

<b>Meeting</b>	<b>SPA Complaints &amp; Conduct Meeting</b>
<b>Date</b>	<b>21 November 2019</b>
<b>Location</b>	<b>Pacific Quay, Glasgow</b>
<b>Title of Paper</b>	<b>Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing – SPA Update</b>
<b>Presented By</b>	<b>Robin Johnston</b>
<b>Recommendation to Members</b>	<b>For Noting</b>
<b>Appendix Attached</b>	<b>Yes Appendix 1 - Dame Eilish Angiolini Recommendations Action Spreadsheet</b>

**PURPOSE**

This is a briefing to the Complaints and Conduct Committee to provide an update on the actions related to Recommendations in the Preliminary Report published by Dame Eilish Angiolini

*The paper is presented in line with:*

- *Scottish Police Authority Committee Terms of Reference*

*The paper is submitted:*

- *For Noting*

## 1 BACKGROUND

- 1.1 Dame Elish Angiolini published her Preliminary Report on 'Independent Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing' on 21 June 2019.

It can be accessed at:

<https://www.gov.scot/publications/preliminary-report-independent-review-complaints-handling-investigations-misconduct-issues-relation-policing/>

## 2 FURTHER DETAIL ON THE REPORT TOPIC

### 2.1 SPA Action Plan

- 2.2 The SPA has generated an agreed internal action plan to address the specific recommendations within the report, as well as take cognisance of the lessons learned and observations made throughout the report. Appendix 1.

## 3. FINANCIAL IMPLICATIONS

- 3.1 There may be financial implications in this report, depending on what resources are required to ways of working to strengthen the SPA oversight role.

## 4. PERSONNEL IMPLICATIONS

- 4.1 There may be personnel implications associated with this paper, linked to changes in working practices. These have yet to be analysed and impact understood.

## 5. LEGAL IMPLICATIONS

- 5.1 There may be legal implications in this paper depending on any advice received in relation to a specific complaints matter.

## 6. REPUTATIONAL IMPLICATIONS

6.1 There may be positive reputational implications associated with this paper, linked to changes in working practices as an outcome of the Dame Elish Angiolini Preliminary Report and the arrangements being formalised through the Quad Party Group.

## 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 equality implications associated with this paper. The SPA Complaints process is accessible to all, and anything arising from the Independent Review will be assessed in a timeous manner.

## 10. ENVIRONMENT IMPLICATIONS

10.1 There are no environmental implications associated with this paper.

### RECOMMENDATIONS

Members are requested to:

- (a) Note the contents of this report and request additional information if required.

## Independent Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing. Preliminary Report, June 2019

## SPA Action Plan - November 2019

## Actions related to RECOMMENDATIONS in the Preliminary Report

Report Chapter	Reference	Subject	Recommendation/ Observation	Contextual Comments in the Preliminary report	Risk Exposure	Action to be taken	Evidence	Action Owner	Timescales
General	Ind/Com/2019/001	Excessive force allegations	<b>Recommendation 1</b> Given the importance and sensitivity of such allegations it is recommended that all such allegations of excessive force should continue to be reported immediately by PSD to CAAP-D for instruction and investigation by the independent Procurator Fiscal or by PIRC on the directions of the Procurator Fiscal of CAAP-D. (Paras 61, 298)	Reporting to CAAPD: The Crown Agent advised the Justice Committee that, to provide additional reassurance that Police Scotland categorises and routes such allegations correctly: • CAAP-D would carry out a retrospective review of a representative sample of complaint cases that have been characterised by Police Scotland as complaints of 'excessive force' and/or 'unlawful detention'. • Police Scotland would meantime be expected to report all cases to CAAP-D where they propose to categorise the complaint as one of 'excessive force'.	Low	<b>SPA Oversight</b> CCC to have oversight of Police Scotland's implementation of this recommendation via a standing agenda item at CCC meetings.	Appropriate updates from Police Scotland at Committee meetings regarding implementation of the recommendation.	CCC/Police Scotland	Ongoing
Police Scotland	Ind/Com/2019/002	Capability of Line Management - Training and Support	<b>Recommendation 2</b> Police Scotland should review the service-wide capability of its line managers to line manage effectively, including the adequacy of training and mechanisms of support for line managers. (Paras 107, 108, 110, 139)	Culture: A need to re-empower first and second line managers to take decisions rather than always escalate matters to a more senior rank. Use of the Performance Regulations would represent a more appropriate response to officer behaviour based on learning and improvement rather than punishment. Over-reliance on the Conduct Regulations.  Culture: Not all line managers understood the management of performance and how to use the Performance Regulations. A reluctance to consult HR professionals in Police Scotland to get advice on staffing issues.  Culture: Police Scotland rightly aspires to be a learning culture, rather than a blame culture, and that is the underlying ethos of From sanctions to solutions, but the systems in place, and more importantly the way that they are operated, does not always encourage that approach. There is evidence that police officers feel exposed, stressed, and fearful of making a mistake that could result in disciplinary action or, at the extreme end of the spectrum, losing their job.	Medium	<b>SPA Oversight</b> CCC to have oversight of Police Scotland's implementation of this recommendation via a standing agenda item at CCC meetings.	Appropriate updates from Police Scotland at Committee meetings regarding implementation of the recommendation.	CCC/Police Scotland	Ongoing
Police Scotland	Ind/Com/2019/003	Skilled complaints handling staff	<b>Recommendation 3</b> Police Scotland should consider the scope for employing more non-police officer support staff in PSD with appropriate seniority, skills and level of knowledge of complaints handling. This is an option that Police Scotland may wish to ask HMICS to review. (Para 71)	The PSD staffing profile consists predominantly of police officers at sergeant rank and above. The majority of complaints relate to the rank of constable. (Police Scotland has over 13,500 constables compared with around 2,400 sergeants.) Most roles within PSD require police officers with experience and understanding of policing and the law, but there may be scope to employ more non-police officer support staff in PSD with appropriate seniority, skills and level of knowledge of complaints handling. This is an option that Police Scotland may wish to ask HMICS to review.	Low	<b>SPA Operations</b> 1. Explore possibility of SPA's Complaints staff gaining experience of the working practices of PSD and the PIRC through short term secondments  <b>SPA Oversight</b> 2. CCC to have oversight of Police Scotland's implementation of this recommendation via a standing agenda item at CCC meetings.	1. Report to CCC on desirability of and scope for secondment possibilities 2. Appropriate updates from Police Scotland at Committee meetings regarding implementation of the recommendation.	1. David Collie 2. CCC/Police Scotland	1. December 2019(?) 2. Ongoing
Police Scotland	Ind/Com/2019/004	Grievance matters	<b>Recommendation 4</b> Police Scotland 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. (Para 79)	Triage of Complaints: Evidence that triage processes and practice lack flexibility and that once a complaint starts down a particular route, it is seldom reconsidered when it becomes clear that it should be re-routed down a more appropriate and proportionate avenue.	Medium	<b>SPA Operations</b> 1. SPA Complaints Handling procedures to be amended to state that, in general, HR-related complaints are dealt with, in the first instance, as grievances.  <b>SPA Oversight</b> 2. CCC to have oversight of Police Scotland's implementation of this recommendation via a standing agenda item at CCC meetings.	1. Appropriately amended procedures submitted to the CCC for approval. 2. Appropriate updates from Police Scotland at Committee meetings regarding implementation of the recommendation	1. David Collie 2. CCC/Police Scotland	1. December 2019 2. Ongoing

Report Chapter	Reference	Subject	Recommendation/ Observation	Contextual Comments in the Preliminary report	Risk Exposure	Action to be taken	Evidence	Action Owner	Timescales
Police Scotland	Ind/Com/2019/005	Frontline resolution of complaints	<b>Recommendation 5</b> Frontline resolution of complaints should be subject to close and regular monitoring through regular, meaningful internal and external audits, and monitoring of decision-making. (Para 74-)	Frontline resolution (FLR) is the process whereby complaints are resolved through a telephone conversation between the complainant and an officer in the CARU. Frontline resolution can also involve a local supervisor resolving a complaint. In 2018-19 39.8% of all complaints were resolved by PSD Frontline Resolution and 8.5% were resolved by Divisional Frontline Resolution. Police Scotland's Standard Operating Procedure on Complaints makes clear that frontline resolution is only suitable for complaints which are 'non-criminal, non-serious and non-complex', and can be resolved without investigation other than familiarisation with the circumstances of the incident. Police Scotland provided a paper to the SPA Complaints and Conduct Committee which stated that in 2018-19 39.8% of complaints were frontline resolved by PSD through explanation. Frontline resolution is an appropriate and proportionate response where the matter is not serious, not complex and non-criminal, and where an apology, an explanation, or local action or assurance is sufficient remedy for the member of the public making the complaint.  This vital aspect of complaints should however be subject to close and regular monitoring through internal and meaningful audits of decision-making. It is also critical that the process is subject to regular external audit by the PIRC and SPA. Although it is part of the statutory responsibility of the PIRC, no such audits of frontline resolution have been carried out by the PIRC since 2014; and while the SPA have carried out regular quarterly dip-sampling these exercises have until very recently been superficial and unsatisfactory. In the following sections consideration will be given to whether this function should remain with Police Scotland or, as has been suggested by the PIRC, transferred elsewhere outwith the police.  Another possible method of ensuring confidence in the use of FLR would be to provide PIRC with the capacity to carry out concurrent supervision of decision-making through remote access to Police Scotland's computer system known as Centurion, to ensure that it is used only in appropriate circumstances and is not subject to error or misuse to influence complainers in any way. The SPA is seeking direct access to Centurion for audit purposes and is developing a business case to that end.	Medium	<b>SPA Operations</b> SPA Complaints Team to meet with PIRC Review Team to agree prioritisation and coordination of all audit arrangements; and clarify respective roles and responsibilities for each organisation in future audits. (see also Recommendation 27)	Report to CCC confirming outcome of meeting and outlining the respective responsibilities of the both organisations.	David Collie	December 2019 (?)
Police Scotland	Ind/Com/2019/006	Early intervention	<b>Recommendation 6</b> Police Scotland should adjust its practice in respect of "Early intervention". Officers should be made aware that they are the subject of a complaint against them at the earliest practicable point, provided that such early disclosure would not prejudice any investigation of a complaint. (Paras 84, 85)	When any police officer is the subject of four complaints within a twelve-month period the recording of those complaints on the police Centurion database will, following investigation, trigger what is referred to by Police Scotland as "Early intervention". At that point the complaints procedure provides that the officer will be spoken to (up until that point the officer may not have been made aware that the complaints have been made if the complaints have been resolved through frontline resolution by PSD or their line manager). The purpose of the intervention is to allow the officer to act on the feedback, review and modify their behaviour as appropriate or undertake further training. These are exactly the right steps that should be considered but I believe that "Early intervention" that takes place at the end of a 12-month period is a misnomer and in some circumstances these steps should in fact be considered at a much earlier stage.  Although a line manager might want to observe the officer over a period prior to intervention, there can seldom be any justification for delaying feedback for as long as 12 months. Members of the public may reasonably expect an officer about whom they had complained would be advised of a complaint at an early stage to allow the officer to address his or her behaviour and change their approach. While acknowledging that some complaints can be spurious, malicious or vexatious, in general it is important and in the interests of transparency and service improvement that officers should be told about complaints against them as soon as practicable, unless there are clear operational or welfare reasons suggesting otherwise.	Low	<b>SPA Oversight</b> CCC to have oversight of this action via a standing agenda item at CCC meetings for Police Scotland to provide update.	Appropriate updates from Police Scotland at Committee meetings regarding implementation of the recommendation.	CCC/Police Scotland	Ongoing
Police Scotland	Ind/Com/2019/007	Access to Centurion system	<b>Recommendation 7</b> PIRC should be given appropriate access to the Police Scotland Centurion system for the purposes of contemporaneous audit of complaints and to help facilitate early PIRC awareness of criminal allegations. (Paras 97, 144)	I also propose that the PIRC should be given direct and supervisory access to monitor the Centurion system to more readily facilitate early PIRC awareness of criminal allegations. This access should be followed by regular triage meetings between PIRC and Police Scotland to ensure consistency and accuracy of approach to decision-making.	Medium	<b>SPA Oversight</b> CCC to have oversight of Police Scotland's implementation of this recommendation via a standing agenda item at CCC meetings	Appropriate updates from Police Scotland at Committee meetings regarding implementation of the recommendation	CCC/Police Scotland	Ongoing
Police Scotland	Ind/Com/2019/008	Simplifying online complaints form	<b>Recommendation 8</b> Police Scotland 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 Police Scotland website should be made more prominent. (Paras 46, 51, 145)	Communication: The Police Scotland website is challenging to navigate, the online complaints form is not sufficiently prominent . Communication: Changes to increase public understanding of how to make a complaint about the police need to be implemented.	Medium	<b>SPA Operations</b> 1. Assess the prominence given to complaints on the SPA's website and review the online complaints form to ensure that this provides the simplest possible means of making a complaint.  <b>SPA Oversight</b> 2. CCC to have oversight of Police Scotland's implementation of this recommendation via a standing agenda item at CCC meetings.	1. Report to CCC on outcome of review and any proposed changes to the SPA's website and online complaints form.  2. Appropriate updates from Police Scotland at Committee meetings regarding implementation of the recommendation	1. David Collie  2. CCC/Police Scotland	1. December 2019 (?)  2. Ongoing

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Police Scotland	Ind/Com/2019/009	Raise awareness of procedures	<b>Recommendation 9</b> To encourage appropriate use of mediation and grievance procedures Police Scotland should raise awareness and understanding amongst all members of the service of their own internal systems and which matters belong where in order to ensure a proportionate response. (Paras 51, 79, 106, 146)	Training and Awareness: Police Scotland to improve police and support staff understanding of their own internal complaints system. Very often minor matters follow a complaints route when they should be resolved through discussion, mediation or management action.  Triage of Complaints: Triage in the context of police complaints is the process of assessing the information provided in order to decide how serious the matters are and how it should be dealt with. It is a critical stage in the whole system which takes place prior to any investigation and includes the initial decision on whether the complaint is assessed as a quality of service issue, poor individual performance, potential misconduct, or criminal in nature. That decision can have significant ramifications for everyone involved. The Review heard evidence that these processes and practice lack flexibility and that once a complaint starts down a particular route, it is seldom reconsidered when it becomes clear that it should be re-routed down a more appropriate and proportionate avenue. Complaints could escalate very quickly and disproportionately in an unhelpful way that was described as "from flash to bang".  Culture: There is an obligation on serving police officers and support staff to resolve non-serious internal differences or disagreements in a professional and respectful way through discussion or mediation rather than by disproportionate use of formal systems.	Medium	<b>SPA Oversight</b>  CCC to have oversight of Police Scotland's implementation of this recommendation via a standing agenda item at CCC meetings.	Appropriate updates from Police Scotland at Committee meetings regarding implementation of the recommendation	CCC/ Police Scotland	Ongoing
Police Scotland	Ind/Com/2019/010	Training in mediation and customer handling	<b>Recommendation 10</b> Police Scotland should consider the importance of providing all officers involved in frontline resolution with training in mediation and customer handling. (Para 147)	There is an obligation on serving police officers and support staff to resolve non-serious internal differences or disagreements in a professional and respectful way through discussion or mediation rather than by disproportionate use of formal systems.	Low	<b>SPA Operations</b> 1. To consider providing mediation training for SPA Complaints Team (see also Recommendation 17)  <b>SPA Oversight</b> 2. CCC to have oversight of the implementation of this recommendation via a standing agenda item at CCC meetings .	1. Report to CCC detailing training programme and personal development of complaint staff  2. Appropriate updates from Police Scotland at Committee meetings regarding implementation of the recommendation	1. Lindsey McNeill/ David Collie  2. CCC/Police Scotland	1. January 2020  2. Ongoing
Police Scotland	Ind/Com/2019/011	Video technology	<b>Recommendation 11</b> Police Scotland should accelerate its plans to expand the use of body-worn video technology. (Para 148)	The potential benefits of body-worn video cameras in reducing and resolving complaints against police officers support the aspiration of Police Scotland to make more use of body-worn cameras. Subject to the supporting infrastructure being in place, cameras should be rolled out nationally to all police officers working in the custody environment or in a public-facing role.	Medium	<b>SPA Oversight</b> CCC to have oversight of Police Scotland's implementation of this recommendation via a standing agenda item at CCC meetings	Appropriate updates from Police Scotland at Committee meetings regarding implementation of the recommendation	CCC/Police Scotland	Ongoing
Police Scotland	Ind/Com/2019/012	Addressing long-standing issues - Culture	<b>Recommendation 12</b> Police Scotland is a young but now established national organisation with a stable leadership team. This is a good opportunity to reflect on the culture of the new service, address any long-standing issues and consider how everyone in the organisation can help to change that culture for the better. (Para 102, 110, 149)	Culture: Police Scotland rightly aspires to be a learning culture, rather than a blame culture, and that is the underlying ethos of From sanctions to solutions, but the systems in place, and more importantly the way that they are operated, does not always encourage that approach. There is evidence that police officers feel exposed, stressed, and fearful of making a mistake that could result in disciplinary action or, at the extreme end of the spectrum, losing their job	Medium	<b>SPA Oversight</b> CCC to have oversight of Police Scotland's implementation of this recommendation via a standing agenda item at CCC meetings.	Appropriate updates from Police Scotland at Committee meetings regarding implementation of the recommendation	CCC/Police Scotland	Ongoing
Police Scotland	Ind/Com/2019/013	Vexatious complainers	<b>Recommendation 13</b> The Scottish Government should consider the case for amending the legislation to include a provision to deal with vexatious complainers. (Para 80, 150)	Vexatious Complainers: Policies should be consistent and, in appropriate circumstances, the organisations should be able to confer about their lists of malicious or vexatious complainers.	Low	<b>SPA Operations</b> 1. Review the SPA's unreasonable actions policy against the equivalent policies within Police Scotland and the PIRC to ensure that they are consistent. 2. Quad Party to consider whether the recommended legislative change should be prioritised by SG.	1. Report to CCC on outcome of the policy review including any proposed changes to the policy  2. Report of outcome of Quad group discussions	1. David Collie/Complaints team  2. Lindsey McNeill/Robin Johnston	1. December 2019  2. January 2020
Police Scotland	Ind/Com/2019/014	Duty of Candour/non-conferral by officers involved in death and serious injury cases	<b>Recommendation 14</b> Subject to the fundamental right to silence or privilege against self-incrimination of a suspect under Article 6 of Convention Rights, police officers should give every assistance after a serious incident. That assumption of co-operation should be put beyond doubt in the primary legislation, including in the wording of the constable's declaration. (Paras 114, 123, 151)	Post Incident Procedures: Early separation of officers, other than in pressing operational circumstances, is the best way to ensure non-conferral in practice, give transparency to the process and preserve the integrity of each individual's evidence.  Call for Evidence: Been suggested that, subject to the fundamental right to silence or privilege against self-incrimination of a suspect under Article 6, consideration should be given to the creation of a duty of candour for officers in Scotland in the execution of their duty. I would welcome specific evidence and views from interested organisations and individuals on this particular matter to help inform my final report.	Medium	<b>SPA Oversight</b> Although this appears in the list of recommendations directed to Police Scotland, it is in fact one for the Scottish Government given that implementation would require a change to primary legislation. In any case, despite the terms of the recommendation, the Review is in fact seeking further evidence on the matter before reaching a final position. In the meantime, the CCC can exercise a watching brief and obtain Police Scotland's position on the recommendation via a standing agenda item.	Appropriate updates from Police Scotland at Committee meetings	CCC/Police Scotland	Ongoing

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Police Scotland	Ind/Com/2019/015	Additional powers for investigators	<b>Recommendation 15</b> Where a serious incident is being investigated by the PIRC, the investigators should also have a power, where it is necessary and proportionate, to compel police officers to attend within a reasonable timescale for interview. (Paras 121, 152)	Cooperation with PIRC: Where a DSI is being investigated by the PIRC, the investigators should also have a power, where it is necessary and proportionate, to compel police officers to attend within a reasonable timescale for interview.	Medium	<b>SPA Oversight</b> Although this appears in the list of recommendations directed to Police Scotland, it is actually a matter for the Scottish Government as any change would require primary legislation. The CCC can, however, exercise a watching brief and obtain Police Scotland's position on the recommendation via a standing agenda item at meetings.	Appropriate updates from Police Scotland at Committee meetings	CCC/Police Scotland	Ongoing
SPA	Ind/Com/2019/016	Prioritising complaints	<b>Recommendation 16</b> 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.	Processes for dealing with complaints against senior officers must therefore be robust, timely and fair.	High	<b>SPA Operations</b> 1. Amend SPA complaint handling procedures to reflect priority to be given to complaints about senior officers 2. Liaise with the the PIRC as to what action they will be taking to prioritise such complaints.	1. Amended procedures presented to the CCC for approval. 2. Report to CCC of outcome of discussions with the PIRC	1. David Collie 2. David Collie	1. December 2019 2. December 2019 (?)
SPA	Ind/Com/2019/017	Further training in complaint handling	<b>Recommendation 17</b> 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.	"HMICS does not believe that the SPA currently has the skills, experience or knowledge to undertake the assessment role for chief officer complaints to the standard required. A review of the SPA's capability in this area is required and other options, such as immediate referral to the PIRC, should be considered."	High	<b>SPA Operations</b> 1. Develop programme of training and personal development for the SPA Complaints Team, to include consideration of mediation training (see also Recommendation 10).	Report to CCC detailing training programme and personal development of complaint staff	Lindsey McNeill/ David Collie	January 2020
SPA	Ind/Com/2019/018	Alternatives to suspension	<b>Recommendation 18</b> 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. (Para 187)	"It would be of practical assistance to the SPA if the range of options available to the Authority when a senior police officer is under investigation was clarified and expanded. The options should be determined having regard to the particular circumstances and an assessment of the risk of interference in any investigation."	Medium	<b>SPA Operations</b> Amend SPA guidance on the Conduct Regulations to make clear the range of alternatives to suspension.	Appropriately amended procedures/guidance for approval by the CCC	Robin Johnston	December 2019
SPA	Ind/Com/2019/019	Amendment of conduct regulations	<b>Recommendation 19</b> 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. Scottish Government should consider amending the conduct regulations to reflect this process.	It is recommended that any future process for preliminary assessment should also require the relevant authority to take into account whether the allegation is made anonymously, is sufficiently specific in time and location, and whether it appears, on the face of the allegation, to be either vexatious or malicious. The relevant authority should then take a decision, in the public interest, taking account of all of the above factors, on whether the matter should be referred to the PIRC. This approach should be reflected in the legislation and guidance on senior officer conduct.	Low	<b>SPA Operations</b> 1. Update SPA Guidance on Conduct Regulations to reflect points made in the review. 2. Quad Party group to agree on whether this proposed legislative change should be prioritised by SG.	1. Amended procedures/guidance for approval by the CCC. 2. Report to CCC on outcome of discussions with Quad Party	1. David Collie 2. Lindsey McNeill/ Robin Johnston	1. December 2019 2. January 2020
PIRC	Ind/Com/2019/020	Creating a regional presence	<b>Recommendation 20</b> The PIRC should consider the case for creating some measure of regional presence to enhance its capacity to respond immediately to the most serious incidents wherever they occur.	The PIRC should consider the case for creating some measure of regional presence to enhance its capacity to respond immediately to the most serious incidents wherever they occur. Furthermore, guidance should be agreed between the PIRC, COPFS and Police Scotland about the criteria for attendance at the scenes of deaths or serious incidents by the PIRC investigator and the local Procurator Fiscal, and the handover of a potential crime scene to the PIRC by Police Scotland.		<b>No action required. For information only</b>			
PIRC	Ind/Com/2019/021	New statutory board	<b>Recommendation 21</b> The PIRC should have the support of a new statutory Board of members appointed through the Scottish public appointments process whose role would be to scrutinise the work of the organisation, review the performance of the Commissioner and offer supportive advice and expertise. (Paras 207, 208)	Call for Evidence: PIRC Accountability - In considering evidence I have formed the view that the accountability and support arrangements for the PIRC should be clarified and strengthened. I have taken into account written evidence from HMICS that PIRC accountability is "an area of weakness with the current arrangements. It is not clear to whom the PIRC is accountable for the progress or quality of its work". This is a matter of fundamental importance and in the final report it will be considered in detail, but views would be welcome over the next six months on a number of options that could help to clarify accountability, reduce the involvement of Scottish Ministers, strengthen support and make the PIRC more accountable for matters for which the PIRC is not otherwise accountable to the Lord Advocate.		<b>No action required. For information only</b>			

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PIRC	Ind/Com/2019/022	Statutory power for reconsidering complaints	<b>Recommendation 22</b> The Commissioner, or potentially a Deputy Commissioner, should be vested with a statutory power to make recommendations in addition to the existing powers to direct reconsideration of complaints. The corollary to that is that there should be a statutory duty, subject to a public interest test, on the Chief Constable to comply with recommendations unless there are sound overriding operational or practical reasons for not complying with a PIRC recommendation and an obligation on PSD to report progress back to the PIRC. Those statutory arrangements should be supported by agreement between the PIRC and Police Scotland on how the PIRC will be kept advised of progress. (Paras 221, 259)	Increased use of RDs by PIRC: The Commissioner has suggested that the primary legislation, Section 35(3) of the 2006 Act, be amended to clarify that the actions proposed in a complaint handling review report may include recommendations as well as directions. I support this suggestion as a means of ensuring action on complaint handling review recommendations and learning points, without the highly labour intensive requirements of a direction.		No action required. For information only			
PIRC	Ind/Com/2019/023	Legal support and advice capacity	<b>Recommendation 23</b> The PIRC should consider the case for building into its structure legal support and advice capacity.	A striking omission is the absence of any legal support within the staff. Although the current Commissioner and the Head of Reviews and Policy are legally qualified this might not be the case in the future.		No action required. For information only			
PIRC	Ind/Com/2019/024	Recruiting non police officers	<b>Recommendation 24</b> Following the retirement of former police officers PIRC policy should be to replace them with non-police officers. The PIRC should also adopt a similar policy to the IOPC's in England and Wales by recruiting non-police officers when recruiting to the most senior posts.	Currently most senior investigative personnel in the PIRC are former police officers who served in Scotland. This contrasts with the situation in England and Wales where the most senior posts within the Independent Office of Police Conduct (IOPC) must now be filled by non-police officers.		No action required. For information only			
PIRC	Ind/Com/2019/025	Management review	<b>Recommendation 25</b> There should be a management review by an independent expert to ensure that the PIRC has appropriate leadership, skills and culture to carry out its functions in the future, and to examine interactions with other stakeholders and how they can be improved.	There would be benefits to both the organisation as a whole, its staff and its partners if its focus was more strategic, its engagement more constructive and its approach more outward-looking. Not only would a shift in emphasis and tone enhance external relationships but it would also boost the confidence and motivation of staff across all teams.		No action required. For information only			
General	Ind/Com/2019/026	Senior cross-agency joint working group	<b>Recommendation 26</b> 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. (Paras 78, 283)	Working Group: Should review the language used by Police Scotland in its correspondence with complainers, simplifying and clarifying the language used, with a view to increasing openness both with complainers around outcomes and with those who scrutinise Police Scotland.  Working Group: Should oversee a review of the guidance on the categorisation of complaints published in 2011. That task should consider in particular use of "incivility", "excessive force" and "unlawful detention".  MOU: The evidence suggests that improving communication between organisations needs to be addressed. The evident non-sharing of certain information between organisations concerns me. Memorandums of Understanding (MOUs) exist between a number of the organisations but these tend to be very short and in need of updating. In addition to updating, expanding and adhering to these documents, there is a huge potential benefit in creating and adopting a new 4-way Memorandum of Understanding based on a common purpose and shared objectives. The creation of such a document is a matter for Police Scotland, the SPA, the PIRC and COPFS to take forward.	Medium	<b>SPA Operations</b> 1. Quad Party Group is in place and has formalised terms of reference and governance arrangements. One of its functions is to consider information sharing. 2. A Practitioners Group has been established and is now meeting.	1. Formal ToR for Quad Party submitted to CCC 2. Practitioners' Group established.	1. Lindsey McNeill/Robin Johnston 2. David Collie	1. November 2019 2. N/A - Group now established
General	Ind/Com/2019/027	Prioritise and co-ordinate audit arrangements	<b>Recommendation 27</b> 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. (Paras 293, 297, 299, 302)	Audit / Inspection: Insofar as it relates to their general remits, there is nothing to prevent the AGS or HMICS auditing/inspecting/evaluating how the Scottish Police Authority/Police Scotland handle complaints  PIRC Audit Capability: It is understood that PIRC has sought additional funding, to enable it to establish a 'Compliance Team' which would have auditing various aspects of Police Scotland's complaints process as one of its primary objectives. Resources within the PIRC should be allocated in such a way that the audit of complaints, the identification of trends and the promotion and support of continuous improvement in policing is prioritised.  Internal Audit: There is clearly a vital internal quality control function for the Scottish Police Authority/Police Scotland. A pivotal role in this is played by the Scottish Police Authority's Complaints and Conduct Committee, since it was re-established 18 months ago, and PSD.	Medium	<b>SPA Operations</b> SPA Complaints Team to meet with PIRC to agree prioritisation and coordination of all audit arrangements; and clarify respective roles and responsibilities for each organisation in future audits. (see also Recommendation 5)	Confirmation to CCC of the agreement reached with the PIRC on respective audit responsibilities.	David Collie	December 2019 (?)



Report Chapter	Reference	Subject	Recommendation/ Observation	Contextual Comments in the Preliminary report	Risk Exposure	Action to be taken	Evidence	Action Owner	Timescales
General	Ind/Com/2019/028	Barred and Advisory lists	<b>Recommendation 28</b> The Scottish Government should introduce Barred and Advisory lists and should engage with the UK Government to ensure compatibility and learn from their experience. (Paras 288, 336)	There is also a strong ethical and presentational case for adopting Barred and Advisory Lists, along the lines of those which exist in England and Wales by virtue of Policing and Crime Act 2017. The value of such an innovation and the mitigation of risk to the public sector would be likely to be enhanced if legislation allowed the lists to have cross-border and UK-wide application.	Medium	<b>SPA Operations/Oversight</b> This is a recommendation directed to the Scottish Government although the Review is in fact seeking further evidence on the matter, presumably in order to reach a final position. The SPA will comment on this issue in a further submission to the Review.	Draft further submission to be considered by the CCC at November meeting	Robin Johnston	December 2019
General	Ind/Com/2019/029	Legislative amendment - definition of "person serving with the police"	<b>Recommendation 29</b> The Scottish Government should amend the relevant provisions at the earliest opportunity to put beyond doubt the definition of a "person serving with the police". (Paras 326, 337)	PIRC Investigating Retired Officers: The PIRC Commissioner suggested that to remove the ambiguity "the legislation be amended to provide clarity and express provision that the PIRC can undertake investigations into those who, at the time of the act or omission, were serving with the police." I support this proposal and believe that the position should be put beyond doubt in the legislation.	Medium	<b>SPA Oversight</b> Quad group to consider whether this legislative change should be highlighted to the Scottish Government as a priority.	Report to CCC of outcome of Quad group meeting	Lindsey McNeill/Robin Johnston	January 2020
General	Ind/Com/2019/030	Legislative amendment - definition of "member of the public"	<b>Recommendation 30</b> The Scottish Government should consider the case for amending the legislation to put beyond doubt the definition of a member of the public who may make a relevant complaint.	The general approach taken by the PIRC is that police officers who make complaints about matters occurring on duty are not regarded as "members of the public" for the purposes of the 2006 Act, but the clarification sought by the SPA would be helpful. This is ultimately a question for the Scottish Parliament, but it would seem logical that an off-duty police officer who receives a poor quality of service from Police Scotland should have the same entitlement to complain and seek redress as any other citizen.	Medium	<b>SPA Oversight</b> Quad Group to consider whether legislative change should be highlighted to SG as a priority.	Report to CCC of outcome of Quad Party meeting	Lindsey McNeill/Robin Johnston	January 2020
SPA	Ind/Com/2019/031	Preliminary assessment of alleged misconduct	<b>Recommendation 31</b> Although this is expressed as a recommendation, it does not feature in the list of recommendations within the Preliminary Report. It should nevertheless be included as a recommendation and has therefore been added to the Action Log as Recommendation 31. (Para 179)	For the more immediate future, it is imperative – and the Review recommends – that 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 regulations). That approach should be one which takes account of the important aim (explicitly recognised in previous Regulations and arguably implicit in the latest ones) of weeding out allegations which, on the basis of relatively routine fact-checking, can reasonably be inferred to be unfounded, frivolous or trivial in nature. It should be a fact-checking process that assesses objectively and readily verifiable facts supporting or undermining the credibility and reliability of the information provided rather than an investigatory process, and it should consider if any allegation is malicious or vexatious. The SPA is not an investigating body and does not have the necessary capacity to carry out investigations.	High	<b>SPA Operations</b> 1. David Collie and Robin Johnston to meet with the PIRC to discuss how best both organisations can learn from previous preliminary assessments, with a view to agreeing an approach with which both are content, pending any legislative change. 2. Amend complaint handling procedures accordingly	1. Report to CCC on outcome of discussions with the PIRC 2. Appropriately amended procedures for approval by CCC	1. David Collie/Robin Johnston 2. David Collie/Robin Johnston	1. December 2019 (?) 2. December 2019

**Actions related to KEY OBSERVATIONS in the Preliminary Report**

Police Scotland	Ind/Com/2019/Obs001	Anonymous complaints	<b>Observation 1 (Para 83)</b>	Arrangements for handling anonymous complaints should be set out in policy and, as with any other complaint, the starting point should be that the allegation should be treated with an open mind... The response needs to be proportionate based on an assessment of the reliability and credibility of the information provided and the individual complaining, as far as that is possible, as well as the seriousness of the allegations. Because of the very nature of anonymity these complaints require to be treated with caution because of the potential false, vexatious and defamatory nature of the allegation.	High	SPA to include guidance in its own procedures for handling anonymous complaints, incorporating the factors suggested by the review.	Revised procedures for the CCC's approval	David Collie	December 2019
Police Scotland	Ind/Com/2019/Obs002	Early intervention	<b>Observation 2 (Para 85)</b>	Members of the public may reasonably expect an officer about whom they had complained would be advised of a complaint at an early stage to allow the officer to address his or her behaviour and change their approach. While acknowledging that some complaints can be spurious, malicious or vexatious, in general it is important and in the interests of transparency and service improvement that officers should be told about complaints against them as soon as practicable, unless there are clear operational or welfare reasons suggesting otherwise.	Medium	Amend SPA's complaint handling procedures to provide that senior officers are notified of complaints as soon as practicable unless there are clear operational and welfare reasons for not doing so.	Appropriately amended complaint handling procedures.	David Collie	Dec-19
Police Scotland	Ind/Com/2019/Obs003	Policing culture	<b>Observation 3 (Para 104)</b>	The tone and culture of policing comes from the top: in the case of Police Scotland from the Chief Constable and his Force Executive, for the SPA it means the Chair, Chief Executive and Authority members and in the case of the PIRC it stems from the Commissioner and her senior management team. Those leaders are critical in creating a constructive atmosphere between Police Scotland, the SPA and the PIRC, and those relationships are one of the mechanisms which should facilitate the effective operation of the checks and balances within the oversight and scrutiny arrangements.	High	This observation is clearly important although it is not a specific recommendation. So far as the SPA is concerned, the best forums for promoting constructive relationships with the PS and the PIRC are the Quad and practitioners' group meetings; and also by the Complaints and Conduct Committee continuing its engagement with senior leaders of Police Scotland, and formalising engagement with the PIRC.	Reports to CCC on outcome of discussions at Quad party and Practitioners' Group meetings; and regular attendance of PS and the PIRC at Complaints and Conduct Committee meetings.	Lindsey McNeill/Robin Johnston/David Collie/ CCC	Ongoing
SPA	Ind/Com/2019/Obs004	HR Governance	<b>Observation 4 (Para 160)</b>	Although the SPA is the legal employer of all support staff in the Authority, Police Scotland and SPA Forensic Services, it only has a small HR capacity and relies on Police Scotland HR staff to provide the bulk of HR services. The Head of HR Governance in the SPA is able to draw on advice from the Director of People in Police Scotland. There is evidence that that imbalance in capacity has affected the SPA's ability to deal with some complex and challenging employment issues, and this has been a contributory factor to the tendency, also seen within Police Scotland, to escalate to conduct procedures issues which are truly HR matters.	Medium	This observation should be brought to the attention of HR Governance and Maria Kelly who is developing a revised organisational structure. The observation can be taken into account as part of that work.	Confirmation that this observation has been taken into account in developing the revised organisational structure can be provided by HR Governance.	David Collie	Immediate

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PIRC	Ind/Com/2019/Obs005	PIRC training	<b>Observation 5 (Para 246)</b>	I welcome the additional training that has been put in place within PIRC over the last nine months but consider that this should have been implemented much earlier in the lifetime of the organisation. It was clear that staff had benefited from the new provision of training. For the CHR staff to understand complaints against the police there must be significant understanding, familiarisation with real-life policing and experience of what officers face in unregulated and sometimes frightening environments. The training that has been available to the CHR should be extended to ensure that they have that kind of informative familiarisation, and a concerted effort made to ensure closer liaison with the Complaints and Conduct Team in the SPA.	Medium	Members of the SPA Complaints team to hold regular meetings with representatives of the PIRC Review team to discuss ongoing complaints and any issues of concern.	The SPA Complaints team to notify the Complaints and Conduct Committee at each meeting of the engagement it has undertaken with the PIRC's Review team.	David Collie	Ongoing
SPA/ PIRC	Ind/Com/2019/Obs006	<b>The future role of the SPA in Senior Officer conduct procedures</b>	<b>Observation 6 (Paras 181, 182, 185, 186, 208)</b>	<p>The nature and extent of contact between SPA Board members and senior officers could lead to actual or perceived partiality or antipathy when it comes to disciplinary matters.</p> <p>The key stages of the senior officer misconduct proceedings should in future be removed from the SPA and made subject to an independent legally chaired panel appointed by e.g. the Lord President. The process should follow the steps specified below:</p> <ul style="list-style-type: none"> <li>- receipt of the complaint/allegations by SPA</li> <li>- meaningful preliminary assessment by a senior director</li> <li>- prompt referral to the PIRC or to COPFS if it is a criminal allegation</li> <li>- independent investigation by the PIRC</li> <li>- referral by the PIRC to an independent legally chaired panel to determine whether there is a case to answer</li> <li>- misconduct hearing before independent panel</li> <li>- right of appeal to different independent panel</li> <li>- implementation of disciplinary action by SPA</li> </ul> <p>The issue of whether the SPA should be responsible for deciding misconduct cases will be considered in the final report, and views are welcome on the above preliminary proposals</p>	High	A further submission to the Review by 1 December 2019 setting out the SPA's views on these proposals. The draft submission will be considered by the Complaints and Conduct Committee at its meeting scheduled for 21 November 2019. Subject to the Committee's approval, the final submission will be circulated to Board members prior to submission to the Review.	Draft response for approval by the Committee	Robin Johnston	Nov-19