

LEARNING POINT

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pirc

Police Investigations &
Review Commissioner



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WELCOME

Our aim is to secure public confidence in policing in Scotland.

Our purpose is to provide independent oversight and investigate incidents involving all policing bodies; we also review the way they handle complaints from the public.

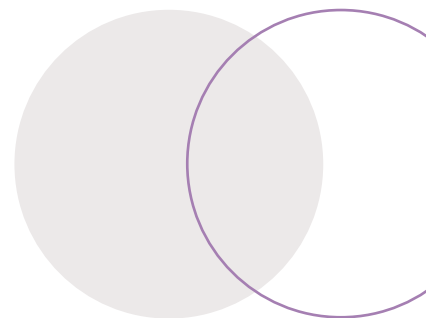
The policing bodies we can investigate or review are:

- The British Transport Police (BTP).
- Civil Nuclear Constabulary (CNC).
- Police Scotland.
- National Crime Agency (NCA).
- The Ministry of Defence Police (MDP).
- His Majesty's Revenue & Customs (HMRC).
- UK Visas and Immigration (UKVI).

The Commissioner can recommend learning and improvements to the way those policing bodies operate and deliver services. PIRC can also make recommendations, identify learning points, and direct them to reconsider their response to a complaint from a member of the public.

This bulletin is designed to help those within policing who handle complaints to understand best practice - and encourage improvements to the service being delivered to the public. It offers guidance, updates and best practice based on recommendations made by our review and investigations teams.

This bulletin also provides the public with some insight into the work that we do.





The PIRC Reviews Team

People who feel let down by the way their complaint was handled by a policing body can ask us to carry out a Complaint Handling Review (CHR). Unless there are exceptional circumstances, we will only consider a CHR where a formal complaint has been made to the policing body concerned and a response has been received by the applicant within the last three months.

We can review:

- ✓ How the police in Scotland handle complaints made to them by the public and if the complaint was handled to a reasonable standard by the policing body.
- ✓ Identify learning opportunities for policing bodies to improve standards in future.

We cannot review:

- ✗ Complaints which have not been considered or decided upon by the policing body.
- ✗ Complaints of criminality.
- ✗ Complaints about the terms and conditions of service within the policing body made by current or former police staff about terms and conditions of service.

Our review may result in recommending the policing body:

- Carries out further investigation and provides an additional response to the complainer.
- Changes practices and procedures to prevent the problem occurring again.
- Issues an apology.
- Alternatively, we may conclude that policing bodies are appropriately applying complaint handling guidance and handling complaints to a reasonable standard.

SPOTLIGHT:

Complaint files



In this edition of Learning Point, we focus on police complaint files. It is important that PIRC is given all information held in relation to complaint enquiries when the request is received. We also highlight the adverse impact of incomplete files – on the CHR process, the complainer and the police staff involved.

We will outline our expectations of what should be contained in the complaint file and identify types of documentation or material which can be frequently overlooked when the complaint files are finalised.

On receipt of a CHR application from members of the public, PIRC makes a formal request to the relevant policing body to provide all information held in relation to the handling of a specific complaint. This information is vital to enable PIRC to complete the initial assessment of the CHR request – and to decide whether the complaint will be subject of a CHR by the Commissioner.

Generally, the following information should always (if available) be included in the police complaint file:

- Copies of all correspondence and communication with the complainer.
- The Six-Stage Complaint Handling Form.
- Signed Heads of Complaint form.
- Statement of complaint noted from the complainer.
- Subject officer(s) accounts.
- All other statements/accounts and/or notebook entries relative to the complaint.
- CCTV, audio or photographic evidence, and
- STORM report, crime reports, medical reports, SPR's etc.

This information is usually provided in an electronic format. Since April 2023, PIRC has extended the timescales for policing bodies to provide this information to 15 working days.

We are pleased that this year to date, Police Scotland has provided requested information for CHR's, on average, within 5 working days¹.

On receipt of the police complaint file, PIRC will undertake an in-depth analysis of the information provided and, if necessary, make further information requests. The general rule is that anything that is being relied upon, referred to and/or referenced in the final complaint response letter to the complainer must be included in the police complaint file.

Between 1 April and 31 August 2024, we received 76 sets of complaint case papers from Police Scotland. Our analysis has demonstrated that in 64% of these cases (49 files), vital information was not included within the file and PIRC was required to make additional requests for information.

On average, these additional information requests delayed the CHR process by 10 working days, whilst adding significant administrative burden to both Police Scotland and PIRC. In our view, these delays are avoidable and, if eradicated, would: improve the overall experience for both complainers and the police staff complained about; allow for the complaints process to be concluded quicker; and reduce the additional administrative burden on PSD staff.

The most commonly requested information includes:

- subject officer statements;
- witness statements;
- call recordings;
- video footage; and
- STORM reports, Crime reports and Standard Prosecution Reports.



In summary, here are some useful tips:

- ✓ Care should be taken to ensure that all information relative to the complaint, which is relied on or referenced in the complaint response, is saved using the appropriate naming convention in the complaint file.
- ✓ Enquiry officers should keep an auditable record of all enquiries and rationale for pursuing/not pursuing lines of enquiry, which will assist PIRC with the initial assessment of the case and in some instances, may prevent unnecessary further requests for information where it is clear that it is not available or has not been considered.

¹ Data from 1st April 2024 – 31st August 2024



Spotlight: Six-Stage Audit

In July 2024, the Commissioner published an audit report on the Six-Stage Complaint Handling Process. The audit involved a sample of 68 complaint files concluded by Police Scotland between 1 July and 30 September 2023.

The aim of the audit was to examine overall adherence to the PIRC Statutory Guidance and the Complaints Against Police (CAP) Standard Operating Procedure (SOP), identify and highlight areas of good practice, provide general assurance of the existing procedures and identify areas for improvement.

We are pleased that the audit report highlighted several areas of good complaint handling practice and a high level of compliance with our Statutory Guidance. Examples include:

- The correct use of the appropriate test in determining complaint outcomes and the communication of decisions.
- Police taking appropriate steps to ensure that the complaint process is accessible to representatives and third-party complainers.
- 88% of complainers received a formal response letter free of legal jargon that clearly explained the enquiries undertaken and how the police had reached a decision on whether to uphold or not uphold the complaint.

- 96% of complainers correctly identified a 'relevant complaint' about the police and 75% of complaints were correctly categorised.
- All complaints that contained criminal allegations were correctly referred to the CAAP-D or PIRC.

The audit report also highlighted areas for improvement in the existing procedures, which undermines the overall efficiency of the police complaints process. Specifically, the audit identified increasing delays in the time taken by Police Scotland to respond to complaints – with the average time to respond being 222 days. This significantly exceeds the current target of 56 days. We also found that communication with members of the public during the complaints process should be improved as the audit highlighted that 65% of complainers were not asked to agree the Heads of Complaint for enquiry and 56% were not asked to provide a statement or account of their concerns. We also identified inconsistencies in relation to the Quality Assurance procedures and how learning identified through the complaint enquiry was captured, recorded and disseminated.

A total of 10 recommendations have been made within the report – all of which are aimed at improving the service to the public and streamline processes to enable complaints to be dealt with more quickly. This includes recommendations that Police Scotland:

- Conduct a performance data review, taking account of increased demand and existing resource to establish new Key Performance Indicators (KPI's) for dealing with different types of complaints.
- Revise the complaint acknowledgement letter sent when a complaint is being passed for investigation to include an explanation on next steps as the complaint passes through the complaint process, and estimated timescales to provide greater clarity for complainers.

PIRC will continue to liaise with PSD until the recommendations have been satisfactorily implemented.





Audit of the Initial Complaint Triage (NCARU)

In April 2023, PIRC concluded and published an audit report on the initial triage of complaints made by members of the public. This was a joint audit, between PIRC and the Scottish Police Authority (SPA), in response to a recommendation arising from the Dame Elish Angiolini Report.



The audit examined a sample of Police Scotland complaint (CO) and miscellaneous (MI) files. The aim of the audit was to provide assurance of an effective initial triage of relevant complaints by looking at how complaints were assessed, recorded and categorised, progressed and responded to. The audit identified several areas for improvement, with key issues identified, including:

- Lack of consistent standardised training for complaint handlers.
- Inconsistent approach to reasonable adjustments for vulnerable individuals.
- Poor record keeping, and
- Complaints being incorrectly categorised – with a particular emphasis on understanding the definition of a ‘relevant’ complaint.

Since its publication, PIRC has been working closely with Police Scotland to oversee the implementation of the eight recommendations made within the report. The recommendations have resulted in a number of positive improvements – particularly around training – that will assist complaint handlers and bring about consistency of approach.

This includes:

- A revised complaint handling form – the form is more user friendly and now allows for complaint handlers to record any protected characteristics/ reasonable adjustments that may be required to make the complaint process more accessible, particularly to vulnerable complainers. The revised forms also reduce the amount of duplication of information.
- A dedicated training package for new PSD complaint handlers, including training specifically for those working within NCARU. This includes an input on the ‘Journey of a Complaint’, the role of the NCARU, the definition of a ‘relevant’ complaint, as well as new guidance on what amounts to reasonable attempts at contact before a ‘14-day letter’ is sent to the complainer.
- Improved revised guidance on complaint categorisation, providing further clarity on definitions for Neglect of Duty complaints, Excessive Force/Assault, as well as Quality of Service and Irregularity in Procedure.

The implementation of these recommendations is now in the final stages of the audit process. We will continue to monitor the positive impact of our recommendations going forward.



The PIRC Investigations Team

We have the same powers of a police officer in Scotland while carrying out investigations.

We can investigate:

- ✓ Incidents referred to us by COPFS including deaths in custody and allegations of criminality made about policing officers.
- ✓ Serious incidents at the request of the Chief Constable or the Scottish Police Authority (SPA) such as the serious injury of a person in police custody or the use of firearms by police officers.
- ✓ Allegations of misconduct against senior police from the rank of Assistant Chief Constable and above, if requested by SPA.
- ✓ Other matters relating to policing which the Commissioner considers in the public interest.

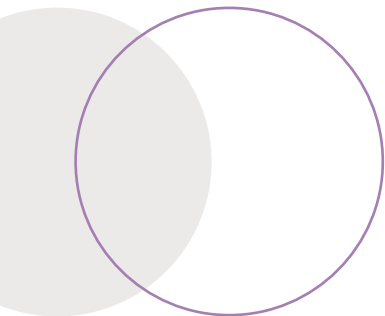
We cannot investigate:

- ✗ Criminal allegations against retired officers.
- ✗ Internal staff grievances within policing bodies.
- ✗ Misconduct issues involving any officers of the rank of Chief Superintendent and under.

We will gather all the available evidence to establish what happened. At the end of the investigation, we will report our findings to the organisation who referred the incident to us. The Commissioner can publish a report if it is believed to be in the public interest to do so.

Reports for police referred investigations: provide feedback to the policing body and, where appropriate, can highlight opportunities for organisational learning. This could include improving or reviewing police standard operating procedures or policies.

Reports for COPFS instructed investigations: contain our findings and recommendations. These reports are confidential and are not published for various reasons which can include the identification of vulnerable persons.



SPOTLIGHT:

Operations involving surveillance officers and armed officers

We would like to highlight a specific area of guidance in relation to armed operations involving the joint deployment of Authorised Firearms Officers (AFOs) from the Counter Terrorism Specialist Firearms Unit (CTSFU) and unarmed plain clothes/surveillance officers.

The receipt of dynamic intelligence can result in the joint deployment of all three types of resource. When this occurs there must be clear briefings to all officers involved in the operation as to their specific roles. All plain clothes/surveillance officers should have suitable clothing/equipment that allows them to be easily identified as police officers.

In 2023, an incident occurred which resulted in a CTSFU AFO issuing a challenge to an unarmed plain clothes/surveillance officer who was carrying out observations on an address where an armed suspect was believed to be.

This challenge occurred as a result of the plain clothes/surveillance officer not having any clothing, such as a luminous baseball cap, to clearly identify them as a police officer.

The plain clothes/surveillance officers had been briefed by a senior officer that their role was to maintain observations on the named individual and then 'spot' the door of the address they were within and identify it to the CTSFU AFOs. It was not intended that the plain clothes/surveillance officers would become overt during the operation.

Plain clothes/surveillance officers are requested to carry personal protective, but in any case are expected to carry out dynamic risk assessments as to the suitability of the equipment in each individual circumstance. On this occasion the plain clothes/surveillance officer did not wear or have anything readily identifying them as a police officer.



Our Guidance: In the absence of any guidance within national Covert Policing manuals regarding the wearing/readily access to luminous branded police attire, Police Scotland should consider drafting specific guidance in relation to the deployment of covert officers alongside AFOs and the requirements for officers being clearly identifiable and wearing high visibility baseball caps with police branding.

SPOTLIGHT:

Liaising to provide the best possible service to the public

PIRC and Police Scotland will participate in a joint liaison event in December 2024 to support knowledge sharing and raise awareness of best processes and practices for complaints handling and investigations. It will also reflect upon outcomes from a previous engagement session hosted by PIRC in January 2024 which explored various topics and subjects including information sharing, assessment of investigations and engagement alongside the categorisation of complaints and complaint handling learning.

The aim of such events is to ensure the public receives the best possible service.

PIRC looks forward to constructive engagement, to reflect on the progress that has been made against identified actions and to consider where there may still be scope for further improvement.



Contact us

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

Please use the following details to contact the relevant team:

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