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LETTER SENT BY E-MAIL ONLY

Audrey Nicoll MSP
Convenor, Criminal Justice Committee
The Scottish Parliament
EDINBURGH
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1 May 2024

CE/028/2023

Dear Convenor

Police (Ethics, Conduct and Scrutiny) (Scotland) Bill – Stage 1

Following a request from your Committee Clerk on 19 April 2024, I am writing to provide information to aid the Criminal Justice Committee's scrutiny at Stage 1 of the Police (Ethics, Conduct and Scrutiny) (Scotland) Bill.

Complaints & Conduct Committee

The Police and Fire Reform (Scotland) Act 2012 states that the Authority must keep itself informed of the way Police Scotland deals with relevant complaints with a view to satisfying itself that Police Scotland has suitable arrangements in place. A 'relevant complaint' is defined in legislation as a non-criminal complaint by a member of the public about the police, or about an officer or member of staff of the police. The Authority has no legal basis to oversee the performance of the Police and Investigations Reviews Commissioner (PIRC). The Commissioner is invited to attend the Board of the Authority annually to present and discuss her annual report.

The Authority's Complaints & Conduct Committee fulfils this function by monitoring, overseeing and scrutinising Police Scotland's handling of 'relevant' complaints. The [terms of reference](#) for our Complaints and Conduct Committee state that meetings will be used to:

- Monitor the handling of relevant complaints by Police Scotland, seeking information on themes or trends as appropriate, with a view to the Committee satisfying itself that the arrangements maintained by Police Scotland for the handling of relevant complaints are suitable.

- Critically examine reports from HMICS, PIRC, and any other information provided by Police Scotland in relation to complaints about the police and ensure that appropriate improvement plans are implemented, or remedial action is taken within agreed timescales.
- Contribute to and consider the findings of official reviews of complaints matters and ensure that recommendations from such reviews are implemented as appropriate.

To assess the effectiveness of Police Scotland performance in handling relevant complaints, the Committee takes evidence from:

- Police Scotland, through regular and ad hoc assurance reports.
- PIRC, on complaint handling reviews and thematic audits.
- Authority officials, through member briefing and reporting on regular dip-sampling.

The Committee seeks assurance, through audit and random case sampling, that complaints are being appropriately categorised and improvement actions are being progressed. For example, a progress [report](#) on discharging recommendations from the recent joint audit conducted by the Authority and PIRC outlines additional training provided by PIRC to Professional Standards officers to ensure cases are appropriately recorded as 'relevant complaints' and with auditable records maintained outlining the rationale where cases are not recorded as such. Work is also being undertaken to review the current allegation categories to further support consistent recording.

The Committee is aware there will be individuals who are dissatisfied with Police Scotland's handling of their complaint and choose not to request a complaint handling review by PIRC. The Committee will receive structured feedback in the summer from Police Scotland on individuals who raise complaints.

I have summarised below some examples of the Committees' scrutiny of trend information in relation to complaints:

- The circumstances giving rise to increasing complaint levels and any correlation with Police Scotland resourcing levels.
- Geographical variances in complaint levels, seeking to understand underlying influencing factors, cross-division learning and assurance around preventative action taken.
- Analysis of allegations related to quality of service, irregularity in procedure and discriminatory behaviour, and assurance around remedial action.
- The Committee has also taken a particular interest in conduct matters where allegations have a sexual element. These cover complaints

made by members of the public or internal complaints by officers and staff.

- Frontline resolution trends, reviewing appropriate categorisation, officer and staff training and future audit plans.

Following the above work, the committee will review resourcing levels of Police Scotland's Professional Standards Department, to inform the Authority's scrutiny of the Revised Model of Policing.

Lady Angiolini – Review Recommendations

Recommendation 29 - "The SPA Complaints and Conduct Committee should hold Police Scotland to account for delays in investigations into complaints and misconduct. Where there is evidence of excessive delays in PIRC investigations impacting on policing in Scotland the Committee should raise the matter with the Commissioner."

The Committee now receives information to support scrutiny of the timescales associated with investigations into complaints and misconduct. The information includes:

- Overall average complaint closure timescales.
- Proportion of complaint cases resolved at frontline within 56 days.
- Proportion of non-criminal complaint cases closed within 56 days (or within wider time limits thereafter).
- Overall average timescales for completion of officer misconduct investigations.
- Overall average timescales for completion of officer misconduct proceedings. More detailed breakdown of timescales linked to ongoing cases involving suspension or restriction of duty, with explanation of status.

The Committee has received improved information and there is clear evidence of progress against this recommendation. However, the Committee are not yet satisfied that there is effective data in relation to timescales that would discharge fully this recommendation. For example, at the end of Quarter 3 the year-to-date position for 2023/24 reporting period shows:

- Complaint cases were taking an average of 225 days to complete.
- 11.7% of cases were being closed within the 56 days.

The Committee recognises that some complaints can be complex in nature. However, it is concerned that 14% of cases closed to date during 2023/24 experienced excessive delays (in excess of 12-months). Police Scotland will provide the Committee with information and an explanation for any complaint case not completed within 12 months.

PIRC also provides quarterly reports to the Committee on the timeliness of its own processes, which are also published in its 2022-2023 [Annual Report](#):

- 80% of investigations completed within 3 months.
- 80% of complaint handling reviews completed within 4 months of receipt.

The PIRC also reports on timescales for the provision of information requested of Police Scotland in relation to complaint handling reviews. There has been an improvement in the time it takes to provide information to PIRC year on year from 2020-21. Police Scotland is on track to reduce this further in 2023-24.

Recommendation 79 - "The Scottish Police Authority Complaints and Conduct Committee should scrutinise Police Scotland's performance in dealing with complaints and hold the service to account where the targets are not being achieved."

The Committee receives and reviews:

- Complaint handling timescales.
- Upper and lower confidence limits in respect of normal complaint volumes, to enable scrutiny of any significant variation.
- Complaint volumes by each Division/Department.
- Allegation categories.
- Reporting in relation to allegations of discriminatory behaviour.
- Reporting on upheld complaints with information on common allegation categories/sub-categories.
- Trend analysis.

The Committee has required the service to set out targets and timelines for completing key stages of the complaint handling process.

The Committee has asked the Authority's staff to benchmark public reporting on police complaint handling in other UK jurisdictions.

Recommendation 59 - "In order to ensure public confidence in the police, the SPA should confirm each year in its annual report whether or not in its view, based on an informed assessment by the Complaints and Conduct Committee and evidence from the relevant audits, the Chief Constable has suitable complaint handling arrangements in place."

The Authority has included a statement in its Annual Report for the periods [2021-22¹](#) and [2022-23²](#). The Committee reports “evidence of progress” which has been informed by input from PIRC in relation to ‘relevant complaints’ and an assessment of:

- The introduction (in 2021) of a new national complaint handling operating model.
- The provision of data contained in Police Scotland’s quarterly and annual assurance reports to Committee.
- PIRC Complaint Handling Review outcomes (in 2022-23, 74% of CHRs were assessed as ‘reasonably handled’ – the highest recorded figure to date).
- The [findings](#) of an initial joint SPA/PIRC audit on the triage of complaints.
- [Progress](#) in discharging non-legislative recommendations arising from the review.

The Committee will further improve its assessment of Police Scotland’s complaint handling arrangements for 2023-24, due to:

- Improved data analysis and insight in year.
- The reintroduction of random case sampling of closed cases.
- The forthcoming reporting on the findings of a further PIRC-led audit in respect of the six-stage complaint process outlined in its [statutory guidance](#).

The Authority now publishes an annual, detailed report on the business of the Complaints & Conduct Committee ([2022-23 report](#)). Reports to date have focussed on the Committee’s oversight of ‘relevant complaints’. Future reports will be expanded to include oversight of misconduct cases for example.

Officers on suspension and restricted duties

Finally, it was reported to your evidence session on 24 April 2024 that the Scottish Police Authority stopped publishing reports of officers and staff suspended or on restricted duties. On the contrary this information is reported to the Authority’s Complaints and Conduct Committee quarterly. It is also published on the Authority’s website and the vast majority of meetings are live streamed for openness and transparency. They can also be viewed as archived meetings on the Authority’s website. The most recent report was considered by the [Committee in February](#) 2024.

¹ Page 53-54

² Page 48-49

I trust this information provides the Criminal Justice Committee with information to aid its scrutiny of the Police (Ethics, Conduct and Scrutiny) (Scotland) Bill.

Please do not hesitate to contact us if you have further requests.

Yours sincerely

A handwritten signature in black ink that reads "Lynn Brown." The signature is written in a cursive style with a period at the end.

LYNN BROWN OBE
Chief Executive