police Scotland should conduct a performance data review taking account of the increased demand and the existing resource to establish an evidence-based proposal around new timescale Key Performance Indicators (KPIs) for dealing with different types of complaints.

Recommendation 9

Police Scotland should revise the guidance on the identification, recording and dissemination of learning, including the use of positive terminology that aligns with the culture of learning. The complaint disposal codes should be amended to include categories where upheld complaints lead to improvement action or individual/organisational learning.

Recommendation 10

Police Scotland should strengthen the current guidance on the Quality Assurance (QA) process and seek to ensure that all complaint files contain an auditable trail of QA by a senior officer.

Stage 1 – Notification of Complaint

1. It is important that members of the public are aware of the different routes that are available if they wish to complain.¹⁶ They can complain in person; by telephone; in writing (by letter or email); and via the online complaint form or ContactUs¹⁷ form on the Police Scotland website. Alternatively, complainers may be directed to the Police Scotland website by scanning a complaint QR code with a smart device, which is available to officers as a PDA quick link and in printable format¹⁸.
2. A flexible approach is required when it comes to supporting minority or vulnerable groups who may wish to complain. Steps should be taken to remove any barriers to making a complaint and due consideration should be given to whether reasonable adjustments are required to meet the needs of the individual complainer, taking cognisance of different protected characteristics or any vulnerabilities. Users, whose first language is not English, who are directed to the Police Scotland website by scanning a QR code with a smart device, may be automatically prompted to translate information into their home language¹⁹.
3. Regardless of how a complaint is received, in terms of Police Scotland’s internal guidance, all relevant complaints should be acknowledged within 3 working days.²⁰ Complainers using the online complaint form or ContactUs form will receive an automated acknowledgment when the complaint is submitted. If the complaint is made by another means i.e. in person, by letter or telephone, it should be acknowledged and submitted to PSD on a Complaint Capture Form within 24 hours of receipt²¹.

We examined:

- Whether complaints are submitted to PSD on a Complaint Capture Form within 24 hours of receipt.
- Whether complaints are acknowledged timeously.
- The accessibility of the complaints system.

¹⁶ Paragraph 49 of the PIRC Statutory Guidance

¹⁷ ContactUs is an online form that members of the public can use to contact Police Scotland about issues that are non-serious/non-emergency.

¹⁸ Page 7 of the CAP SOP, version 9.

¹⁹ Page 7 of the CAP SOP, version 9.

²⁰ Page 7 of the CAP SOP, version 9, and paragraph 24 of the PIRC Statutory Guidance

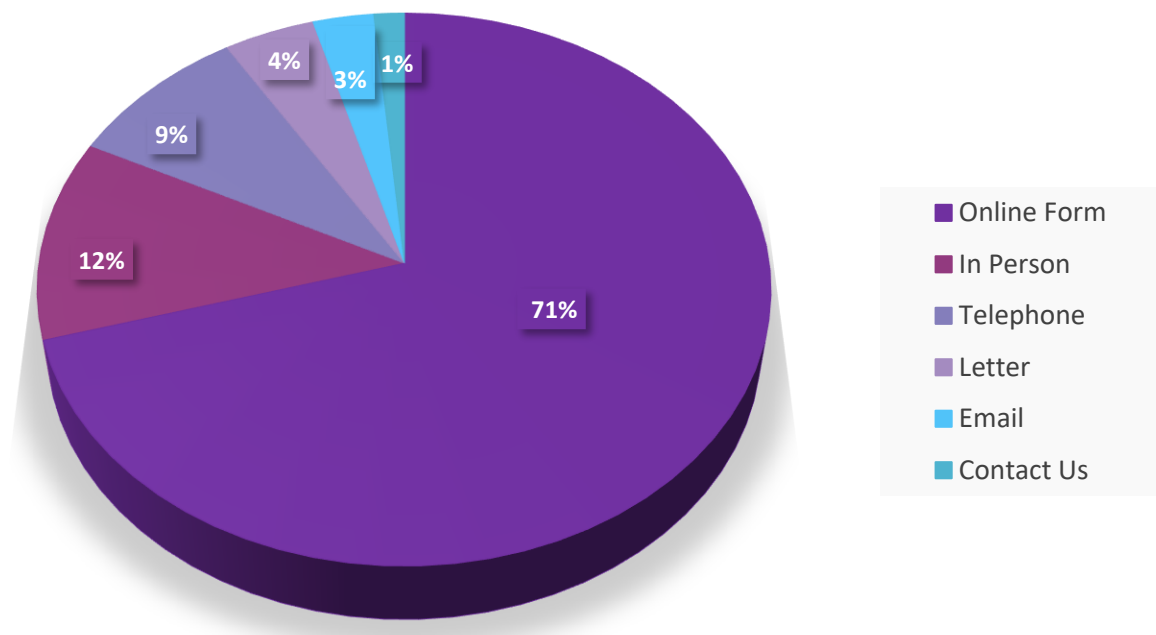
²¹ Page 8 of the CAP SOP, version 9

What we found

Receiving complaints

- Of the 68 files, the online complaint form was the most popular method utilised, accounting for 49 files (71%) of our sample²². Chart 2 demonstrates the other methods used by complainers.

Chart 2



Submitting complaints to PSD within 24 hours of receipt

- Of the eight files where the complaint was made in person, all were captured on a Complaint Capture Form and emailed to PSD on the same day the complaint was received. This demonstrates good practice.

Acknowledging complaints

- The previous NCARU audit identified that the majority of complainers were not contacted within three days of their complaint being received. We found there was a recorded attempt to contact the complainer within three days in only 41 (22%) cases²³. We previously recommended that, rather than focus on personal engagement within three days, it may be more beneficial to acknowledge receipt of the complaint within this timeframe and make personal contact over a slightly longer time²⁴.

²⁴ Paragraph 21 of the PIRC Audit Report of Police Scotland on the triage of Complaints about the Police, April 2023.

7. In the current sample, 49 (71%) complainers, that made their complaint using Police Scotland's online complaint form or the online ContactUs form, should receive an automated acknowledgement confirming receipt of their complaint at the point of submission, unless they fail to provide an email address or they provide an incorrect email address. In three of the 49 files, the complainer failed to provide an email address and consequently did not receive an automated email acknowledgement. Of these three files:
 - 2 were contacted by telephone within 7 days and provided with an acknowledgement letter within 21 days; and
 - 1 was contacted by telephone within 13 days but there was no acknowledgement letter in the complaint file.
8. One complainer used ContactUs to make their complaint but, despite submitting three separate emails to ContactUs, there was no automated acknowledgement within the complaint file. Instead, the complaint was acknowledged by email within 17 days of receipt, with a further acknowledgement letter sent to the complainer within 24 days.
9. For the remaining 18 complainers (28%) who used another means to make their complaint i.e., letter, telephone, in person, only ten (53%) received an acknowledgement within three days of making their complaint²⁵.
10. Of the remaining eight complainers:
 - 3 received an acknowledgement between 4 and 7 days, and
 - 5 received an acknowledgement between 8 and 20 days.
11. For complainers who do not make their complaint online, PSD should consider how they can streamline the acknowledgment to ensure that all complainers – regardless of how they made their complaint – receive an acknowledgement within three days.
12. We observed differences in the wording contained within the standard automated acknowledgment email and the standard acknowledgment letter. Notably, the standard acknowledgement letter advises complainers to contact 101 if they require further assistance and informs them that this is how they can speak to PSD. However, as 101 is not a direct line to PSD, this could be considered misleading and may lead to increased dissatisfaction from the outset.

²⁵ 6 complainers received the standard Police Scotland acknowledgement letter by post or email, 3 complainers received a telephone acknowledgement by telephone, and the remaining complainer received a general email.

13. Furthermore, the standard e-mail and letter acknowledgements are brief and lacking detail on what the complainer should expect to happen next. There is an opportunity to review and align the wording of the acknowledgement e-mail and template letter, to enhance both to include details regarding the next stage of the complaints process and the timescales involved. This may manage complainers' expectations from the outset.

Representatives/Third party complainers

14. We identified five files where the complaint was made by a representative or third party on behalf of the complainer. Four contained evidence that the appropriate consent had been obtained from the third party to allow the representative to act on their behalf. In the remaining case, while it was unclear that consent had been obtained, as the third party alleged to have witnessed the act in question, they would be permitted to make a complaint about the police in terms of the 2006 Act. This demonstrates good compliance with the PIRC Statutory Guidance²⁶. It also indicates that PSD are taking the appropriate steps to ensure that the complaint process is accessible to representatives and third-party complainers.
15. This contrasts with the findings in the NCARU audit, where we identified that 6% of the Miscellaneous (MI) files examined contained a relevant complaint that had not been recorded as such because the person making the complaint was not considered a 'competent complainer'²⁷ i.e., a third party not considered to have been affected by the incident giving rise to the complaint. We are encouraged that Police Scotland has taken steps to bring about an improvement in identifying third party complainers or representatives.

Reasonable Adjustments

16. We identified four files where the complainer asked for reasonable adjustments. In two, the complainers advised that they did not want to be contacted by the police, which was accommodated.
17. In one file, a request regarding the complainer's preferred contact method was not noted by the EO.²⁸
18. The case study below is the final example of where reasonable adjustments were requested.

²⁶ Paragraph 50 of the PIRC Statutory Guidance

²⁷ Paragraph 85 of the PIRC Audit Report of Police Scotland on the triage of Complaints about the Police, April 2023

²⁸ The complainer requested that contact be made by letter. The CAP form states: "Unable to make contact with the complainer to clarify the circumstances as no telephone number or email address has been provided".

The complainer, whose first language was not English, made her complaint by phone, with support from a friend. She was then invited to attend a police office and an interpreter was arranged. However, the complainer chose not to engage, and she was then signposted to make a complaint on the Police Scotland website.

The complainer made non-criminal and criminal complaints. The non-criminal complaints were ultimately abandoned. An email contained within the complaint file stated that, due to the language barrier, there would be little value in sending a 14-day letter²⁹.

This case initially demonstrated good practice with consideration being given to the complainer's needs, however, this was not continued as the case progressed.

19. Our NCARU audit recommended that Police Scotland include a field within the six-stage form to record whether any reasonable adjustment is required; and, if so, whether the adjustment was made. We are pleased to report that this has been accepted and is now included within the revised six-stage form.

What we heard

Accessibility of making a complaint about the police

20. During our interviews, there was a consensus that the police complaints system is accessible. They referenced the various options available for making a complaint and highlighted that the Police Scotland website explains how the complaints process works and contains links to the relevant forms. However, it was recognised that the 101 number hinders accessibility³⁰ to PSD and that there would be value in PSD being more accessible, although this would need to be balanced against the potential impact on resources. An officer explained that, with the current level of resources, if enquiry officers were expected to speak to complainers whenever they wished, the department would "*grind to a halt.*"
21. Most officers did highlight the challenges presented by members of the public who do not speak English as a first language, particularly as all of the content on the Police Scotland website is in English. One officer mentioned that they rely on Google Translate in such circumstances and suggested that it may be beneficial to have a bank of template letters available in other languages; a reliable system that can provide translation services; or a list of colleagues within the wider police service who are fluent in different languages who may be called upon to assist.

²⁹ Where a complainer cannot be contacted by telephone, NCARU will write to or email the complainer requesting that they make contact within 14-days. If NCARU cannot contact the complainer after the 14-day warning has been issued, there will be an assumption that the complaint has been 'Abandoned' and will be closed as such.

³⁰ 101 is the non-emergency contact number for Police Scotland, not a direct line into PSD.

22. As noted, if complainers are directed to the Police Scotland website by scanning a QR code with a smart device, they may be prompted to translate information in their home language³¹. The QR code is available to officers, via their PDA or in printable format, to present to complainers who require or request it. It is, therefore, an option that is primarily available to those who complain in person or are aware of this option and specifically request it. Police Scotland should consider adding the QR code to their website, which will improve the accessibility of the complaints process to those that do not speak English as a first language.
23. Most officers explained that any reasonable adjustments requested by a complainer should be recorded by NCARU on the complaint handling form (usually on the contact log or under the “preferred method of contact” section), in order for the information to be easily accessible to the EO. There is currently no field within the six-stage form to record this information.
24. Another advised that any reasonable adjustment requests should be picked up by NCARU as part of the initial assessment but acknowledged that this process is not “*fool proof*.”
25. Another identified a potential issue with the accessibility of the online form advising that a member of the public had complained, as they were required to select a title (i.e. “Mr”) despite being gender neutral.

Recommendation 1

Police Scotland should review the accessibility of the complaints system for members of the public whose first language is not English.

Recommendation 2

Police Scotland should review the existing online complaint form, with a view to introducing more options in relation to recording gender.

Duplication of work

26. Among the officers, there was a consensus that there is a great deal of duplication and “double-keying” at this stage of the complaint process. One officer explained that the level of repetition and duplication is more significant for NCARU, as they have to populate the six-stage form with all the information they receive from the initial complaint (i.e. the online form, letter, etc.). One officer suggested that Police Scotland’s online complaint form could be auto populated onto the forms used within PSD, to reduce the amount of information that requires to be copied at the start of the process. This does appear to be an attractive option to minimise administrative work.

³¹ Page 7 of the CAP SOP, version 9.

Stage 2 – Recording & Initial Assessment

27. Stage 2 of the complaint process involves the initial assessment and recording of complaints on the police complaints database. This is undertaken by NCARU. Consistency in approach and accuracy are essential.

We examined:

- Timescales for identifying relevant complaints.
- Whether relevant complaints about the police were properly identified, assessed, and appropriately categorised.
- Whether FLR was attempted only for complaints in accordance with the internal guidance.
- Whether criminal allegations were appropriately identified and progressed in line with the internal guidance.

Initial Assessment

28. The initial assessment requires police complaint handlers to have a good understanding of what constitutes a relevant complaint and of the different complaint categories. If it is assessed that a complaint is not a relevant complaint³², it will be recorded as a MI file and the complainer will be notified³³.

What we found

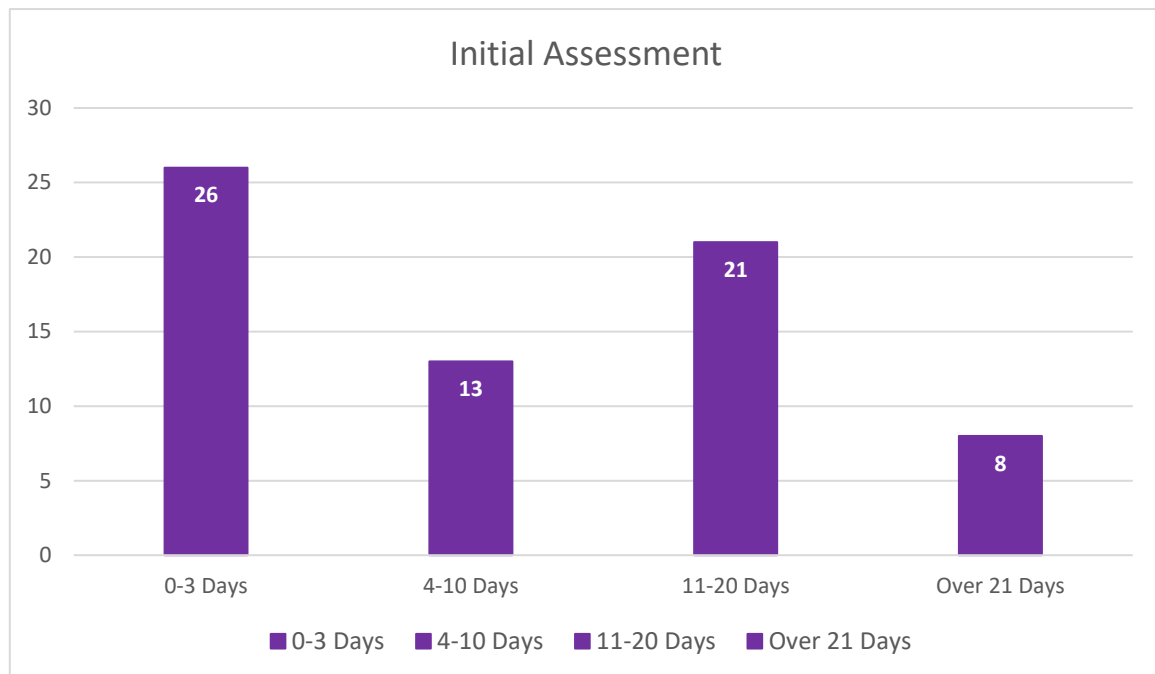
29. Whilst there are no specific timescales assigned to the initial assessment stage of the complaint process, we examined how quickly complaints were being assessed by NCARU.

³² Section 34 of the 2006 Act.

³³ CAP SOP V9, page 7.

Chart 3 illustrates the length of time taken to complete the initial complaint assessment.

Chart 3



30. On average, it took 10 days to assess new complaint allegations. This should not adversely affect Police Scotland’s ability to conclude the handling of the majority of complaint allegations within the prescribed 56 days. However, within our sample, as shown above, there were significant variations in the assessment timescales.

Relevant Complaints

31. We found that 65 (96%) of the files had correctly identified at least one relevant complaint about the police. This is a positive development given the findings of the NCARU audit³⁴, where we found that a lack of understanding of what constitutes a relevant complaint resulted in 36% of MI files being incorrectly categorised and found to contain relevant complaints that should have been recorded and investigated.³⁵ Whilst this audit examined CO files rather than MI files, the findings are nonetheless encouraging, demonstrating that there has been a significant improvement by complaint handlers in identifying and recording relevant complaints about the police.

³⁴ Paragraph 137 of the PIRC Audit Report of Police Scotland on the triage of Complaints about the Police

³⁵ Paragraph 72 of the PIRC Audit Report of Police Scotland on the triage of Complaints about the Police

What we heard

32. We were told that, prior to allocation, the PSD Regional Inspector will assess a complaint file to establish the nature/seriousness of the complaint and/or the number of complaints for enquiry. Inspectors will also consider the experience of complaint handlers within their team and their capacity in terms of their workload. This is an informal assessment, conducted after NCARU has completed the initial assessment of the complaint, and at the point when the file is passed onto the non-criminal team for enquiry. It is designed to ensure that the more serious and complex cases are picked up quickly and prioritised over those cases that are less serious/complex.
33. Once the priority cases have been allocated, the remaining pending cases will be allocated in reverse chronological order (i.e. oldest to newest complaint). Inspectors therefore conduct some form of basic risk assessment to prioritise case allocation. However, the rationale is not recorded, and the complaints are not categorised as Tier 1, 2 or 3 as per Police Scotland's internal guidance. Some of the officers highlighted the absence of a specific field or section for this information to be recorded within the six-stage form. However, we have been advised that the new six-stage form includes a field to record the appropriate tiers which, going forward, should assist with timely identification and allocation of the most serious complaints.

Frontline Resolution (FLR)

34. Police Scotland's internal guidance identifies three specific assessment tiers, namely:
 - Tier 1 – Non-criminal complaints which are minor or trivial and can be resolved by early resolution.
 - Tier 2 – Non-criminal complaints which are not suitable for FLR and are allocated to PSD investigations teams.
 - Tier 3 – Criminal and serious/complex complaints which are allocated to PSD investigations teams, or as required, to the PIRC.
35. Complaints assessed as Tier 1, would initially be progressed by FLR – a less formal and much quicker process, which seeks to resolve the complainers' dissatisfaction by providing an assurance, an explanation, or an apology. In files where FLR is successful, this is the end of the process. If FLR is not achieved, the policing body must determine whether it is proportionate to progress the complaint to a full enquiry.

What we found

36. 14 files (21%) contained complaints that were deemed suitable for FLR as they were relatively straightforward and minor in nature. FLR was attempted in 13 of these files, with one ultimately leading to successful resolution. As this audit only included files progressed through the six-stage process (i.e., were either not suitable for FLR or FLR was not achieved), our findings are consistent with what we would anticipate from this sample.
37. Of the remaining 54 files, FLR was attempted in 20 files where we did not consider the use of FLR to be appropriate (i.e., complaints that would be assessed as Tier 2 and 3 under the Police Scotland internal guidance). Of the 20 files, the FLR attempt was only successful in one case.
38. An early assessment of the complaints in terms of the relevant (or applicable) Tier would assist PSD with early identification of complaints suitable for FLR and those that require to be progressed to an investigations team or specialist department.

Criminal Allegations

39. If, during the initial assessment, a criminal allegation is identified, Police Scotland will notify the CAAP-D within the COPFS. They independently assess the allegation, and direct how to proceed. If the criminal allegation is one of assault, the PSD will record the allegation and refer it to PIRC for further assessment and, if necessary, investigation³⁶.

What we found

40. Police Scotland identified and recorded criminal allegations in 15 files, all of which contained evidence to support that the allegation was referred to COPFS or PIRC for assessment. This demonstrates good compliance with the established procedures for the referral of criminal allegations.

What we heard

41. PSD staff, and other complaint officers, demonstrated good awareness of the procedures for referral of criminal allegations for independent assessment, the requirement to preserve any perishable evidence and the need, in certain

³⁶ CAP SOP V9 page 5.

circumstances, to pause or suspend the non-criminal complaint enquiry pending the assessment and investigation of criminal allegations.

Complaint Categorisation

42. The initial assessment requires the EO to determine if the complaint concerns on-duty or off-duty conduct. Police Scotland's internal guidance has identified 12 sub-categories for On-Duty complaints, namely:

- Assault
- Excessive Force
- Incivility
- Neglect of Duty
- Irregularity in Procedure
- Traffic Irregularity/Offence
- Oppressive Conduct/Harassment
- Unlawful/Unnecessary Arrest or Detention
- Discriminatory Behaviour
- Corrupt Practice
- Other – Criminal
- Other – Non-Criminal

43. Additionally, the Irregularity in Procedure category has a further 18 sub-categories and Discriminatory Behaviour has a further nine sub-categories broadly aligned with protected characteristics.

44. In some instances, complaints may concern general dissatisfaction with the service received, rather than specific actions or omissions by officers. In such circumstances, a Quality-of-Service category should be recorded. The Quality-of-Service category is split into three sub-categories:

- Policy/Procedure
- Service Delivery (policing response/time of response/type of response)
- Service Outcome (lack of satisfaction with action taken/failure to act)

A full list of complaint categories is contained within Appendix A.

What we found

45. We found 50 files (74%) contained at least one On-Duty Non-Criminal complaint allegation; 32 files (47%) contained at least one Quality-of-Service allegation, and 15 files (22%) contained at least one On-Duty Criminal allegation.

Chart 4 illustrates the complaints by categorisation.

Chart 4

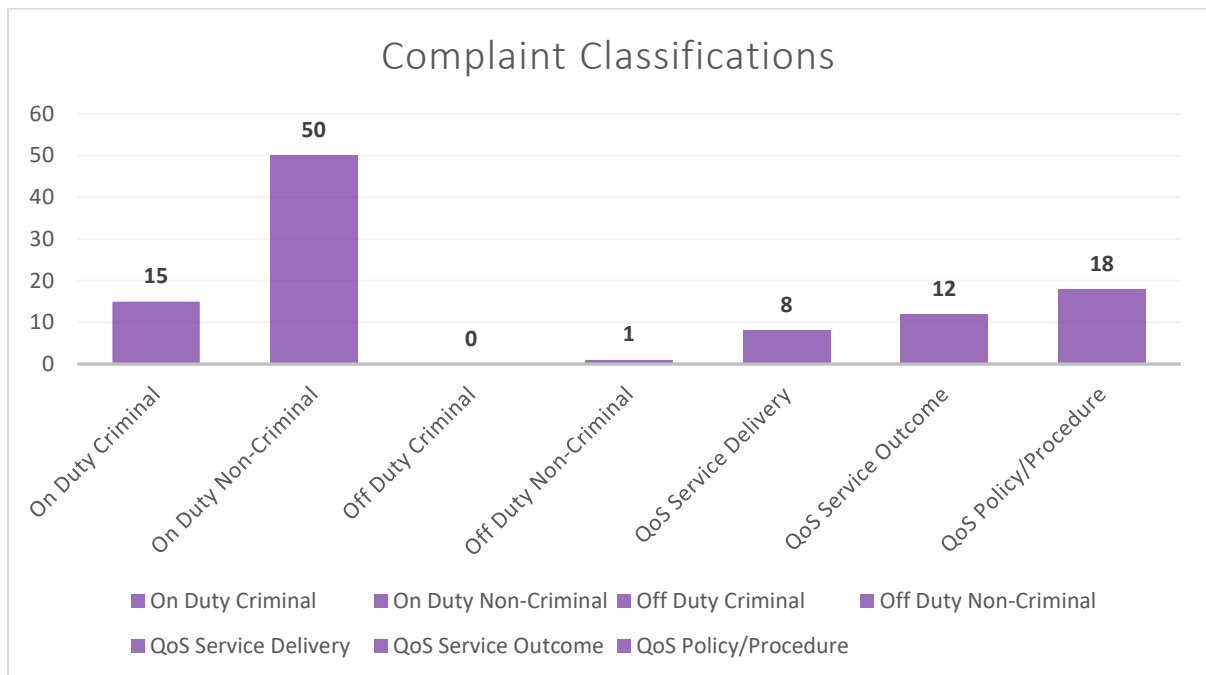


Chart 5 illustrates on-duty non-criminal complaints by category.

Chart 5

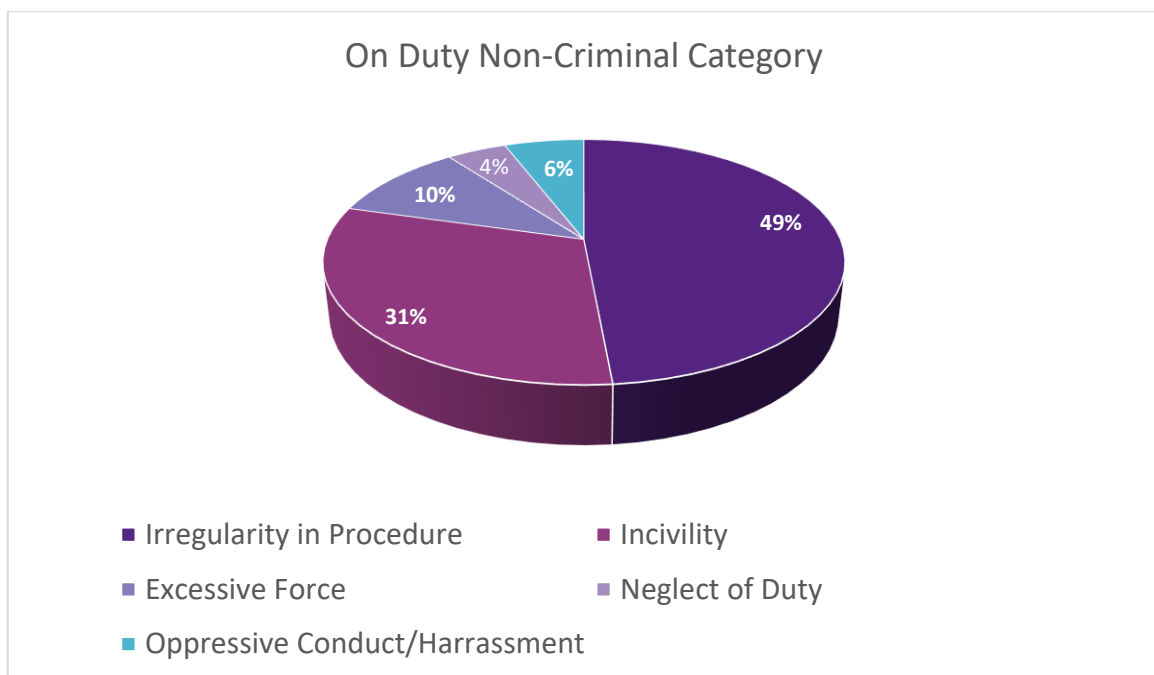
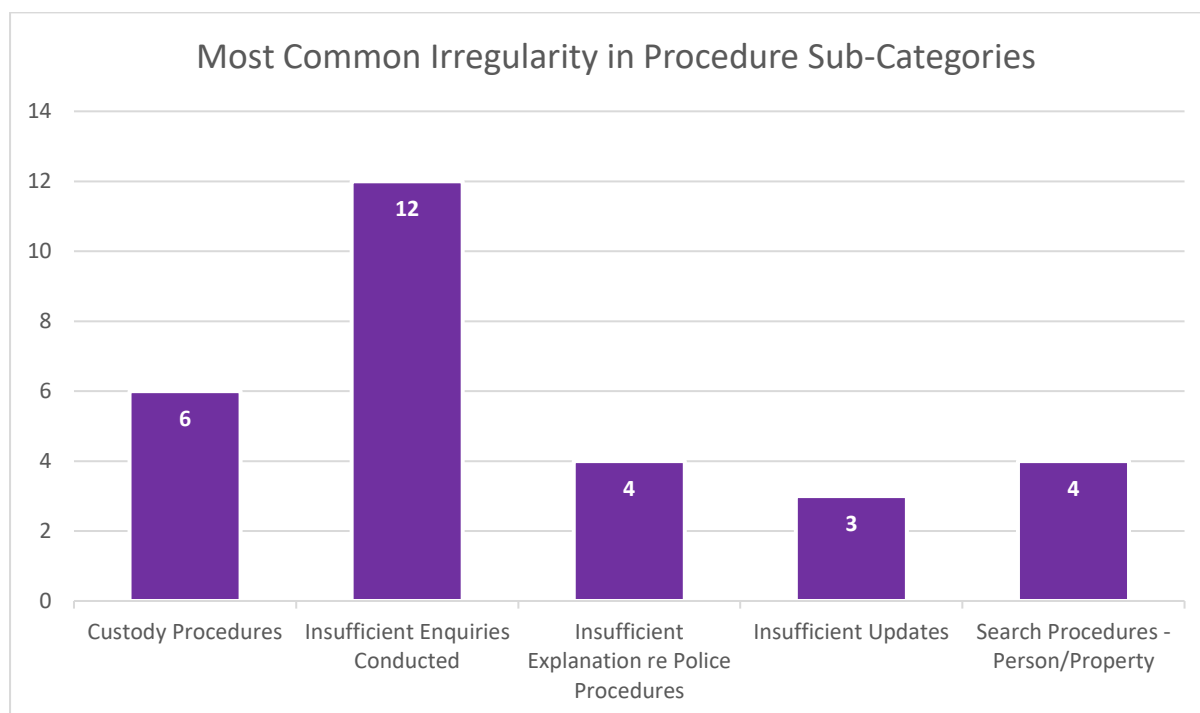


Chart 6 illustrates the most common Irregularity in Procedure sub-categories.

Chart 6



46. Overall, we agreed with the categorisation of identified and recorded complaints in 54 (79%)³⁷ of the files. In the remaining 14 files, 12 out of 14 were categorised as Quality-of-Service complaints. As these complaints concerned specific actions by individual officers rather than organisational failings, we concluded that they should have been categorised as On-Duty Non-Criminal complaints. In the other two files, the complaints were categorised as On-Duty Non-Criminal complaints, but we assessed that the categories selected were incorrect, based on the details of the allegations provided by the complainer.

Early Intervention

47. PSD relies on an Early Intervention process (EI) to identify officers/staff members who are the subject of repeated complaints, the aim being to intervene timeously and take appropriate action to address issues. The process is based on the analysis and profiling of an officer/staff member's complaint history. An officer/staff member will be identified for consideration of EI following the activation of a trigger of four separate complaints within the preceding year. This is effective as a rolling year³⁸.

³⁷ As the categorisation of complaint can change during the complaint enquiry as more information becomes available, we focused on the final complaint categorisation rather than initial complaint categorisation by NCARU.

³⁸ Page 27, Police Scotland CAP SOP v9.

48. Correct categorisation is vital in assisting with this process. Failure to identify and record complaints against subject officers (SOs), could lead to trigger points being missed and EI being significantly undermined as a result.

The complainer reported domestic abuse allegations. After the initial attendance by two officers, the complainer contacted the police and expressed dissatisfaction that the officers showed no interest in her allegation, did not listen to her, were patronising, demonstrated a lack of knowledge and training for dealing with domestic abuse, did not note a statement, and did not initiate a criminal investigation.

The allegation that officers failed to note a statement or initiate a criminal investigation was recorded as Quality-of-Service – Service Outcome. As the complaint allegation referred to two individual officers failing to note a statement and to initiate an investigation, Neglect of Duty or Irregularity of Procedure categories were more appropriate. Further, while the officers were advised that they were subject officers in relation to this complaint, the six-stage form did not reflect this due to the incorrect categorisation.

The complainer alleged that two officers forced their way into her house without a warrant or permission, proceeded to search her house and take photographs without permission, and then question her son. Despite having made four separate complaints expressing dissatisfaction with the actions of two specific officers, the complainer's allegation was recorded as a single Quality-of-Service – Policy/Procedure complaint. In these circumstances, it was more appropriate for the complaint to be categorised and recorded as an Irregularity in Procedure – Search of Premises/Persons and Forced Entry.

49. Quality-of-Service should be reserved for complaints about policing policy, practice, or procedure rather than how an officer delivered the particular service.

What we heard

50. During the interviews, it was evident that the process of categorising complaints is subjective. Many expressed the view that, whilst the large number of complaint categories (and sub-categories) allows for a degree of flexibility, it also has the potential for inconsistency in approach.
51. It is recognised that NCARU often has very limited information at the outset when it comes to accurately categorising a complaint and, therefore, the initial categorisation can often change during the complaint enquiry as more information is obtained.

52. There is often difficulty in assessing whether a specific complaint should be categorised as a Quality-of-Service complaint (i.e., a complaint about an organisational failure) or an Irregularity of Procedure complaint (complaint about individual officers). It was said that the Quality-of-Service category is sometimes preferred because it removes the requirement to identify and contact the SO or seek their account to address the allegation. However, this approach denies SOs of their right of response to a complaint.
53. This feedback resonates with our findings detailed above³⁹ in that there were 12 files where the Quality-of-Service category was selected when the complaints were about specific actions of identified officers. In light of this, we consider that there is scope to improve and clarify the current guidance available to EOs to assist with the correct categorisation of complaints. In that regard, we are aware of ongoing work in relation to a recommendation from the NCARU audit which seeks to provide more detailed guidance on the difference between individual and organisational shortcomings. Successful implementation of that recommendation should assist with the issues we have identified around complaint categorisation.

Stage 3 – Allocation & Investigation

54. Stage 3 involves the allocation and actual complaint investigation.

We examined:

- If complaints are allocated to EOs of a higher rank than the officer(s)/staff member(s) complained about and there is no conflict of interest.
- Whether EOs obtained a statement of complaint, agreed the HoC with complainers, and provided complainers with a copy of the agreed HoC.
- Whether EOs correctly categorise complaints.
- Whether EOs have advised subject officers identified of their right of response and have provided sufficient information to enable them to respond to the complaint.
- Whether key witnesses – police and civilian – were identified by the EO and provided with sufficient information to respond to the complaint.
- Whether EOs secured perishable evidence.
- Whether EOs maintained a contact log to record all communication with the complainer.
- Whether EOs maintained an auditable record of all enquiries conducted into the complaint, including why certain lines of enquiry were not pursued.
- Whether complainers are provided with a response to their complaint within 56 days of the complaint being made.

³⁹ Paragraph 46

- Whether EOs contacted the complainer every 28 days when the 56-day timescale was not met and provided a progress update and/or explanation for the delay.
- Whether complainers who made criminal and non-criminal complaints received a response to the non-criminal complaints once the criminal allegations were addressed or proceedings had concluded.
- Whether EOs and their Inspector/Chief Inspector are referring matters to conduct for assessment (where appropriate).

Notification

55. Police Scotland aim to advise complainers if their complaint will be passed for enquiry within three days of the complaint being assessed.

What we found

56. 52 (76%) of complainers were advised that their complaint was being passed to an investigation team for enquiry. This was communicated to 25 (48%) complainers by letter, and for the remaining 27 files:

- 9 were notified by telephone call.
- 8 were notified by email.
- 5 were notified by text message, and
- 5 were notified by using more than one form of communication.

57. Only 24 (46%) of complaints were passed to the non-criminal team for enquiry within three days of the complaint being assessed by NCARU, with the average time being 17 days.

58. It is noteworthy that the standard letter issued to complainers after their complaint has been passed for enquiry is identical to the letter sent by PSD acknowledging initial receipt of the complaint. The letter does not advise the complainer that their complaint has been passed for enquiry, nor what they can reasonably expect to happen next, or the timescales of when they should expect to be contacted.

59. Rather than repeat the content of the initial acknowledgement, we recommend that Police Scotland should revise the initial acknowledgement letter to make it more informative. This will help to manage complainer's expectations from the outset and would negate the need for any additional correspondence to be sent after the initial acknowledgement has been issued.

Recommendation 3

Police Scotland should revise the initial complaint acknowledgement letter and include an explanation on next steps as the complaint passes through the complaint process, when complainers should expect to be contacted, and estimated timescales.

Complaint Allocation

60. The complaint will be allocated to a dedicated EO, who should ideally be of a higher rank than the officer(s) complained about. They should have no prior involvement in the incident giving rise to the complaint to ensure the investigation is undertaken objectively, impartially, and fairly. The enquiry should be thorough but proportionate. It requires to establish the facts behind the complaint and enable an effective and appropriately reasoned letter to be issued to the complainer explaining the complaint outcome.

What we found

61. Of the 54 files where subject officers were identified, 43 (80%) were allocated to an EO of a higher rank than the officer(s) complained about. In the remaining 11 files where the EO was of the same rank as the subject officer, the final response letter was issued by an officer of higher rank than the subject officer (i.e., a Sergeant or an Inspector) and/or the six-stage form had been approved by an Inspector prior to the case being closed.
62. We acknowledge that it is not always possible for complaints to be investigated by an officer of a higher rank than those complained about and, in those circumstances, having an adequate level of supervisory oversight achieves that purpose.
63. We found no conflicts of interest within the files examined.
64. There was, however, significant delays between the complaint being passed for enquiry and its subsequent allocation to an EO. We were only able to assess timelines in 33 files as the remaining files did not contain the date the complaint was referred for enquiry and/or the date that it was allocated to an EO.
65. The average time that a complaint was pending allocation to an EO in the 33 files was **98 days**. This is significantly greater than the 56-day timescale that Police Scotland aims to investigate and formally respond to complainers, resulting in the complaint response being overdue before the complaint enquiry has commenced. The delay in allocating complaints is of concern and indicative of the current demand on PSD exceeding the allocated resources.

66. There were five files where there was no recorded contact with the complainer between the complaint being assessed by NCARU and the complaint being passed for enquiry, outwith any attempt at FLR. Given the delays in allocating files, the lack of contact may be perceived by complainers that the police are disinterested in their complaint and are doing nothing to resolve it. This has the potential to undermine public confidence.
67. After being allocated the complaint for enquiry:
- 34 files recorded that the EO had contacted the complainer to advise that they had been allocated the complaint for enquiry.
 - 2 files recorded that the EO had attempted to contact the complainer but were unsuccessful, and
 - 32 files recorded no complainer contact by the EO.
68. The high proportion of complainers (47%) that were not contacted by EOs to confirm that the complaint enquiry was commencing is of concern, particularly given the delays that complainers experience while waiting for the complaint to be allocated.
69. Only 25 of the 34 files, where contact had been made, recorded the date of the EO's first contact with the complainer post allocation. This demonstrates poor record keeping. Of the 25 files, 23 complainers were contacted within six days of the complaint being allocated; one complainer was contacted 18 days after the complaint was allocated; and there was an unsuccessful attempt to contact the remaining complainer on the date it was allocated and thereafter contact was made 67 days after the complaint was allocated. The EOs preferred method of initial contact (65%) was by telephone.

What we heard

70. We were advised that the workload within the non-criminal team averages at 15 CO files per EO. This has increased by 25% since the introduction of the centralised PSD complaint model. In addition to the increased workload, the nature of the complaints had become more complex. A significant factor for the increased complexity is the creation of the Proportionate Investigation Team, which primarily deals with low-level complaints where FLR has been attempted but was unsuccessful and/or complaints that can be responded to relatively quickly with minimal but proportionate enquiry.
71. The creation of the Proportionate Investigation Team has resulted in EOs being responsible for the more complex investigations and led to some staff feeling

overwhelmed. They advised that a balance requires to be struck between reducing the backlog and the welfare of EOs to prevent ‘burn out.’

“The number of cases to manage can be overwhelming...the creation of the [Proportionate] Team means that we are no longer getting the ‘quick wins’ and we now have a more challenging and complex workload...”

“The new process [introduction of Proportionate Team] means that EOs in non-criminal team have not only experienced an increase in their caseload, but also in the complexity of their case load. The new process doesn’t allow for variation that enables EOs to better manage their workload. People are struggling with their workload, which can be compounded if the complainer is difficult, being unreasonably persistent, or won’t agree Heads of Complaint.”

72. It was also highlighted that there can be a ‘scatter-gun’ approach when it comes to allocating cases, whereby cases are allocated purely on the basis of ‘one in-one out’ instead of taking account of the different skill sets of the EOs, which would be more beneficial.

Heads of Complaint (HoC)

73. Best practice is for the EO to obtain a statement of complaint from the complainer and formally agree the HoC that will form the basis of the enquiry. This ensures there is no ambiguity over what will be investigated and what can realistically be achieved. It also minimises the potential for complaints to be missed and/or the crux of the complaint not being fully established. In accordance with the PIRC Statutory Guidance and Police Scotland’s internal guidance, complainers should be provided with a copy of the agreed HoC form prior to the enquiry commencing. Where the EO has not agreed the HoC and/or obtained a statement from the complainer, they should record their rationale for not doing so within the six-stage form.
74. Once the HoC have been agreed and further information obtained, the EO should consider whether the initial complaint categorisation and assessment by NCARU requires to be revised i.e., whether the complaint concerns the actions of an individual officer(s)/staff member(s) or an alleged service-delivery failing. If a complaint is wrongly categorised as a Quality-of-Service complaint when it concerns the actions of a specific officer, it may deny the officer an opportunity to respond to the allegation and it may also potentially impact upon the effectiveness of PSD’s EI⁴⁰.

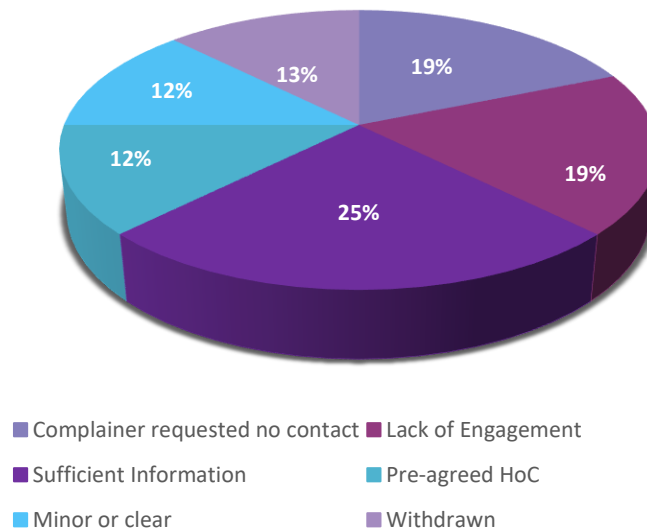
⁴⁰ The Early Intervention Process is discussed at paragraphs 47 & 48.

What we found

75. Only 24 files (35%) recorded that the HoC for enquiry were agreed with the complainer, and in only 20 of these files was it documented that the complainer was provided with a copy of the agreed HoC.
76. Of the remaining 44 files (65%) where the HoC were not agreed, there was a rationale provided by the EO for not doing so in 29 files.

Chart 7 provides a breakdown of the reasons provided for not agreeing HoC.

Chart 7



The complaint file contained a briefing note, which explained that the HoC were not agreed with the complainer because he made it clear that he did not want any contact with Police Scotland. In the circumstances, it was appropriate for the EO to proceed with the complaint enquiry without the HoC being agreed as it complied with the applicant's request for no contact.

The complainer's contact log was updated to reflect that the complaint was responded to without contacting the complainer, as he was explicit that he did not want to be contacted. This demonstrates good record keeping.

77. Of the 29 files, we agreed with the EO's rationale in 16 files. However, we disagreed with the most common rationale specified in 13 files (45%), namely that the EO considered the complaints were clear and unambiguous.

78. Failing to agree the parameters of the complaint enquiry or engaging with complainers to better understand the reason for the complaint can lead to a lack of understanding of the crux of the complaint. It also increases the potential for complaints to be missed. We found 15 files (36%) where the EO had missed complaints. More specifically:

- 6 files missed one complaint.
- 8 files missed two complaints, and
- 1 file missed three complaints.

79. In contrast, this figure drops to two files (8%) when the HoC have been agreed with the complainer.

The complainer's online complaint form referenced at least four individual complaints namely: he was not given the opportunity to attend a police station; he was intimidated/coerced into opening his door to officers; the officers issued him with a police warning but did not inform him that he could seek legal advice or refuse the warning; and the officers were unable to tell him how long the warning would stay on his record.

Within the six-stage form, the EO had recorded that the complainers' allegations were "*clear and obvious*," and therefore there was no need to agree the HoC.

We disagree with this approach as the complainer's online submission was lengthy, referenced multiple allegations and, therefore, required further clarity with the complainer. Furthermore, we observe that only two HoC were formally recorded and addressed by the EO resulting in, at least, two complaints being "missed," which may have been prevented had the HoC been agreed with the complainer at the outset.

Statement of Complaint

80. In 38 files, the EO did not seek to obtain a statement of complaint from the complainer. 23 files contained a record of the EO's rationale for not obtaining a statement.

81. The main reasons provided were:

- The EO assessed that it was proportionate to provide a response to the complaint based on the information available (i.e., Proportionate Investigation).
- The complainer did not wish to be contacted.

- The complainer had already provided a verbal account of the complaint to NCARU.
- The complaint was clear-cut.
- The complainer had provided a statement when they made their initial complaint in person, and
- The complainer was subject of restrictions in terms of Police Scotland's Unacceptable Actions by Complainers Policy.

82. We disagreed with the rationale provided in eight files. Due to the complexity or nature of the complaints made, we concluded that it would have been good complaint handling practice to have, at least, attempted to obtain a statement from the complainer.

The complainer submitted three separate online complaint forms and subsequently sent numerous emails from various accounts. A face-to-face appointment was arranged to note a formal statement of complaint but was cancelled by the complainer at relatively short notice.

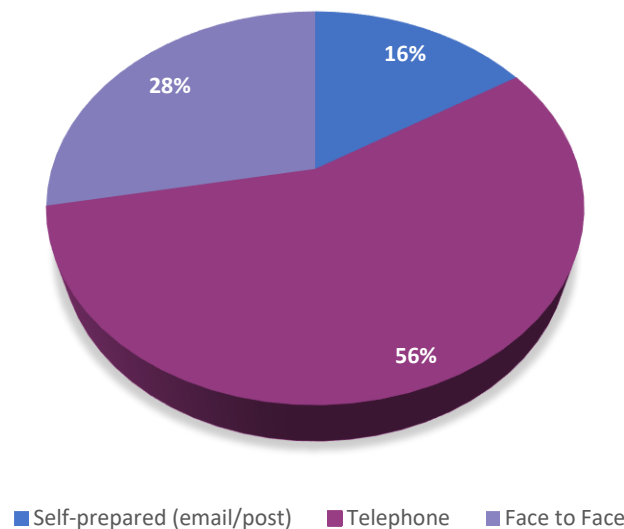
The EO thereafter spoke to the complainer by telephone, but she advised that she did not wish to provide a statement. Nevertheless, during the telephone call, the EO discussed the complainer's allegations with her and, thereafter, emailed her a completed HoC form for agreement. Over the course of the following three months, the complainer sent numerous emails to the EO, but refused to agree the HoC. As a result, the EO informed the complainer that he would proceed with the complaint enquiry based on the HoC that were previously emailed to her.

Given that the complainer refused to agree the HoC or provide a statement despite the EO making strenuous attempts to do so, we consider it was reasonable for the complaint enquiry to proceed in the manner adopted by the EO.

Provision of Statements

Chart 8 provides the methods elected by the complainers to provide a statement of complaint to inform the enquiry.

Chart 8



The complainer was arrested and charged with sexual offences. He submitted an online complaint form, outlining several complaints regarding his arrest and the subsequent police investigation. The EO emailed the complainer to advise he was satisfied that he had sufficient information available from the complainer's correspondence to respond to the complaint and, as a result, the EO did not intend to take a statement of complaint from the complainer. The EO advised the complainer that he could submit a self-prepared statement to inform the complaint enquiry if he wished.

The CO file contains no record of the complainer being spoken to during the complaint process or any recordable explanation as to why he was not spoken to, which is inconsistent with the PIRC Statutory Guidance and Police Scotland internal guidance.

83. While there are benefits to the EO noting the statement of complaint, we commend the flexibility by allowing complainers to provide a statement in the manner that best suits their individual needs and/or circumstance.
84. There were six files where there was no contact with the complainer after being advised that the complaint had been passed for enquiry, which is poor complaint handling practice.

The complainer reported that she was sexually abused by her father when she was 10 years old. Officers interviewed the complainer (video recorded) however, no crimes were identified, and the case was closed.

Subsequently, the complainer's father was convicted of offences of sexual assault. The complainer subsequently contacted Police Scotland regarding her own allegation and was advised that her disclosure was not recorded as a crime. The complainer submitted an online complaint and alleged that: her allegation was not recorded as a crime; she was not medically examined; and there was insufficient enquiry into her report.

The EO did not contact the complainer after being allocated the complaint for enquiry and did not agree the HoC or seek a statement of complaint. The six-stage form recorded that the EO considered there was sufficient information within the online complaint submission to identify the HoC and understand the crux of the complainer's concerns. All three complaints were categorised as Quality-of-service complaints, despite relating to the actions of individual officers. The complainer was not contacted throughout the duration of the complaint and received a response letter six months after making the complaint. The final response letter acknowledged the delay and provided an explanation but was lacking in detail and did not adequately address what appears to be a serious complaint. This is an example of poor complaint handling practice.

What we heard

85. Some of the officers questioned the need to obtain a statement of complaint and agree the HoC for enquiry, claiming it was an outdated and unworkable approach due to the reluctance of complainers to provide a statement and/or agree the HoC.
86. While detailed notes taken by telephone may, in some cases, negate the need for a statement to be obtained, seeking agreement on the HoC and setting the parameters of what the complaint enquiry will investigate is essential. Getting it wrong is likely to result in further dissatisfaction and increase the likelihood of repeat complaints being made.
87. A significant issue highlighted by almost all officers was the challenge to agree HoC with some complainers. Many complainers are reluctant to agree the HoC in order to continue to add complaints as the enquiry progresses and/or 'move the goalposts' and raise new issues. Some officers are therefore of the view that agreeing the HoC and obtaining a statement is not always necessary, particularly if the complainer has already provided sufficient information regarding their complaint.

88. We accept there will be occasions where the EO is unable to agree the HoC with the complainer and/or obtain a statement of complaint despite their best efforts to do so. When this occurs, we consider it to be best practice for the EO to record an accurate account of the attempts made to engage with the complainer to agree the HoC and/or obtain a statement of complaint.

Subject Officers (SOs)

89. Where a specific officer is identified as being the subject of a complaint, the EO is responsible for informing them that a complaint has been made, is being investigated and advising them of their right to respond to the complaint.
90. SOs cannot be compelled to respond to a complaint, but where they elect to do so, the EO should provide sufficient detail of the allegation so that it can be fully addressed within their account. There may be occasions when an account is not required from a SO, for example, if an excessive force complaint is undermined by the content of CCTV evidence, or an incivility complaint is undermined by the content of a telephone recording. When no statement is obtained from a SO/staff member, the EO should record their rationale for not doing so within the six-stage form.

What we found

91. Of the 52 files in which SOs were identified:
- 40 (77%) files supported that the SO was notified by the EO that a complaint had been made; and
 - 34 (65%) files supported that the SO was asked by the EO to provide an account/statement responding to the complaint.
92. However, we did find evidence in two files that the SOs were advised of the complaint against them after the complaint enquiry had concluded.
93. Of the 18 files where the EO did not seek an account from the SO(s), only seven (39%) had a record of the EO's rationale for not doing so. We agreed with the rationale provided in three of the files.

The complainer was unhappy at the manner that a Police Scotland call handler had spoken to them and the advice they provided. The EO obtained a copy of the call recording (being the best available evidence), which was reviewed during the enquiry and used to effectively respond to the complaint. In the circumstances, we agree with the EO's rationale for not seeking an account from the staff member who

was the subject of the complaint because, in lieu of the recording, it was not necessary and would not have offered any additional value to the complaint enquiry.

94. Of the remaining four cases where we disagreed with the rationale provided:
- One file contained allegations of a serious nature, and in the circumstances, an account should have been provided by the SOs, and
 - 2 files contained a mixture of criminal and non-criminal complaints, and no statements were obtained to respond to the non-criminal complaints.
95. The case study below is the final example of where statements should have been requested from SOs.

The complainer was dissatisfied at the police response to incidents that he reported about an alleged assault, an alleged theft of money, and alleged malicious calls. Subject Officers were identified for three out of four complaints, however, none of them were contacted to provide an account.

The six-stage form recorded that the EO considered there was sufficient information contained within the STORM reports and Pronto records to negate the need for accounts to be obtained. There is no evidence in the file that the SOs were aware of the complaints made against them and, therefore, they were not given an opportunity to respond to the complaint. This becomes an issue given that the EO upheld one of the complaints and identified learning.

96. The failure to advise SOs of the complaint and/or their right to respond is not in accordance with the PIRC Statutory Guidance and is potentially linked to the complaint files identified as being incorrectly categorised as Quality-of-Service complaints, as opposed to the individual actions of named officers.

What we heard

97. We were told that officers often experience difficulties in obtaining accounts from SOs to inform the complaint enquiry. They acknowledge the competing operational priorities of SOs, which impacts upon their ability to provide a response to a complaint and/or their supervisor affording them the time to provide the response.

“SOs don’t always get the time they need to respond to a request for an account in response to a non-criminal complaint... [I know] it’s hard for an SO to respond to a complaint if they have conflicting priorities” ...”

“EOs experience difficulty in trying to get accounts from SOs who are providing an account to PSD for a non-criminal complaint...it is not considered by SO and their supervisor at division as a priority. EOs therefore need to continually send out chase emails seeking accounts, which can also cause further delay...”

98. Such difficulties may influence decisions regarding the categorisation of the complaint as a Quality-of-Service complaint which then negates the need for a subject officer to be identified and asked to provide an account.
99. We were advised that there is a need to raise awareness of the importance of SOs responding to complaint when asked to do so, and that there should be some training/ guidance available on how to provide an account to PSD and what needs to be included. We agree that raising awareness and providing guidance or training should expediate the process.

Key witnesses

100. The EO should also consider if there are any key witnesses that need to be contacted as part of the enquiry. Like SOs, key witnesses should also be provided with sufficient detail by the EO about the allegation made so it can be fully addressed. Police officers must provide an operational account if they are identified as potentially having witnessed the incident complained about. Where accounts have not been obtained from key witnesses, the EO should record their rationale for not doing so within the case file.

What we found

101. 33 files identified key witnesses that the EO could have spoken to as part of the complaint enquiry. 14 files contained evidence to support that key witnesses had been contacted and asked to provide a statement. Of the 19 files where, key witnesses were not contacted to provide a statement, only five contained a record of the EOs rationale for not doing so.
102. We concurred with the decisions taken in three files but in the remaining two, the EO did not obtain witness accounts from key witnesses who had been present.

Perishable Evidence

103. 30 files recorded the need for perishable evidence to be secured by the EO, although only 25 (83%) contained a record of the EO having made attempts to secure this evidence. Whilst a high proportion of files recorded the attempts made by the EO to secure perishable evidence, there is scope for improvement. This is particularly relevant when taking into account the delays between a

complaint being passed for enquiry and being allocated. Indeed, such delays highlight a greater need for any perishable evidence crucial to the enquiry to be identified and retained by NCARU during the initial complaint assessment. This is especially the case for complaints relating to a person being held in custody where the CCTV footage will normally be deleted after a period of 28 days. We note that the current six-stage form does not contain a field to record whether there is any perishable evidence that requires to be retained, whether it has been retained, or if there are any issues that prevented the evidence from being retained.

104. However, we understand that PSD are currently considering enhancing the existing six-stage form to provide a prompt to secure perishable evidence at the earliest opportunity. We support the addition of such a field.

Recommendation 4

Police Scotland should enhance the existing six-stage form to prompt NCARU to secure perishable evidence at the earliest opportunity.

Complainer communication

105. A crucial component of the complaints process is communication with the complainer. The EO should contact the complainer at the earliest opportunity after the complaint has been allocated. This provides reassurance that their complaint is being progressed and affords the complainer an opportunity to discuss their concerns in more detail and explain what they hope to achieve as an outcome of the complaint.

What we found

106. In 36 files (53%), the EOs did not contact, or attempt to contact complainers during the complaint enquiry. Of those, only one was due to restrictions that had been placed on the complainer's contact with PSD. In addition, we found 28 files (41%) where the EO had failed to maintain a complainer contact log.
107. Of the 32 files that recorded attempted and/or EO contact with the complainer, the volume and frequency of the contact varied significantly.
108. E-mail was the preferred means to contact or attempt to contact the complainer in 27 files (84%), followed by a telephone call in 16 files (50%).

What we Heard

109. The EOs confirmed that telephone and email are the preferred means of communicating with complainers but advised that they would be 'complainer-led'

and communicate in accordance with any reasonable adjustment requests and/or their preferred means of contact.

110. A couple of officers highlighted that the centralised PSD model has restricted their ability to offer a 'personal touch' by speaking to complainers face-to-face, which would otherwise be their preferred means of communication, particularly at the start of the complaint enquiry.
111. Others said that their preferred contact is email as it provides an auditable record. Some officers advised that they would rather not 'cold call' a complainer once allocated a complaint for enquiry, particularly if the complainer has waited a prolonged period for the complaint to be investigated or if the complaint is of a serious/sensitive nature. In such cases, the EOs will send an email or letter identifying themselves and asking them to make contact to arrange a mutually suitable time to discuss their complaint.
112. There is good awareness of the need to update complainers every 28 days and to maintain/update a complainer contact log. However, it is recognised that contact logs are not always being maintained and that updating complainers every 28 days is not being strictly adhered to. The reasons for this are varied. In some instances, complainers expressed a preference to be updated only if there is something meaningful to update. Others cited the high caseload as impacting on their ability to monitor when updates were due.

"Guidance is not always followed...28 days comes around quickly and some EOs won't update unless they have an update to give..."

"I try to manage expectations by offering complainers monthly updates, but I have also given people the opportunity to contact me if they have any questions. I will always update the contact log whether contact is answered or not..."

113. To address the impact of delays arising prior to allocation, PSD has introduced an 'Investigative Delay' letter. These are issued by PSD Admin every 28 days whilst the complaint is awaiting allocation. Some officers suggested that the 'Investigative Delay' letters could be enhanced to manage complainers' expectations from the outset and provide greater transparency.

"PSD Admin will send an Investigative Delay Letter every 28 days. [This is] a template letter issued in bulk. Whilst it serves to put the message out there that there is a backlog and that there is a delay, it is not helpful for those complainers who have sometimes received 4 or 5 investigative delay letters. I think there would be merit in the complaint allocation letter being developed to manage expectations..."

“When a case is allocated, there can be a number of emails in the file from the complainer asking for an update, so [this is] evidence that expectations are not being set and managed from the start...”

114. We observed that the complainer contact log on the six-stage form is also used to record enquiries that have been undertaken. It was suggested by some officers that there would be merit in separating out the complainer contact/enquiry log – with a contact log specifically to record all contact (including attempted contact) with the complainer and the enquiry log used to record enquiries carried out and rationale for why certain enquiries have not been pursued. We agree that this would be advantageous and recommend that it is considered as part of the revised six-stage form.

Recommendation 5

Police Scotland should consider separating the complainer contact and the enquiry log into two distinct logs that require to be updated by EOs.

115. Some officers expressed frustration with the disproportionate amount of time spent communicating with and/or responding to communication with persons who are being unreasonably persistent. There was a view that the application of the Unacceptable, Persistent or Unreasonable Actions by Complainers Policy⁴¹ is not being used to best effect.

116. We acknowledge that there are some complainers’ actions that will result in contact being restricted but, in such cases, we would expect to see an auditable record of the restriction detailed within the complaint case file to evidence why the contact/communication with the complainer was limited during the enquiry.

Record Keeping

117. Record keeping is an integral part of the complaint process. Complete and accurate records of enquiries undertaken demonstrates that the complaint has been dealt with appropriately and that there is no more action that can reasonably be taken to deal with the complaint. The six-stage complaint file should contain a full auditable record of:

- All communication between the EO and the complainer and other witnesses.
- Decisions taken by the EO, including the rationale for why particular lines of enquiry were not pursued.

⁴¹ Police Scotland are currently revising this guidance – Unacceptable Actions by Complainers Policy – which will replace the current v4 in due course.

- Information about the evidence gathered, including whether perishable evidence has been secured.
- Information about internal policies/procedures considered.
- The complaint outcome, including details of learning or corrective action proposed.

118. In accordance with the PIRC Statutory Guidance and Police Scotland’s internal guidance, where the complaints are complex, the EO should prepare a report or other document summarising the enquiries undertaken and the evidence gathered during the investigation to present to the counter-signing officer.

What we found

119. We found that, in general, record-keeping is poor. It is unclear whether this arises due to the processes for maintaining accurate records simply not being followed or if the EOs are not fully aware of what they are required to record and why. Moreover, the fact that these files have been approved for closure by a senior officer, following a QA process, indicates that the existing QA process requires to be more robust⁴².

What we heard

120. It was accepted that the six-stage forms are not being completed properly. In its current state, the form is described as overly cumbersome and complex, repetitive, not user-friendly, and time consuming to complete. Further, there is no guidance to EOs to explain what should be recorded within each of the sections of the six-stage form.

121. With the new six-stage forms that are being developed by PSD, we consider that guidance should be produced to assist with achieving a consistent approach and improve the overall standard of record keeping.

Recommendation 6

Police Scotland should develop supporting guidance to accompany the new six-stage form that is being developed by PSD.

Criminal Complaints

122. Where a complainer makes a combination of criminal and non-criminal complaints, the criminal complaints should take primacy and be referred to CAAP-D/PIRC for consideration. Once the criminal complaints have been

⁴² The QA process is discussed in more detail at paragraph 206

considered by CAAP-D/PIRC, the complainer should receive a letter of response addressing any non-criminal complaints made at the same time. For complaints that cannot be responded to because of ongoing criminal proceedings, the EO should record the complaints and advise the complainer that they will be responded to at the conclusion of the criminal proceedings.

What we found

123. 15 files (22%) within our sample contained a mixture of criminal and non-criminal complaints. All included evidence to support that the allegation was referred to CAAP-D or PIRC for assessment. This demonstrates good compliance with the established procedures for the referral of criminal allegations. Within the files, we also found that 87% contained evidence that a statement was obtained from complainers and that the subject officers were notified of the complaint against them. However, the files did not contain an auditable record of what happened to the non-criminal complaints and what level of enquiry was undertaken into them once CAAP-D/PIRC had concluded their consideration of the criminal allegations, i.e., whether they were passed to the non-criminal team for progression or if they remained with the criminal team. In five files, there was no response letter issued to the complainer in relation to their non-criminal complaints, although we acknowledge that three of the complainers abandoned or withdrew their non-criminal allegations following the conclusion of the criminal investigation.

The complainer is a Latvian national. The police attended the complainer's address following a report of a domestic incident. The complainer, who was not present when the officers initially attended, arrived home as officers were attempting to arrest her partner. The complainer tried to prevent this from happening and was arrested for disrupting officers in the course of their duty. The complainer made three complaints regarding the incident: that she was assaulted by officers (criminal allegation); that officers' searched her home without a valid reason (non-criminal); and that when she attended at a local police station to make a report, the police refused to speak to her and told her to leave (non-criminal). PSD accommodated the complainers request for contact to be in person as she required the assistance of a translator, and the criminal allegation was correctly referred to PIRC under the Article 3 referral process. However, the six-stage form does not record what happened to the non-criminal complaints and how the non-criminal complaints came to be abandoned when the file contained no evidence of the complainer being contacted to progress her non-criminal complaints.

What we heard

124. There is a general understanding that all criminal complaints are passed to the Criminal Investigation Team, who thereafter refer the matter to CAAP-D/PIRC

for consideration. However, there is less clarity regarding the process for dealing with cases involving a combination of criminal and non-criminal complaints and, in particular, whether the non-criminal complaints remain with the criminal team or are referred to the non-criminal team for enquiry.

“There are no hard and fast rules over whether the criminal team will deal with the non- criminal complaints too or if it gets passed to the non-criminal team. It depends on capacity of the team and the number of non-criminal complaints that need to be responded to...”

“If there is a case that has a mix of criminal/non-criminal complaints...it will remain with the criminal team for conclusion once the outcome of the criminal complaints is known i.e., they will deal with both the criminal and non-criminal complaints rather than passing the non-criminal complaints to the non-criminal team for progressing...”

125. Aside from stipulating that the criminal allegations should take primacy, Police Scotland’s internal guidance is silent on what should happen with the non-criminal complaints after the conclusion of the criminal investigation. We advocate that there should be greater clarity on the processes for dealing with complaints involving a combination of criminal and non-criminal complaints.
126. Similarly, there is a lack of clarity regarding who is responsible for identifying when the associated criminal proceedings have concluded, so that a response letter can be provided to the complainer. Some advised they took a proactive approach and monitored ScotCourt⁴³ and, once the criminal proceedings had concluded, initiate contact with the complainer, then investigate and respond to the outstanding complaints.

“If a complaint is sub-judice, I would call the complainer to explain this and advise that I will look to deal with the complaints once the criminal proceedings had concluded...I will monitor criminal proceedings via ScotCourt. During this time, I would periodically update the complainer...Upon conclusion of proceedings, I would email the complainer to initiate contact....”

127. Others took the view that they would pause the non-criminal complaints until the complainer reverted to them advising that the criminal proceedings have concluded and that they wish to progress the complaint and if the EO does not hear anything, the complaint will be marked as ‘abandoned.’

⁴³ ScotCourt provides administrative support to the Scottish Courts and Tribunal Service in Scotland. It allows users to search for pending criminal proceedings as well as to search for the outcomes.

“If complaints are sub-judice, they will not be responded to until after criminal proceedings had concluded...I don’t monitor criminal proceedings and I don’t maintain contact [with the complainer] as I don’t have capacity...I don’t initiate contact with the complainer after the trial has completed. I will wait for the complainer to come back to PSD if they want their complaint to progress....”

128. The PIRC Statutory Guidance places an onus on Police Scotland to contact the complainer at the end of criminal proceedings to progress complaints. We recognise that it is impractical and time consuming to require EOs to constantly monitor ScotCourt to ascertain that criminal proceedings have concluded but neither should the complaint automatically be concluded as ‘abandoned’ once the criminal proceedings are at an end. In such circumstances, we recommend that it would be pragmatic for Police Scotland to consider creating a complaint determination of ‘Pending – Criminal Proceedings’ and to write to the complainer to advise that the complaint has been recorded but will not be progressed until the conclusion of criminal proceedings and, at that time, if they wish to pursue the non-criminal complaints they should re-contact PSD to request that it is progressed.
129. This will ensure that complaints are being recorded but removes the onus on PSD to monitor the progress of court proceedings.

Recommendation 7

Police Scotland should revise their guidance to provide greater clarity on the processes for dealing with complaints involving a mix of criminal and non-criminal complaints.

Misconduct

130. The EO is responsible for identifying whether a matter requires to be brought to the attention of those who deal with conduct issues. If they consider a referral may be required, the EO should liaise with their Inspector/Chief Inspector who should record on the six-stage form whether a conduct referral is required and their rationale.

What we found

131. Police Scotland’s internal guidance states that, where there is a reasonable inference of misconduct, but a decision is taken not to refer the matter to Conduct for assessment, the rationale for not doing so must be recorded on the six-stage form.

132. We found eight files contained an allegation or reasonable inference of misconduct:

- 1 file was referred to a Chief Inspector for their consideration.
- 5 files were not referred or brought to the attention of a senior officer, and
- 2 files lacked information to evidence whether it had been referred to a senior officer or not.

133. None of the five files we identified contained an explanation of why misconduct was not pursued.

134. At the end of the six-stage form, the counter-signing officer has an opportunity to indicate whether the case requires to be referred to Conduct for assessment. None were completed. We consider that there is an opportunity for an amendment to be made to the six-stage form to allow for more information to be captured about why a conduct referral was not considered necessary.

What we heard

135. The majority of officers said they were not familiar with the Conduct Regulations, either due to a lack of exposure to such matters and/or because they have not received any conduct or performance training. Most were unaware of the threshold that would merit an EO making a referral to Conduct. Some advocated that there would be benefit in some form of guidance/training being available to EOs and/or for EOs to spend some time in Conduct prior to working within PSD complaints.

136. All officers were familiar with the Standards of Professional Behaviour. They said that they would be inclined to notify Conduct if a complaint they were investigating indicated that an officer had breached the Standards of Professional Behaviour, and/or if the SO's complaint history demonstrated that they had received a number of similar, analogous complaints in the past, irrespective of the outcome (i.e., upheld or not upheld).

137. A view was expressed that Conduct is less likely to consider conduct proceedings for a matter arising out of non-criminal complaint.

"I don't think that Conduct takes enough of the stuff referred to them by PSD...if there has been a clear breach of the professional standards of behaviour by an officer, this is clearly a conduct as opposed to performance issue. However, I am not convinced that Conduct are assessing things properly and/or taking it seriously because it has

arisen on the back of a non-criminal complaint and therefore no criminality involved....”

138. We found evidence of a lack of confidence in EOs’ knowledge of the misconduct regulations sufficient for them to make reasoned decisions on such matters.

Timescales

139. The PIRC Statutory Guidance and Police Scotland’s internal guidance state that the complaint enquiry should be completed and a letter explaining the outcome sent to the complainer within 56 days of the complaint being received by PSD.

140. There will be occasions when the EO will be unable to meet the 56-day timescale due to matters out-with their control, for example, if the complaint relates to on-going criminal proceedings, responding to it may potentially prejudice proceedings. Where the complaint enquiry will not be concluded within 56-days, the EO is responsible for updating the complainer every 28 days, providing them with a progress update, explanation for the delay, and identifying an approximate timescale for when a response can be expected. All contact with the complainer should be recorded on the six-stage form.

What we found

141. Only eight files (12%) were concluded within the 56-day timescale. From the data, we found that:

- Complaints took an average of **98 days** for allocation to an EO once passed by NCARU for enquiry.
- The EO took an average of **131 days** to conclude the complaint enquiry once allocated, and
- Complainers received a final response on average in **222 days**, after they made their initial complaint.

142. In 60 of the files that were not concluded within 56 days, 51 did not contain a record of the complainer having been advised of the delay contrary to the PIRC Statutory Guidance.

143. It is evident the current complaints process is not working effectively, and that the 56-day target to respond to all complaints is not realistic. It is likely that, in lieu of any action being taken, the number of complaints awaiting allocation and enquiry will continue to increase, along with the timescales, which will only lead to greater dissatisfaction and adversely impact upon public trust and confidence in the complaint process.

144. Cognisance must be given to the importance of achieving a balance between reducing the volume of complaints awaiting allocation without adversely impacting on the overall quality of the complaint enquiry.
145. The three-tier system recognises that some complaints are more straightforward and can be resolved more quickly than others, but this is not recognised within the Police Scotland guidance as the existing target of 56 days applies to all complaints. We consider that there is scope to introduce some differentiation in the timescales that apply to the various tiers.
146. We recommend that Police Scotland undertakes a performance data review taking account of the increased demand and the existing resource to establish an evidence-based proposal around new timescale KPIs for dealing with different types of complaints. As part of the review Police Scotland should consider:
- Conducting a benchmarking exercise with other organisations regarding timescales for investigating and responding to complaints.
 - Conducting an analysis of the timescales for concluding complaints aligned with the three-tier system.
 - Undertaking process mapping with a view to identifying where processes may be streamlined, and
 - Liaising with the PIRC to agree any revisions to the PIRC Statutory Guidance.

What we heard

147. There was a consensus that the 56-day timescale is not being adhered to, except for FLR complaints. The backlog was cited as the primary reason why the 56-day timescale is currently unachievable. Many officers highlighted that by the time they are allocated a complaint for enquiry, the 56-day timescale has already expired, leading to greater dissatisfaction and complainers being less accepting of the complaint outcome as a result.

“The 56-day timescale is limiting...I have doubts that more staff would make this target achievable as there is a lot of delay caused by locating officers, sourcing information – things that cannot necessarily be achieved in 56 days”.

148. We heard that while PSD management are not placing EOs under pressure to deal with complaints within 56 days, they are experiencing demands from the expectations of the public who expect their complaints to be concluded within 56 days. Some advocated greater transparency regarding realistic timescales.

“[We] need to get better at managing complainers’ expectations – [I am] of the view that it should be made clear to complainers at the outset that PSD will not be able to investigate and respond to their complaint in 56 days. If this was done, it may help complainers be more realistic about the time it takes to deal with an enquiry...being honest about the delay may lead to more goodwill from the complainer...”

149. We concur that there needs to be more transparency regarding timescales to maintain public trust and confidence in the complaint process. If complainers are advised at the outset of potential delays, it may make them more receptive to accepting a complaint resolution (if appropriate) and less likely to be dissatisfied at the length of time that is taken to deal with their complaint.
150. Pending any review, Police Scotland should provide information on likely timescales for responding to complaints on their website to be more transparent over the delays and what measures they intend to implement to resolve the issue.
151. All officers commented that they do not believe there is sufficient resources to deal with the current demand. There is a recognition that, in lieu of further resources, the options to reduce the backlog are limited and this creates pressure to designate more complaints to be dealt with as a ‘Proportionate Investigation’ i.e., a proportionate enquiry to deal with low-level/minor complaints.

“Due to the backlog, it’s about trying to get the complaints dealt with as quickly as possible...[I] try to maintain a certain standard otherwise you know it will come back... However, the length of time a complaint is waiting to be investigated can also mean less enquiries on proportionality grounds.”

152. There was support for more front-loading of NCARU i.e., more officers at the start of the process assessing and resolving complaints. There was a general consensus that this would minimise the volume of complaints passed for enquiry, improve timescales, and resolve more complaints at source i.e., increase the FLR rate.

“[I] would put as many people as possible in NCARU as this would help to reduce waiting times, would address more complaints at source.... NCARU resources are under pressure to resolve a certain number of cases per day and this impacts on the service they provide...”

153. We heard that the process of front-loading NCARU was piloted previously during COP26⁴⁴ with some success in reducing backlogs.

Recommendation 8

Police Scotland should conduct a performance data review taking account of the increased demand and the existing resource to establish an evidence-based proposal around new timescale KPI's for dealing with different types of complaints.

Stage 4 – Determination

154. Once an EO has concluded the complaint investigation, they must fairly and objectively consider all the evidence gathered and come to a decision on whether to uphold or not uphold the complaint(s).

We examined:

- Whether the balance of probabilities test is applied correctly.
- Whether determinations are recorded correctly within the six-stage form.

Balance of Probabilities

155. If the facts established by the complaint enquiry are not in dispute, the EO will require to use their experience and professional judgement to assess whether the service received by the complainer met the standard that a reasonable person could expect. If, however, the material facts are in dispute, or there are conflicting accounts from the witnesses, the EO will have to apply the balance of probabilities⁴⁵ test to the available information to determine which version of events is more probable.

What we found

156. Of the 68 files, we identified 54 where the balance of probabilities test was required to reach a determination. We found that 48 files (88%) recorded determinations that were made by the EO appropriately applying the balance of probabilities test. We are, therefore, satisfied that there is a high level of compliance with PIRC's Statutory Guidance and Police Scotland's internal guidance when it comes to the application of the balance of probabilities test.

⁴⁴ In September 2021, Glasgow hosted the UN Climate Change Conference (COP26). In anticipation of a potential increase of complaints about Police Scotland and the actions of individual officers, additional resources were seconded to NCARU, allowing for a rotational shift-pattern to be introduced, increasing the availability of staff to deal with complaints out-with normal working hours.

⁴⁵ The balance of probabilities is the test used to weigh evidence, to determine the outcome of complaints.

Recording

157. All determinations reached throughout the complaint enquiry must be clearly recorded within the six-stage form.

What we found

158. Of the 68 files, 60 (88%) had correctly recorded the complaint determination within the six-stage form⁴⁶. We are satisfied that this indicates a high level of compliance.

159. There were eight files in which the complaint determinations had not been accurately recorded within the six-stage form. In two, the complainers submitted a mixture of criminal allegations (assault) and non-criminal complaints (excessive force). In both files, the criminal allegations had been referred to the PIRC for independent assessment and the outcome of the PIRC assessment had been accurately recorded within the respective six-stage forms. However, the PIRC determinations in relation to the criminal allegations were relied upon and recorded as a determination for the non-criminal complaints e.g. 'Not upheld - No further action – No criminality at PIRC assessment.'

160. This is neither accurate nor appropriate, as the PIRC assessment focuses exclusively on allegations of criminality and does not involve any enquiry or assessment in relation to associated or linked non-criminal complaints. No complaint enquiry was conducted by PSD into the non-criminal complaints after the PIRC had concluded their assessment of the criminal allegations and neither complainer received a formal response letter from the police addressing their concerns⁴⁷.

What we heard

161. Our findings are consistent with the feedback we received from PSD staff, who reported that they were not sure what happens where there are a mixture of criminal and non-criminal complaints. As per recommendation seven in this report, we consider that Police Scotland should strengthen their guidance when it comes to complaint enquiries involving a mixture of criminal and non-criminal complaints to ensure consistency of approach.

⁴⁶ Section D of the Complaint Handling Form

⁴⁷ The issues we identified in the other files were primarily due to the number of complaints recorded and determined on the six-stage form not corresponding with the number of complaints responded to and determined within the final response letter.

Stage 5 – Organisational and Individual Learning

162. One of the key aims of the complaints process is to promote a culture of learning and improvement. The effective identification, capture, dissemination, and implementation of learning from complaints will improve policing in general and could contribute to an overall reduction in complaints.

We examined:

- Whether the EOs are identifying opportunities for learning and improvement – individual and organisational.
- Whether the learning is recorded on the six -stage form and communicated to the complainer in the response letter.
- Whether the learning is cascaded to the relevant division/officer to prevent a recurrence.

Identifying Learning

163. During the complaint enquiry, the EO should aim to identify any failings, procedural shortcomings, weaknesses in the existing guidance or processes, or areas for general improvement. They should also seek to identify training needs and performance issues in relation to individual officers, regardless of whether the complaint is upheld or not upheld.

What we found

164. Within our sample, there were 13 files (19%) where, during the complaint enquiry, the EO had correctly identified organisational and/or individual learning. However, there were six files (9%) where obvious learning or improvement opportunities were missed or not identified by complaint handlers.

The complainer contacted the police to express dissatisfaction that his mobile phone was not returned following his arrest and, that when it was eventually returned, it would no longer charge due to how long it had been retained. The final response letter explained that Police Scotland cannot release items seized as productions without a Production Release Note (PRN) from the COPFS, which accounted for the delay in this case.

However, the complaint enquiry established that the phone was returned to the complainer in June 2023, which predates Police Scotland's receipt of the PRN in July 2023. This contradicts the EO's explanation.

This contradiction ought to have been explored by the EO to identify whether it arose due to individual or organisational failings and whether learning or training on the existing procedures was required to prevent a similar situation arising in the future.

165. Five of the 13 files (19%) contained evidence of learning and improvement opportunities having been correctly identified by EOs. This is very encouraging and consistent with the stated aims and objectives of the complaints process.

Recording Learning

166. Learning or opportunities for improvement identified by the EO should be accurately captured within the six-stage form.

What we found

167. Where learning was identified by the EO, only six of the 13 files (46%) had correctly recorded the learning identified. There was also significant variation in the level of detail recorded by the EO.

168. Currently, there are no learning categories identified within Police Scotland's internal guidance. Similarly, the disposal codes for upheld On-Duty and Off-Duty complaints do not have any sub-headings that refer to any learning identified, albeit there are sub-headings for upheld complaints that result in criminal proceedings, alternatives to prosecution, and misconduct proceedings. The lack of sub-headings to reference learning has resulted in EOs using inconsistent terminology to refer to and record the learning identified on the six-stage form.

169. In some files, the learning was described, as "management advice," "management action," or simply "advice to officers," and "learning for C3". Accordingly, it is not always clear whether the intention of the learning recorded by the EO was to address a training need and/or a performance issue for the officer who is the subject of the complaint.

170. Inconsistent recording of learning can also impact upon PSD's ability to identify the 'tipping point' where the same individual learning is identified repeatedly for officers within a particular division/department, which may infer that there are specific training needs that require to be addressed or that the learning should be shared more widely. It potentially impacts upon the efficiency and effectiveness of the EI process. It also hinders an accurate assessment of the impact of the learning identified in bringing about positive change for individual officers and/or the service provided by the organisation as a whole.

171. There is scope to improve the accurate recording of the learning on the six-stage form, which has designated fields to record both organisational and individual

learning identified, and the action taken. If learning is accurately recorded, it presents an opportunity for it to be shared with members of the public and other stakeholders to demonstrate the value the complaints process can add to improving policing, and in doing so, increase public confidence in policing.

What we heard

172. A number of officers commented that terminology such as ‘corrective action,’ ‘management advice’ and ‘individual/organisational learning’ are used interchangeably. The use of expressions such as ‘management advice,’ or ‘corrective action’ can be perceived as negative and punitive and may result in subject officers and their line managers being less receptive to advice or learning being cascaded following the complaint determination.
173. Police Scotland’s internal guidance does not provide information on specific categories for learning. Officers expressed a desire for more consistency on the recording of learning which would enable themes and trends to be more easily identified.
174. A revision of the language adopted, avoiding negative connotations in favour of language focussed on improvement opportunities may assist PSD officers with disseminating learning.

Recommendation 9

Police Scotland should revise the guidance on the identification, recording and dissemination of learning, including the use of positive terminology that aligns with the culture of learning. The complaint disposal codes should be amended to include categories where upheld complaints lead to improvement action or individual/organisational learning.

Communicating Learning - Complainer

175. The final response to the complainer should communicate details of any learning identified during the complaint enquiry and any action either proposed or already taken.

What we found

176. In terms of communicating learning and improvement actions within the final response letter, there were only six files out of 13 (46%) where the learning was shared with the complainer. This is contrary to Police Scotland’s internal guidance and the PIRC Statutory Guidance, which state that the final response letter should advise the complainer of any learning and/or action taken arising

from the complaint. There is scope to improve the communication of learning and improvement actions to the complainers.

Communicating Learning – Subject Officers/Division

177. Learning or opportunities for improvement should be disseminated by the EO to the relevant officer(s), division, or department. It is the responsibility of the Chief Inspector or Inspector within the PSD to ensure that, upon conclusion of the complaint enquiry, the six-stage form is completed accurately and that any actions committed to within the final response are implemented.

What we found

178. Within five of the six files where the learning was recorded on the six-stage form, there was an audit trail to demonstrate that the learning was shared with the appropriate officer and/or division/department for action. This is good complaint handling practice.

179. Overall, in 11 of the 13 files (85%) where learning was identified, it was cascaded to the relevant officer/department/division. Even in files where the learning was not recorded, we found evidence that the learning was nonetheless still cascaded to the relevant officer/division/department in six out of seven files.

180. In 11 files where the learning was shared with the relevant officers/departments/divisions, eight (73%) had been closed without the EO having received confirmation that the learning was appropriately shared, implemented, or cascaded.

The complainer reported coercive and controlling behaviour by his ex-partner. Two officers attended to speak with the complainer about his allegations but did not note a statement or raise a crime report. The complainer contacted the police to express dissatisfaction with the lack of action taken by the officers.

As part of the complaint enquiry, the EO consulted a Crime Registrar, which established that the allegation as reported by the complainer amounted to a crime and should have been recorded. The complaint was upheld, and the complainer received an apology.

The EO contacted the Local Area Commander upon conclusion of the complaint enquiry, advising of the complaint outcome and asked that they remind the subject officers of the requirement to seek guidance or advice if dubiety exists on whether circumstances reported amount to a crime. The officers were also to be reminded to fully record their rationale on the STORM report to explain their decision not to

record a crime. The EO sought confirmation from the Local Area Commander that the learning had been shared with the officers as requested prior to closing the complaint file. This is an example of good complaint handling.

What we heard

181. Most officers told us that they record any learning within the six-stage form. All advised that they disseminate the learning they identify to the relevant staff or department, i.e., a SO's supervisor or division for individual learning, or the relevant division or department for organisational learning.
182. Whilst some officers told us that they felt confident to disseminate learning they identified, others expressed unease, and described not feeling empowered to do so effectively. We heard that EOs can sometimes experience push back from some departments or divisions. We were also advised that, when PSD officers are sharing the learning, they will frame the email so that it is more of an ask/request for the learning to be shared, as opposed to an instruction. This is usually because the learning will often be communicated to an officer of a more senior rank, and EOs did not feel empowered to approach a senior officer and/or a division and tell them what they need to do better. We were also told that organisational learning is more challenging to implement as it relates to policies/procedures and can therefore be more difficult to change.
183. PSD officers were aware of the importance of confirming that the learning has been implemented or shared before file closure, however, we found a lack of consistency and practice amongst PSD complaint handlers.
184. Some officers would not ordinarily update the six-stage form, instead relying on the confirmation email from the relevant supervisor/department being attached to the file. Other officers updated the six-stage form on receipt of confirmation to reflect that learning has been implemented, even if the file was closed, whilst others advised that they would not close the file until the confirmation that the learning was shared/implemented was received.
185. One officer advised that they only required the division to acknowledge that they had received the learning and trusted that it would be shared accordingly. It was suggested that the six-stage form could benefit from a tick-box to confirm that learning had been actioned.
186. All senior officers said that confirmation is requested from divisions when learning is disseminated, however, they acknowledged that files can be closed before confirmation is received. It was recognised that this is not good practice.

“Where an individual [Learning Point] has been identified by the EO, that will be sent to the appropriate supervisor...When we provide notification [of learning] to division, we request that they notify us when it is done. Whether it goes on the individual officer is up to them. All we are asking is for an acknowledgement that it has been done.”

187. Police Scotland’s internal guidance provides that the final response letter and the six-stage form should be quality assured by an Inspector or Chief Inspector within the PSD,⁴⁸ including completing the six-stage form accurately and ensuring that all actions committed to in the upheld complaints are implemented. Given our findings of an inconsistent approach and incomplete records on learning within six-stage forms, there is clearly scope to strengthen the current QA processes. This is discussed below⁴⁹.

Stage 6 – Notification to Complainer

188. At the conclusion of the complaint investigation, the findings are communicated to the complainer by way of a final response letter. Care must be taken to explain the findings as clearly as possible, as a thorough complaint investigation can be undermined by a poor final response and lead to further dissatisfaction.

We examined whether final response letters:

- Addressed the HoC agreed between the EO and the complainer.
- Provided a clear explanation of the enquiries undertaken and the determination reached for each complaint.
- Were written in a style that is clear, easy to understand, free from jargon and tailored to the individual needs of the complainer.
- Provided a clear and sincere apology for any failings identified and advised the complainer of any action proposed or taken to address the shortcoming identified.
- Advised complainers of their right of recourse to the PIRC.
- Were quality assured by a senior officer.

What we found

189. 60 (88%) files contained a copy of the final response letter issued to the complainer. In the remaining eight files, only one did not contain a record to explain why a final response was not issued ⁵⁰.

⁴⁸ CAP SOP, page 34

⁴⁹ See paragraph 206

Addressing HoC agreed with complainer

190. The final response must address all complaints agreed with the complainer at the outset. If a complaint is not addressed in the final response, a clear explanation should be provided for its absence.⁵¹
191. In 25⁵² of the 60 files where a final response letter was issued and the HoC were agreed with the complainer at the outset, 24 (92%) addressed all complaints agreed with the complainer. This further demonstrates why it is good practice to agree the HoC with the complainer at the outset.

Explaining the determination

192. The final response must clarify the facts established during the complaint investigation, explain how those facts were used to inform the conclusions reached and confirm whether each complaint is upheld or not upheld. In addition, it should reference any relevant legislation or policy that supports the conclusion(s) reached.
193. We found that in 57 of the 60 files (95%) the final response letters clearly explained the determinations reached and contained information about the enquiries carried out in respect of each complaint. This demonstrates a high level of compliance with the PIRC Statutory Guidance and Police Scotland's internal guidance.
194. Of the 60 final response letters, 53 (88%) clearly stated whether each complaint was upheld or not upheld. There were, however, seven files where the final response did not clearly state the determination reached or has provided a single determination for a number of individual complaint allegations capable of being upheld/not upheld independently of each other.
195. We found that 56 files (93%) of final responses referenced guidance, policy, or legislation, where relevant, to help explain the findings. This highlights good practice. There were, however, four files where reference to relevant guidance would have enhanced the response.

In responding to a complaint about an alleged failure to record a crime and undertake a medical forensic examination, the final response did not contain reference to any guidance, policies, or legal provisions relevant to the complaint that

⁵¹ For example, if the complainer has also made a criminal allegation, which is still being considered by CAAP-D

would enable the complainer to understand why her complaints were not upheld. This is poor complaint handling practice.

Tailored response letter

196. The language used in the final response should be clear, easy to understand and free from police jargon. The final response should also be tailored to the individual needs of the complainer.

197. None of the final responses were found to contain legal or technical jargon, which represents good compliance with the PIRC's Statutory Guidance and Police Scotland's internal guidance.

What we heard

Training

198. It was highlighted that drafting a final response letter is different from other types of reports that an enquiry officer will have prepared in their policing career. It was suggested that it may be beneficial for PSD training to include more focus on letter writing.

Content of final response letters

199. We heard that EOs use a template final response letter and tailor it to the individual complaints and/or the circumstances of the complaint. However, different templates are used in different areas. There is an opportunity to review and align the template final response letter to ensure that they are consistent in their style and content and enhance it to include details/prompts in relation to the most common aspects that are often missed as outlined at paragraphs 200 - 205 below. We would encourage PSD to proactively identify final responses that have been commended by PIRC⁵³ and disseminate them to PSD complaint handlers as examples of best practice.

Identifying SOs

⁵³ This relates to CHR applications that are not taken forward for review by PIRC as we consider that it would be disproportionate because we are satisfied that PSD has taken reasonable steps to respond to the complaint and no additional value would be gained. The PIRC provide a copy of all discretionary decisions to PSD, explaining the reasons why we are satisfied with the complaint handling. These should be reviewed to identify examples of good practice.

200. Unless there is a specific reason not to do so, e.g. concern for officer safety, all SOs should be identified in the final response either by their name or shoulder number.

- Of the 60 final response letters in our sample, 40 (66.6%) had appropriately identified the SOs of the complaint. In relation to the remaining responses:
- 14 did not name the SOs either because the complaint was recorded as “Quality-of-Service” or the SOs were “unknown”, and

201. 6 did not provide the names of the SOs, despite them being identified during the complaint investigation.

202. In cases where the names of the officers were not disclosed, the complaint file did not contain any specific reasons, identified risk or rationale for doing so, which is contrary to the provisions of the PIRC Statutory Guidance. Complaint handlers should be reminded of the expected practice regarding naming SOs.

Recourse to PIRC

203. We identified good practice in relation to final responses with complainers being advised of their right of recourse to the PIRC should they remain dissatisfied in 57 (95%) files.

Apology

204. Where things have gone wrong or failings have been identified, the final response should provide a clear and sincere apology and explain any action that will be taken, including any individual or organisational learning identified⁵⁴. If no action is being taken, the reason for this should also be explained in the final response.

205. Of the 19 files where complaints were upheld, we found that 18 (95%) appropriately issued an apology to the complainer after shortcomings were identified, demonstrating a high level of compliance with Police Scotland’s internal guidance and PIRC Statutory Guidance.

Quality Assurance Process

206. Upon completion of the complaint enquiry, the draft final response letter and the six-stage form is submitted to a PSD Inspector/Chief Inspector, who must ensure that:

⁵⁴ If a decision is made to instigate any misconduct proceedings because of the complaints made, this should also be explained in the final response.

- The six-stage form is completed accurately with all allegations recorded.
- A HoC form has been completed and signed by the complainer.
- Where appropriate, SOs have been correctly identified,
- All relevant documents and productions are included within the file.
- All evidence, including CCTV, has been secured and watched.
- The final response letter addresses all allegations and that a determination has been reached as to whether each complaint is upheld/not upheld with a full rationale being provided.
- Actions committed to for upheld complaints have been undertaken.

What we found

207. A consistent theme throughout this report is poor record keeping within the six-stage forms. More specifically, we found:

- 15 files where the HoC were not agreed with the complainer, and the EO did not provide their rationale for not doing so.
- 11 files where the EOs did not seek an account from SOs, with no rationale recorded for not doing so.
- 14 files where key witnesses were not contacted.
- 5 files where perishable evidence was not secured, and
- 8 files that had been closed without confirmation having been received that the identified learning was appropriately shared, implemented or cascaded to the relevant SO and/or division/department.

208. These deficiencies should have been identified as part of the QA process.

209. We acknowledge that the six-stage form contains limited space for a senior officer to record the QA checks carried out, their rationale and determination/conclusion, including any additional actions identified as being required prior to the conclusion of the complaint enquiry. However, we identified 12 files where the section was completely blank, and a further 13 files that were only partially completed. The remaining 43 files were completed to a reasonable standard.

210. In our sample, the 'Senior Officer Comments' box was mostly left blank, despite there being a space for senior officers to record comments prior to the final response being issued. We encourage senior officers to make further use of this space.

211. We also identified that the PSD Administration Team section, which records the closure dates of cases, is not being completed. This data was missing from all files in our sample.
212. There is an opportunity for Police Scotland to strengthen their current guidance on the QA process and improve adherence to the current provisions. Consideration should be given to expanding the six-stage form to include a section that can be used by senior officers to maintain a full, auditable record of any QA undertaken and to remind PSD administration staff to record the date that the complaint was closed.

What we heard

213. PSD staff highlighted that there are inconsistencies in the approach taken by senior officers regarding the degree of QA that is carried out and how in-depth it is, although it was acknowledged that senior officers have to balance conflicting priorities and may therefore have limited time to quality assure final response letters.

Recommendation 10

Police Scotland should strengthen the current guidance on the QA process and seek to ensure that all complaint files contain an auditable trail of QA by a senior officer.

Appendix A – Categorisations for all complaints about the police

On-Duty allegations

1	Assault
2	Excessive Force
3	Incivility
4	Neglect of Duty
5	Irregularity in Procedure (see sub-category list)
6	Traffic Irregularity/Offence
7	Oppressive Conduct/Harassment
8	Unlawful/Unnecessary Arrest or Detention
9	Discriminatory Behaviour (see sub-category list)
10	Corrupt Practice
11	Other – Criminal (see Off-Duty Allegations 1 – 7)
12	Other – Non Criminal

Irregularity in Procedure (No 5) – Sub-Categories

1	ASBO/Fixed Penalty Procedures
2	Custody Procedures/Care of Prisoners
3	Disclosure of Information (non-criminal)
4	Forced Entry to Premises
5	Inaccurate Information Placed on Police Systems
6	Insufficient Enquiry Carried Out
7	Interview Procedures
8	Length of Time Taken to Investigate/Carry out Enquiries
9	Method of Arrest/Detention
10	Officer Did Not Provide Name or Shoulder Number
11	Other
12	Productions/Lost & Found Property
13	Provide Insufficient Explanation Regarding Police Procedures
14	Provide Insufficient Updates to the Complainer
15	Road Traffic Procedures
16	Search Procedures – Person or Property
17	Statement Taking
18	Vehicle Recovery Scheme

Discriminatory Behaviour – Sub Categories

1	Race
2	Sexual Orientation
3	Faith
4	Age
5	Gender
6	Disability
7	Gender Reassignment
8	Marriage/Civil Partnership
9	Pregnancy and Maternity

Quality of Service Allegations

1	Policy/Procedure	Policing Policy
		Policing Procedure
2	Service Delivery	Policing Response
		Time of Response
		Type of Response
3	Service Outcome	Lack of Satisfaction with Action Taken
		Police Failure to Take Action

Off-Duty Allegations

1	Crimes of Violence	Causing death by dangerous driving
		Cruel and unnatural treatment of children
		Serious assault
2	Crimes of Indecency	Assault with intent to ravish
		Indecent assault
		Lewd & libidinous practices & indecent exposure
		Procuration & other sexual offences
		Rape
		Unnatural crimes
3	Crimes of Dishonesty	Breach of trust & embezzlement
		Fraud
		Housebreaking
		Theft
		Theft by shoplifting
		Theft of motor vehicle
4		Fireraising

	Fireraising, Malicious Mischief, etc	Vandalism
5	Other Crimes	Attempt to pervert Breach of Data Protection Act Drugs offences Having in a public place an article with a blade or point Perjury Possession of offensive weapon Resist arrest
6	Miscellaneous Offences	Breach of peace & Section 38 Children & young person's offences Drunkenness Petty assault Post Office, telecoms & data protection Racially aggravated conduct Racially aggravated harassment Urinating
7	Offences involving Motor Vehicles	Accident offences Construction & use offences Dangerous & careless driving Driver's contravention of pedestrian crossing regulations Driver's neglect of traffic directions Driving whilst disqualified Driving with no insurance Driving with no MOT Drunk driving Failing to provide the identity of a driver of a motor vehicle Mobile telephone offences Motor vehicle, other offences Parking offences Seat belt offences Speeding Vehicle excise license offences
8	Incivility	
9	Other	

Appendix B – Glossary

CAAP-D	Criminal Allegations Against the Police Division (part of COPFS)
CO File	Complaint File – used by Police Scotland to record “relevant” complaints about the police.
Complaint Determination	Relates to whether a complaint is resolved/upheld/not upheld after a complaint has been assessed and subject to a proportionate enquiry.
Conduct Regulations	The Police Service of Scotland (Conduct) Regulations 2014 – make provision for the procedures for dealing with cases where the conduct of a police constable below the rank of Assistant Chief Constable are alleged to amount to misconduct.
Contact Us	An online form that can be used by members of the public to contact Police Scotland about issues that are non-serious.
COPFS	Crown Office & Procurator Fiscal Service
Early Intervention	Process used by PSD that will ‘trigger’ when an officer/member of police staff has been subject of three separate complaints (i.e., from three different complainers) within a rolling 12-month period. The purpose is to perform an intervention in order to reduce and/or minimise the potential for further complaints arising in the future. It is also used as an opportunity to ensure an officer/members of police staff’s welfare.
Enquiry Officer/EO	Complaint handler responsible for investigating and responding to complaints about the police.
FLR/Frontline Resolution	Early discussion of a complaint with the complainer in an attempt to resolve the complaint by reassurance, explanation, and/or apology.
HoC	Heads of Complaint – the complaints that have been agreed between the complainer and the enquiry officer that will form the basis of the resultant complaint enquiry.
Investigative Delay Letter	Letter sent by PSD Admin to complainers whose complaint is still awaiting allocation for enquiry. The letter is sent to a complainer every 28 days.
Miscellaneous File/MI File	Used by PSD to record correspondence that is either a) not a relevant complaint or b) repetitive in nature (i.e. already investigated by the police)
National Complaint Assessment & Resolution Unit/ NCARU	National Complaints Assessment & Resolution Unit – responsible for assessing and identifying relevant complaints about the police and determine the best means to deal with the complaint i.e., FLR or by referring to an enquiry team for investigation through the six-stage process.

Perishable Evidence	Evidence that is relevant to the complaint that must be secured timeously in order to ensure that it available to inform the complaint enquiry. For example, CCTV footage, which tends to only be available for a period of 28 days before being deleted.
PIRC	Police Investigations & Review Commissioner
PSD	Professional Standards Department – record, investigate and respond to all non-criminal complaints about the police (for ranks up to and including Chief Superintendent). It is formed of three regions – East, North and West.
Reasonable Adjustment	Changes that an organisation providing a service or public functions have to make to remove or reduce disadvantage from being experienced by someone due to a disability.
'Relevant complaint'	A complaint about the actions/omissions, or the standard of service, provided or not provided by a police officer/member of police staff or by the organisation. Relevant complaints can occur both on- and off-duty.
Six-stage Form	Form aligned to the six-stage process to capture details of the complainer, the complaint made, action taken to address the complaint, the complaint outcome, and any learning identified because of the complaint.
Six-Stage Process	A structured complaint handling model advocated by PIRC for use by policing bodies in Scotland.
SO/Subject Officer	Police Officer or member of police staff that has been complained about.
Standards of Professional Behaviour	The standards expected of Police Scotland officers, whether they are on or off duty.
101	Police Scotland non-emergency contact telephone number.