

Meeting	SPA Complaints & Conduct Committee
Date	19 August 2021
Location	MS Teams
Title of Paper	Independent Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing - SPA Update
Presented By	Head of Workforce Governance
Recommendation to Members	For Discussion
Appendix Attached	Yes – Appendix A – SPA Implementation Recommendations Action Plan

PURPOSE

The purpose of this report is to update the Committee on work being progressed to address recommendations arising from the Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing, led by Dame Elish Angiolini.

The paper is presented in line with:

- *Scottish Police Authority Committee Terms of Reference*

The paper is submitted:

- *For Discussion*

1 BACKGROUND

- 1.1 A report was presented to the Committee in March 2021, following publication of the Final Report on the 'Review of Complaints Handling and Misconduct Issues in Relation to Policing' on 11 November 2021. It provided a status update in respect of SPA implementation actions arising from recommendations contained in the Preliminary Report, as well as a high-level plan in respect of applicable recommendations arising from the Final Report. A more detailed action plan was then considered by the Committee in May 2021.
- 1.2 The action plan
- Describes action being taken to progress recommendations where Dame Elish identifies a specific implementation role for the SPA, as well as others where SPA officials have otherwise identified such a role.
 - Identifies, for ease of reference, the corresponding recommendation from the Preliminary or Final Report to which the action pertains, as well as 'themes' identified via national governance and reporting arrangements (see below).
 - Is being used to inform Highlight Reports submissions to Scottish Government as part of national governance and reporting arrangements.
- 1.3 The action plan does not seek to capture recommendations directed at Police Scotland, where the Authority has an oversight role, acknowledging separate reporting to the Committee by Police Scotland in this regard. However, SPA officials are liaising with Police Scotland counterparts to understand how action being taken in respect of recommendations which fall within the terms of reference of other Committees (predominantly People and Policing Performance) will be reported.

2 FURTHER DETAIL ON THE REPORT TOPIC

SPA Action Plan

- 2.1 Appendix A provides an up-to-date position on actions being progressed by SPA officers in respect of recommendations arising from the Final Report and those outstanding from the Preliminary Report.
- 2.2 For ease of identification of those recommendations which, through national governance and reporting arrangements, it has been identified that the SPA hold lead responsibility, these are highlighted in yellow.
- 2.3 Members will note that, of the 31 recommendations identified within the action plan, actions linked with 13 of these are marked as complete or proposed for completion (pending discussion of other items on the Committee agenda), with a further 2 due for completion by 30 September 2021.
- 2.4 As noted previously, where timescales for actions are still to be confirmed, in each case the SPA is not identified as holding lead responsibility for the corresponding recommendation, and therefore there is a dependency on wider partners.

National Governance Update

- 2.5 As set out in the March Committee report, national governance structures have been established, through a Ministerial Group (attended by the SPA Chair and Chief Executive) and Strategic Oversight and Practitioner Working Groups (both of which are attended by SPA officials).
- 2.6 The Practitioner Working Group, which meets monthly, met on two further occasions since the last Committee meeting, discussing the following:
 - Proposed approach to managing potential risks associated with implementing recommendations;
 - Recommendations proposed for sign-off;
 - Draft Assurance Report and First Triannual Thematic Progress Report;
 - Planning in respect of 24 June SPCF meeting.

- 2.7 The PWG also held a series of side meetings, by categorised theme area, in respect of specific recommendations which partners had identified for further discussion.
- 2.8 Following the last Committee meeting, the Strategic Oversight Group met for the third time on 4 June, reviewing progress of the PWG, approving PWG submissions for onward referral to the MG, and reflecting on feedback from PWG side meetings.
- 2.9 The Ministerial Group met on 17 June, where the above referred submissions were approved. The Thematic Progress Report was thereafter published by Scottish Government on 24 June.
- 2.10 On 24 June, a meeting of the Scottish Police Consultative Forum was scheduled in order to discuss, with Staff Associations, Scottish Government's plans for consultation and implementation of legislative proposals arising from the Final Report. Following the meeting, it was agreed that a Working Group of the SPCF would be established as the main vehicle for future engagement with the Staff Associations in this regard. The SPA will be represented on the Working Group by the Committee Chair and Head of Workforce Governance.

3 FINANCIAL IMPLICATIONS

- 3.1 There are no financial implications in this report.

4 PERSONNEL IMPLICATIONS

- 4.1 There are no personnel implications associated with this paper.

5 LEGAL IMPLICATIONS

- 5.1 There are no legal implications associated with this paper.

6 REPUTATIONAL IMPLICATIONS

- 6.1 There are no reputational implications associated with this paper.

7 SOCIAL IMPLICATIONS

- 7.1 There are no social implications associated with this paper.

8 COMMUNITY IMPACT

8.1 There are no community implications associated with this paper.

9 EQUALITIES IMPLICATIONS

9.1 There are no equalities implications associated with this paper.

10 ENVIRONMENT IMPLICATIONS

10.1 There are no environmental implications associated with this paper.

RECOMMENDATIONS

Members are requested to note the contents of this report.

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IN PROGRESS (9 August 2021) – RECOMMENDATIONS DAME ELISH REVIEW

The following provides an up-to-date position on actions being progressed by SPA officers in respect of recommendations arising from the Final Report and those outstanding from the Preliminary Report. As outlined in earlier reports to Committee, these include actions in relation to recommendations which are singly or jointly aimed at the SPA, plus a number of others, not aimed at the SPA, but which are nevertheless considered applicable. For ease of identification of those recommendations which, though national governance and reporting arrangements, it has been identified that the SPA hold lead responsibility, these are highlighted in yellow. Milestones dependent on other partners are highlighted in orange.

ID	Recommendation	Action	Action Update	Action Owner	Milestone	RAG
Audit & review						
001	42. The PIRC should conduct an annual audit of triage within PSD of public complaints against the police to ensure that matters that can be resolved by FLR, or misconduct, or potential criminality are being properly identified and routed accordingly, and to provide assurance that Article 3 and Article 5 cases are being correctly identified and reported forthwith to COPFS.	Develop joint PIRC/SPA annual audit process (first audit to address this recommendation)	Following 4 August NCHDG, meeting taking place between SPA/PIRC prior to August Committee to finalise audit methodology prior to further engagement with PS. Intention is for audit to be completed during 2021/22.	Complaints (via NCHDG)	31/03/2022 (dependent on PIRC/PS)	
002	61. Both PS and the PIRC should consider drawing on the expertise of Audit Scotland and the Scottish Public Services Ombudsman in re-designing the audit arrangements in respect of police complaints.	See Action 001				
003	PR5. Frontline resolution of complaints should be subject to close and regular monitoring through regular, meaningful internal and external audits, and monitoring of decision making.	See Action 001				
004	PR27. All the audit arrangements, including regular dip sampling, designed to identify poor practice, good practice and emerging trends should be prioritised and co-ordinated to support the common objective of improving standards and service to the public.	See Action 001				
Conduct & standards						
005	26. PIRC should work collaboratively with the SPA to agree and embed a proportionate and effective approach to preliminary assessment (for Regulation 8 of the senior officer conduct regulations) until such time as new regulations come into effect.	1. Revise SPA Guidance on Conduct Regulations in respect of preliminary assessment in accordance with this earlier narrative in Preliminary Report. 2. Liaise with PIRC to consider further	1. Revised Guidance developed and subjected to PIRC/SCOPSA consultation prior to Final Report. 2. Liaison has taken place and further changes incorporated. Further changes made following engagement with	Complaints	19/08/2021	Propose complete

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		developments in line with this recommendation, and update SPA Guidance accordingly.	PSD/SCPOSA, prior to further consultation with key stakeholders. Revised Guidance being presented to Committee for approval in August.			
006	PR16. Complaints against senior officers should be prioritised and dealt with, by both the PIRC and the SPA, as speedily as is reasonable, because of the destabilising impact a prolonged investigation can have.	Amend SPA Complaint Handling Procedures to reflect priority to be given to complaints about senior officers	Revised Complaints Handling Procedures developed and subjected to PIRC/SCPOSA consultation prior to Final Report. Final review to ensure alignment with PIRC Stat Guidance and revised Conduct Guidance. Revised Procedures being presented to Committee for approval in August.	Complaints	19/08/2021	Propose complete
007	PR18. The range of options available to the SPA when a senior police officer is under investigation under the conduct regulations should be clarified and expanded, to provide alternatives to suspension.	Amend SPA Guidance on Conduct Regulations to make clear the range of alternatives to suspension.	See Action 005			Propose complete
008	PR19. Any process for preliminary assessment of senior officer misconduct should require the relevant authority both to take into account whether the allegation is made anonymously, is specific in time and location, or whether it appears, on the face of the allegation, to be either vexatious or malicious. SG should consider amending the conduct regulations to reflect this process.	Update SPA Guidance on Conduct Regulations to reflect points made in the review.	See Action 005			Propose complete
Efficiency & Effectiveness						
009	68. The SOG or NCHDG should take an early opportunity to engage with the SPSO to agree where their contribution and advice would be most useful.	Engage with SPSO via SOG / NCHDG		Complaints (via NCHDG/SOG)	tbc (dependent on NCHDG/SOG)	
010	PR13. SG should consider the case for amending the legislation to include a provision to deal with vexatious complainers	Participate in joint review of partner 'Unacceptable, Persistent or Unreasonable Actions by Complainers Policy' via NCHDG to ensure consistency.	Joint review via NCHDG complete. Revised SPA Policy to be presented to Committee for approval in August, alongside Complaints Handling Procedures.	Complaints (via NCHDG)	19/08/2021	Propose complete
Equality, diversity & inclusion						
011	5. PS and SPA should consider expanding the collection of diversity data and the publication of information in order to enhance their	Review complaints forms to enable understanding	1. Discussions ongoing via NCHDG regarding enhancement of public	Complaints / Strategic Business	30/09/2021 (although NB	

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	understanding, and public understanding, of attitudes and concerns in different communities.	of diversity of complainants	communication and accessibility in respect of complaints handling, including discussion on updating level of information sought via E & D forms by aligning questions to census categories, allowing analysis of complaints data against the wider population and to identify groups which may be reluctant/unable to make complaints initially. 2. SPA review of online forms (incl. E & D) being progressed as part of wider review of SPA digital offer. Further meeting to be arranged with SPA External Relations before progressing with IT. Depending on progress of above discussions, it may be that update is undertaken in 2 phases (see also Action 031).	Management / SOG	dependency on NCHDG)	
012	16. PS should implement, where it is in their gift, the SEMPER Scotland proposal that the composition of panel members for disciplinary hearings should be more diverse.	Ensure, as far as possible, diversity of Police Appeals Tribunals (albeit Lord President appoints pool of members from which SPA selects).		Legal	Ongoing, as applicable	Complete
013	17. Appropriate support for anyone in PS who is the subject of internal or external discrimination should be enhanced.	Engage with PS to ensure applicability of support for those working in SPA Corporate/Forensics		Workforce Governance	tbc (dependent on PS)	
Governance & accountability						
014	29. The SPA Complaints and Conduct Committee should hold PS to account for delays in investigations into complaints and misconduct. Where there is evidence of excessive delays in PIRC investigations having an effect on policing in Scotland the Committee should raise the matter with the Commissioner.	Liaise with PS to agree proposed content and timing of data required, with report to be submitted to Committee	Engagement taken place with Members, SPA officials and PIRC, and ongoing engagement with PS on proposed content of future	Complaints	19/08/2021 (dependent on PS)	

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		seeking their agreement (albeit recognising scope for ongoing development thereafter).	reports, with a view to incorporation from Q1 report onwards.			
015	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.	Include confirmation in 2021/22 Annual Report, based on assessment by Committee during the preceding 12 months, and based on consultation with the PIRC	Any confirmation of suitability of PS arrangements will require to be based on an assessment by Committee, as well as consultation with PIRC. Given dependency on other actions out in this plan, action identified for completion via 2021/22 ARA	Complaints	Q1 22/23 Committee meeting date	
016	79. The SPA Complaints and Conduct Committee should scrutinise PS performance in dealing with complaints and hold the service to account where the targets are not being achieved.	See Action 014				
017	PR26. There should be the immediate establishment of a senior cross-agency joint Working Group involving the SPA, Police Scotland and the PIRC to develop appropriate and up to date guidance.		Complete - cross-agency Strategic Oversight Group and National Complaints Handling Development Group established. Regular updates provided to Committee		n/a	Complete
Rights & ethics						
018	32. SPA and PS should consider together what role the SPA Complaints and Conduct Committee, or the Policing Performance Committee, might have in relation to the discussion of ethical issues in policing in Scotland.	Develop Framework setting out SPA approach to oversight of ethical issues.	Plan to develop SPA approach to ethical oversight drafted. To be presented to SMT (and Members thereafter) following discussion via Heads. Will recommend Member ethics champion. Linked work progressing via student placement to explore international best practice approach to ethics in law enforcement. NB IAG 'legislation and ethical standards' work stream expected to make linked recommendations next year.	Change & Operational Scrutiny	Q1 2022/23	Original milestone of 28/05/2021 to develop plan met, new milestone relates to resulting implementation (subject to plan approval)
019	70. Independent Custody Visitors should, as a matter of course, check with custody officers and with detainees that a third party has been notified of their detention.		Complete - Visitors are already trained to ask if a 3rd party has been notified and to confirm this with custody officers and staff. This is also set out in the 'aide memoire'		n/a	Complete

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			checklist provided for use during visits.			
020	1. PS Code of Ethics should be given a basis in statute. SPA and the Chief Constable should have a duty jointly to prepare, consult widely on, and publish the Code of Ethics, and have a power to revise the Code when necessary.	Recommendation for legislative change is for SG. However, scope to consider Code of Ethics as part of broader SPA ethical oversight approach (see Action 018)	See Action 018			
021	20. PIRC should be added to the list of prescribed persons in The Public Interest Disclosure (Prescribed Persons) Order 2014 in order that people working in PS and SPA are able to raise their concerns with an independent third-party police oversight organisation.	Explore (through discussion between SPA, PS and PIRC) scope to identify PIRC as an external organisation to whom individuals can raise concerns, in advance of legislative change formally adding them to the list of prescribed persons	Whilst ongoing discussion between PIRC and partners via PWG/SOG in respect of proposed legislative change, partners have agreed not to pursue proposed action.			
022	21. Whistleblowing can be an indicator of what is happening within an organisation and therefore PS should review and audit its whistleblowing arrangements and data on a regular basis.	Introduce regular process for review and audit of SPA whistleblowing arrangements and data on a regular basis.	SPA Whistleblowing Guidance was updated in March 2020, with governance and reporting arrangements, in line with this recommendation, included. A first annual report (which includes a self-assessment against best practice) was presented to July ARAC.	Workforce Governance	15/07/2021	Propose complete
Training & HR						
023	62. PS should appoint a PSD training officer to maintain the momentum in training and development arising from its internal Risk, Assurance and Inspection (RAI) team audit, and to liaise with the SPSO, the PIRC and the SPA on joint training, best practice and other relevant development opportunities.	Engage in joint development opportunities via NCHDG		Complaints (via NCHDG)	tbc (dependent on NCHDG)	
024	65. PIRC and PS should work together to develop training and development opportunities that take the theoretical learning from thematic analysis of complaints and embed it in practical learning for individual officers.	Input to development of practical learning opportunities via NCDHG.		Complaints (via NCHDG)	tbc (dependent on NCHDG)	
025	PR4. PS should scrutinise complaints thoroughly on receipt so as to ensure that grievance matters that would in any other walk of life be treated in an HR context are not artificially elevated and dealt with as conduct matters.	Amend SPA Complaints Handling procedures to state that, in general, HR-related complaints are dealt with, in the first instance, as grievances.	See Action 006			Propose complete

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026	PR10. PS should consider the importance of providing all officers involved in frontline resolution with training in mediation and customer handling.	Consider mediation training for SPA Complaints Team, seeking access to PS provision where applicable		Complaints (via PS)	tbc (dependent on PS)	
027	PR17. Further training for complaints and conduct officers in SPA should be consolidated and broadened in order to ensure the right skillset and up to date knowledge of complaint handling best practice in other sectors.	Develop programme of training and personal development for the SPA Complaints Team, seeking access to PIRC/PS provision where applicable (see Action 023 & 026)	<p>Prior to Review, team completed Professional Award in Ombudsman & Complaint Handling Practice course via QMU; during Review Co-ordinators subsequently completed Professional Certificate course.</p> <p>PDPs reviewed and updated for 2021/22 (Manager PDP to be completed on RTW). Subject to confirmation of funding/course availability, intention to support audit training, attendance at relevant (e.g. SPSO) conference, participation in relevant training offered by PS/PIRC (See Action 023 & 026) and Manager completion of Professional Certificate course.</p>	Complaints	31/03/2022 (noting dependencies)	
Transparency & accessibility						
028	30. To increase public confidence in the system the SPA Complaints and Conduct Committee should consider using its minutes as a means of sharing with the public more of their substantive discussions and how PS is being held to account in this area; and consider whether some content of the minutes of the private sessions, where some strategic and policy matters are discussed, could be included in the published minutes.	Develop proposed approach to publication of private Committee discussions where applicable, whilst ensuring appropriate safeguards in place.	Proposed approach tabled at May Committee meeting seeking agreement to adopt going forwards. Following feedback from Members, approach to be implemented with a view to considering draft of May private minute during private session of August Committee.	Complaints / Strategic Business Management	19/08/2021	Propose complete
029	31. The SPA Complaints and Conduct Committee's scrutiny function should be reported on in the SPA annual report, drawing out particular trends, highlighting improvements or concerns and using complaints data as an indicator of communities' satisfaction or dissatisfaction with policing services	Develop a Committee-specific 2020/21 annual report, and summary extract for inclusion in SPA Annual Report (albeit recognising scope for ongoing development	<p>Draft Committee-specific report being presented to August Committee for approval.</p> <p>Text for ARA provided for inclusion. Due to incorrect</p>	Complaints	19/08/2021	Propose complete

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		thereafter, particularly in light of progression of other actions outlined in this plan).	timescales being advised for submission, this wasn't able to be agreed with Committee in advance. However, will be reported retrospectively in August.			
030	46. The ability to report directly to the CAAPD of COPFS a complaint of a crime by a police officer should be much better publicised and made more accessible to the public by COPFS, by PS and by the PIRC.	Publicise role of CAAPD via SPA website.	Wording now included on SPA website	Complaints / Strategic Business Management	30/09/2021	Complete
031	PR8. PS should simplify and streamline systems to make it as straightforward as possible for members of the public to navigate this rather opaque landscape and as easy as possible for them to access and understand information on how to make a complaint. In particular the online complaints form on the PS website should be made more prominent.	<p>1. Assess prominence given to complaints on SPA website and ensure clarity provided on kinds of complaint which SPA can deal with</p> <p>2. Review online complaints form to ensure provides simplest possible means of making a complaint.</p>	<p>1. Complete - SPA Complaints web page updated and simplified, now showing what we do and do not do, with links and contact details on one page, although work to refine further as part of SPA website redesign.</p> <p>2. See Action 011</p>	Complaints /Strategic Business Management	30/09/2021	

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