

<b>Meeting</b>	<b>SPA Complaints &amp; Conduct Committee</b>
<b>Date</b>	<b>25 November 2021</b>
<b>Location</b>	<b>MS Teams</b>
<b>Title of Paper</b>	<b>Independent Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing - SPA Update</b>
<b>Presented By</b>	<b>Head of Workforce Governance</b>
<b>Recommendation to Members</b>	<b>For Noting</b>
<b>Appendix Attached</b>	<b>Yes – Appendix A – SPA Implementation Recommendations Action Plan</b>

## **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 Report 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 (as well as to other Committees in respect of specific recommendations which fall within their terms of reference).

## 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 20 of these are marked as complete or proposed for completion.
- 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 (PWG) has met on 2 occasions since the last update to the Committee (1 September and 21 October), discussing the following:
  - Update on risk and mitigating actions;
  - Planning for next cycle of assurance and thematic process reporting;
  - NPM Final Report – Consideration of CPT Recommendations (see 2.7 below);
  - Recommendations proposed for sign-off;
  - Draft Assurance Report and Triannual Thematic Progress Report;
  - Feedback from SPCF meetings.

- 2.7 The PWG also held a side meeting on 23 September to consider mapping of the Council of Europe's Committee for the Prevention of Torture (CPT) recommendations and Scottish Sub-Group National Preventative Mechanism (NPM) assessment against findings and recommendations from the Dame Elish Angiolini Review, discussing options to provide greater visibility of improvement work which addresses shared themes.
- 2.8 Following the last Committee meeting, the Strategic Oversight Group (SOG) met on 29 September, reviewing progress of the PWG, considering update following the Scottish Police Consultative Forum (SPCF) meeting on 8 September, and reflecting on the PWG side meeting in respect of the NPM Final Report. The SOG is due to meet again on 24 November, to approve PWG submissions for onward referral to the Ministerial Group (MG).
- 2.9 The Ministerial Group is due to meet again on 2 December, where the above referred submissions will be presented for approval. It is currently anticipated that the resulting Thematic Progress Report will be published prior to the December Scottish Parliamentary recess.
- 2.10 Following a meeting of the SPCF in June, scheduled to discuss with Staff Associations Scottish Government's plans for consultation and implementation of legislative proposals arising from the Review, 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 Working Group met on 8 September and 13 October, with the SPA Committee Chair and Head of Workforce Governance in attendance.

### **3 FINANCIAL IMPLICATIONS**

- 3.1 There are no financial implications in this report.

### **4 PERSONNEL IMPLICATIONS**

- 4.1 Whilst a number of recommendations arising from the Review have personnel implications, there are no such implications directly associated with this paper.

### **5 LEGAL IMPLICATIONS**

- 5.1 Whilst a number of recommendations arising from the Review have legal implications, there are no such implications directly associated with this paper.

## **6 REPUTATIONAL IMPLICATIONS**

6.1 There are reputational implications associated with this paper. It is critical that the Authority visibly demonstrates a timely and effective response to the Review, both in discharging recommendations for which it is directly responsible, and in its oversight of those recommendations directed at Police Scotland, in order to maintain and enhance public confidence in the handling of complaints and conduct matters within policing in Scotland.

## **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 Whilst a number of recommendations arising from the Review have equalities implications, there are no such implications directly 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
<b>Audit &amp; review</b>						
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)	Meetings have taken place between SPA & PIRC to finalise audit methodology. Draft ToR has been set & engagement has taken place with PS. Update to be provided to Nov Committee. On track for completion of audit during current FY.	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  (Update - PIRC has had meetings with Audit Scotland & SPSO who are content to assist with methodology guidance)				
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  (Update – recommendation closed via first Triannual Progress Report in respect of internal PS arrangements. External audit to be progressed via Action 001 above)				Complete
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  (Update - NCHDG continues to progress arrangements for an annual multi-agency audit of PS complaint handling)				
<b>Conduct &amp; standards</b>						
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	Complete		n/a	Complete

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		<p>Preliminary Report.</p> <p>2. Liaise with PIRC to consider further developments in line with this recommendation, and update SPA Guidance accordingly.</p>				
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	Complete		n/a	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			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			Complete
<b>Efficiency &amp; Effectiveness</b>						
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	Partners engaging with SPSO as part of work to take forward no. of recommendations, incl. consultation on those requiring legislation. SPSO also features in ToR for SOG.	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.	Complete		n/a	Complete

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<b>Equality, diversity &amp; inclusion</b>						
011	5. PS and SPA should consider expanding the collection of diversity data and the publication of information in order to enhance their understanding, and public understanding, of attitudes and concerns in different communities.	Review complaints forms to enable understanding of diversity of complainants	Propose for completion – New online complaints form (incorp. E & D monitoring) launched 24/11/21.  SPA officers will continue to collaborate with partners to identify further opportunities for improvement.  (see also Action 031)	Complaints / Strategic Business Management / SOG	n/a	Propose complete
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).	Complete		n/a	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	Work continues to be progressed & discussion has taken place with IOPC in respect of discrimination training for use by PS.	Workforce Governance	tbc (dependent on PS)	
<b>Governance &amp; accountability</b>						
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 seeking their agreement (albeit recognising scope for ongoing development thereafter).	Engagement taken place with Members, SPA officials & PIRC on proposed content of future reports, with outputs shared with PS. Further engagement between SPA officials & PS to be progressed following COP26.	Complaints	31/03/2022* (dependent on PS)  *Original milestone amended to reflect dependency on further development of PS reports to enable it to be discharged & recognising impact of COP26	
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 requires assessment by Committee, & consultation with PIRC. Given dependency on other actions in this plan, identified for completion via 2021/22 ARA	Complaints	Q1 22/23 Committee meeting date	



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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			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.	SPA Vice-Chair confirmed as ethics champion. Draft plan to develop Ethical Oversight Framework produced. Work carried out to explore international best practice approaches to ethics in law enforcement will inform development of Framework. Legal Framework & Ethical Standards work stream of IAG on New & Emerging Technologies & Policing expected to make linked recommendations in 2022/23. Further consideration will be required regarding role of specific committees in oversight of ethics in policing.	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			n/a	Complete
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	Broader recommendation for legislative change to be progressed by SG. Specific action not progressed, per previous update.			n/a	Complete

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		raise concerns, in advance of legislative change formally adding them to the list of prescribed persons				
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.	Complete		n/a	Complete
<b>Training &amp; HR</b>						
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	Training officer appointed in National Support, Partnerships & Prevention Unit with responsibility for coordination of all training across PSD business areas. Joint training now takes place on regular basis.	Complaints (via NCHDG)	n/a	Proposed closed by partners
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.	In addition to joint training already delivered by PIRC & PS, further training delivered at Scottish Police College, SPA & PS PSD. Delivery of 'Learning Point' publication provides medium for capturing & sharing learning identified through PIRC investigations & CHRs. This has been embedded in BaU processes & will provide foundation for theoretical learning to be shared & embedded in practical Policing operations.	Complaints (via NCHDG)	n/a	Proposed closed by partners
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			Complete
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	PSD has established overarching training group to provide oversight of national approaches &	Complaints (via PS)	n/a	Proposed closed by partners

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		provision where applicable	delivery of mediation & customer handling training. Training identified for customer handling & mediation in conjunction with C3 Trainer. PSD Training Working group will continue to provide oversight of training in support of Organisational Priorities as outlined in Annual Police Plan 21/22  (Specific action re SPA consolidated under Action 027 below)			
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)	Prior to Review, team completed Professional Award in Ombudsman & Complaint Handling Practice course via QMU; during Review Co-ordinators subsequently completed Professional Certificate course.  PDPs reviewed & updated for 21/22 (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) & Manager completion of Professional Certificate course.	Complaints	31/03/2022 (noting dependencies)	
<b>Transparency &amp; accessibility</b>						
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	Develop proposed approach to publication of private Committee discussions where applicable, whilst ensuring appropriate safeguards in place.	Complete		n/a	Complete

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	and policy matters are discussed, could be included in the published minutes.					
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 thereafter, particularly in light of progression of other actions outlined in this plan).	Complete		n/a	Complete
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.	Complete		n/a	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>Propose for completion – Pending progression of SPA project to review/renew overall digital offer, complaints webpage content reviewed to improve understanding of complaints within/outwith SPA remit &amp; complaints handling process.</p> <p>New online complaints form (incorp. E &amp; D monitoring) launched 24/11/21 seeks to improve access, whilst minimising scope for complaints outwith remit.</p> <p>SPA officers continue to collaborate with partners to identify further opportunities for improvement. User testing of webpage will be undertaken as part of wider SPA project.</p>	Complaints /Strategic Business Management	n/a	Propose complete