

Division	SPA	Department	Complaints
File Path Record	V2.01		

Police Scotland / SPA Equality and Human Rights Impact Assessment (EqHRIA)

This form is to be completed in accordance with the instructions as set out in the [Equality and Human Rights Impact Assessment \(EqHRIA\) Guidance](#). A step-by-step guidance on how to complete this form is also available. You can access relevant sections of the [EqHRIA Form Guidance](#) by hovering over headings in this form and following the instructions.

Name of Policy / Practice (include version number)	SPA Complaints Handling Procedures
Owning Department	SPA Complaints

1. Purpose and Intended Outcomes of the Policy / Practice – Consider why this policy / practice is being developed / reviewed and what it aims to achieve.

The SPA Complaints Handling Procedures were previously approved by the Authority’s Complaints & Conduct Committee in August 2021 and Members advised that the SPA Complaints Team would regularly review procedures in respect of any changes in best practice, working with partner organisations and being alert to any key learning that arose from the Authority’s handling of complaints.

The Authority must have regard to the ‘PIRC Statutory Guidance on the handling of complaints about the police in Scotland’ when dealing with relevant complaints or developing its own internal complaints procedures. In publishing revised statutory guidance in June 2022, the PIRC stated that many of the revisions were introduced following its engagement with the Equality and Human Rights Commission and closely aligned to the recommendations set out by Dame Elish Angiolini in her report ‘Independent Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing’ published in November 2020.

Given the revised statutory guidance, the Authority undertook a revision of its own complaints handling procedures to ensure compliance with the revised guidance. In addition, the Complaints pages of the Authority website were reviewed.

This EQHRIA ensures that equalities and human rights considerations are clearly mainstreamed within the SPA Complaints Handling Procedures.

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The procedures were shared for consultation purposes with partners including recognised trade unions, the PIRC, the Scottish Chief Police Officers Staff Association (SCPOSA) and Police Scotland, and approved by the Authority’s Complaints and Conduct Committee at its meeting on 1 March 2023.

To ensure that the Procedures meet accessibility standards, the document itself was written in accordance with the PS accessible documents guidance (‘Making a word document accessible v2’).

2. Other Policies / Practices Related or Affected – Which other policies / practices, if any, may be related to or affected by the policy / practice under development / review?

All complaints related policies and procedures could be impacted upon, or related to, the SPA Complaints Handling Procedures, specifically the SPA Complaints Handling Desktop Reference Document, Guidance on Senior Police Officer Conduct Regulations, SPA Senior Officer Conduct Desktop Reference Document and the SPA Whistleblowing Policy.

3. Who is likely to be affected by the policy / practice? (Place ‘X’ in one or more boxes)

No impact on people <input type="checkbox"/>	Police Officers <input checked="" type="checkbox"/>	Special Constables / Cadets <input type="checkbox"/>	SPA / Police Staff <input checked="" type="checkbox"/>	Communities <input checked="" type="checkbox"/>	Partnerships <input checked="" type="checkbox"/>
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3.1 Screening for Relevance to Equality Duty – if the policy / practice is considered to have no potential for direct or indirect impact on people, an Equality Impact Assessment is not required. Provide information / evidence to support this decision below, then proceed to Section 5 of the form, otherwise complete all sections.

It has been decided not to complete an equality impact assessment because

4. Equality Impact Assessment – Consider which Protected Characteristics, if any, are likely to be affected and how.

4.1 Protected Characteristics Groups	4.2 Likely Impact Positive, Negative or No Impact (Assessment of Low / Medium / High impact)	4.3 Evidence Considered (e.g. legislation / common law powers, community / staff profiles, statistics, research, consultation feedback) Note any gaps in evidence and any plans to fill gaps.	4.4 Analysis of Evidence (Summarise how the findings have informed the policy / practice – include justification of assessment of No Impact)
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<p>General / Relevance to All</p>	<p>Positive High Impact</p>	<p>Legislation/ statutory compliance:</p> <ul style="list-style-type: none"> • The Police, Public Order and Criminal Justice (Scotland) Act 2006 as amended • The Police, Public Order and Criminal Justice (Scotland) Act 2006 (Consequential Provisions and Modifications) Order • Police and Fire Reform (Scotland) Act 2012 • Ethical Standards in Public Life etc. (Scotland) Act 2000 • The Police Service of Scotland (Senior Officers) (Conduct) Regulations 2013 • The Police (Conduct) (Senior Officers) (Scotland) Regulations 1999 • The Police Service of Scotland (Senior Officers) (Performance) Regulations 2016 • The Police Appeals Tribunals (Scotland) Rules 2013 • The Police Appeals Tribunals (Scotland) Amendment Rules 2020 • The Equality Act 2010 • The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 • Human Rights Act 1998 • PIRC Statutory Guidance on the handling of complaints about the police in Scotland (June 2022) <p>SPA/ PS guidance documentation:</p> <ul style="list-style-type: none"> • SPA/ Police Scotland Code of Conduct • SPA Code of Conduct for Members (June 2022) • The SPA/ PSoS Disciplinary Procedure • Grievance, Police Officers and Authority/ Police Staff Procedure • SPA Whistleblowing Policy 	<p>To help ensure that Equalities issues have been given due regard, this EqHRIA has been completed in line with a review of the SPA Complaints Handling Procedures and the Complaints pages of the Authority website.</p> <p>The revised Procedures confirm that;</p> <ul style="list-style-type: none"> • in addition to legislation and guidance which govern police complaint handling in Scotland, the Authority will have regard to the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010. Public authorities are required to take positive steps to eliminate discrimination, advance equality of opportunity, foster good relations and have due regard to the need to: <ul style="list-style-type: none"> i. Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; ii. Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and iii. Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. • it is essential to public confidence that the Authority’s complaints system is visible, clear and accessible. Members of the public need to know how to make a complaint and how it will be dealt with. Where necessary,
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		<ul style="list-style-type: none"> • SPA Forensic Services Management of Non-Conforming Work (SOP) • SPA Forensic Services Complaints and Negative Feedback • SPA/ PS Complaints Performance Reports • SPA Complaints & Conduct Committee Minutes and Action Logs • SPA/ PS Interpreting & Translating Services • SPA/ PS Investigation - Wellbeing Guidance <p>Other guidance documentation: Deaf Action Advisory Services Good Practice Guide (June 2016)</p>	<p>assistance should be given to enable people with different needs and different protected characteristics or any vulnerabilities to access and use the complaints system; and</p> <ul style="list-style-type: none"> • in order to advance equality of opportunity and eliminate discrimination, the Authority will seek to capture and record equality evidence from complainers when they engage with the Authority’s complaints system.
Age	Positive High Impact	Under the Equality Act 2010, members of the public with a protected characteristic have the right to reasonable adjustments.	<p>The revised Procedures include the following sections;</p> <ul style="list-style-type: none"> • Support for vulnerable complainers- which confirms that the SPA will ensure that all communication is tailored to the individual needs of the complainer and anticipate what type of reasonable adjustments may be required to meet the needs of the individual complainer, including those who have visual, hearing or mobility impairments. • Complaints made by children and young people- which confirms that where the SPA receives a complaint from, or on behalf of, a child or young person, it will ensure that their best interests are paramount in all decisions and actions that affect them.
Disability	Positive High Impact	Under the Equality Act 2010, members of the public with a protected characteristic have the right to reasonable adjustments.	The revised Procedures include the following section;

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			<ul style="list-style-type: none"> Support for vulnerable complainers- which confirms that the SPA will ensure that all communication is tailored to the individual needs of the complainer and anticipate what type of reasonable adjustments may be required to meet the needs of the individual complainer, including those who have visual, hearing or mobility impairments.
Gender Reassignment			This characteristic is unlikely to be affected by the revised Procedures.
Marriage and Civil Partnership			This characteristic is unlikely to be affected by the revised Procedures.
Pregnancy and Maternity			This characteristic is unlikely to be affected by the revised Procedures.
Race	Positive High Impact	Under the Equality Act 2010, members of the public with a protected characteristic have the right to reasonable adjustments.	The review of the SPA's Complaints Handling Procedures and the Complaints pages of the Authority website confirmed that the SPA can use services that are available for Easy Read, BSL, interpreting and translation.
Religion or Belief			This characteristic is unlikely to be affected by the revised Procedures.
Sex			This characteristic is unlikely to be affected by the revised Procedures.
Sexual Orientation			This characteristic is unlikely to be affected by the revised Procedures.

5. Human Rights Impact Assessment – Consider which rights / freedoms, if any, are likely to be protected or infringed?			
5.1 Rights / Freedoms Relevant to Policing	5.2 Assessment Protects and / or Infringes or Not Applicable	5.3 Analysis What evidence is there as to how the process / practice protects or infringes Human Rights.	5.4 Justification – Summarise the following: <ul style="list-style-type: none"> Legal Basis Legitimate Aim Necessity

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5.1 Rights / Freedoms Relevant to Policing	5.2 Assessment Protects and / or Infringes or Not Applicable	5.3 Analysis What evidence is there as to how the process / practice protects or infringes Human Rights.	5.4 Justification – Summarise the following: <ul style="list-style-type: none"> • Legal Basis • Legitimate Aim • Necessity
Article 2 Right to Life	Protects	<p>The SPA Complaints Handling Procedures underpin the overarching SPA Complaints Policy, both of which serve to ensure that, on receipt of complaints within its remit, the Authority will address concerns at an appropriate level, take proportionate action, and identify opportunities for individual and organisational learning.</p> <p>The welfare and wellbeing of police officers and staff involved in complaints, grievance or whistleblowing processes, whether subject of complaint or as a witness to the incident, is a primary consideration during every investigatory process.</p> <p>Consequently, officers and staff have access to Investigation - Wellbeing Guidance which has been created specifically to support all individuals involved in internal and external investigations, including complaints.</p>	<p>Legal Basis:</p> <ul style="list-style-type: none"> • The Police, Public Order and Criminal Justice (Scotland) Act 2006 as amended • The Police, Public Order and Criminal Justice (Scotland) Act 2006 (Consequential Provisions and Modifications) Order • Police and Fire Reform (Scotland) Act 2012 • Human Rights Act 1998 <p>Legitimate Aim and Necessity:</p> <ul style="list-style-type: none"> • To protect members of the public, senior officers and staff
Article 3 Prohibition of Torture	Protects	<p>The SPA Complaints Handling Procedures reference the SPA/ Police Scotland Code of Conduct and the SPA Code of Conduct for Members set out the standards expected of those who contribute to policing in Scotland and those who serve on the boards of public bodies in Scotland.</p>	<p>Legal Basis:</p> <ul style="list-style-type: none"> • The Police, Public Order and Criminal Justice (Scotland) Act 2006 as amended • The Police, Public Order and Criminal Justice (Scotland) Act 2006 (Consequential Provisions and Modifications) Order • Police and Fire Reform (Scotland) Act 2012

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			<ul style="list-style-type: none"> • Human Rights Act 1998 <p>Legitimate Aim and Necessity:</p> <ul style="list-style-type: none"> • To ensure members of the public have access to a visible and accessible complaints process which is open, transparent and available to everyone • To ensure complaints are recorded, investigated, determined and reported appropriately
Article 4 Prohibition of Slavery and Forced Labour	Not applicable	Not applicable	Not applicable
Article 5 Right to Liberty and Security	Infringes & Protects	<p>The SPA Complaints Handling Procedures outline the processes for handling complaints which contain criminal allegations.</p> <p>On occasion, those subject of a criminal complaint may be detained/ arrested/ interviewed if required.</p> <p>It is essential that any infringement, such as deprivation of liberty, is covered by appropriate legislation.</p>	<p>Legal Basis:</p> <ul style="list-style-type: none"> • The Police, Public Order and Criminal Justice (Scotland) Act 2006 as amended • The Police, Public Order and Criminal Justice (Scotland) Act 2006 (Consequential Provisions and Modifications) Order • Police and Fire Reform (Scotland) Act 2012 • The Police Service of Scotland (Senior Officers) (Conduct) Regulations 2013 • The Police (Conduct) (Senior Officers) (Scotland) Regulations 1999 • The Police Appeals Tribunals (Scotland) Rules 2013 • The Police Appeals Tribunals (Scotland) Amendment Rules 2020

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5.1 Rights / Freedoms Relevant to Policing	5.2 Assessment Protects and / or Infringes or Not Applicable	5.3 Analysis What evidence is there as to how the process / practice protects or infringes Human Rights.	5.4 Justification – Summarise the following: <ul style="list-style-type: none"> • Legal Basis • Legitimate Aim • Necessity
			<p>Legitimate Aim and Necessity:</p> <ul style="list-style-type: none"> • To ensure complaints which contain criminal allegations are covered by legislation • To report and investigate crime
Article 6 Right to a Fair Trial	Protects	<p>The person responsible for investigating a complaint will have had no prior involvement in the incident or specific actions being investigated, and be able to conduct an objective investigation. Complaints will be dealt with fairly, impartially and transparently to maintain public confidence. Any conflict of interest on the part of the person investigating the complaint may undermine the integrity and independence of the complaint.</p> <p>Where an allegation has been referred to the police or the appropriate prosecutor, guidance will be sought on how to proceed with any non-criminal aspects of the complaint. It may be that the SPA is required to suspend its complaints process until criminal investigations have been completed. In such circumstances, the SPA will inform the individual being complained about that misconduct/ disciplinary proceedings may be taken against them whether or not criminal proceedings are brought.</p>	<p>Legal Basis:</p> <ul style="list-style-type: none"> • The Police, Public Order and Criminal Justice (Scotland) Act 2006 as amended • The Police, Public Order and Criminal Justice (Scotland) Act 2006 (Consequential Provisions and Modifications) Order • Police and Fire Reform (Scotland) Act 2012 • The Police Service of Scotland (Senior Officers) (Conduct) Regulations 2013 • The Police (Conduct) (Senior Officers) (Scotland) Regulations 1999 • The Police Appeals Tribunals (Scotland) Rules 2013 • The Police Appeals Tribunals (Scotland) Amendment Rules 2020 • Human Rights Act 1998 <p>Legitimate Aim and Necessity:</p> <ul style="list-style-type: none"> • To ensure that everyone is given the right to a fair trial

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Article 7 No Punishment without Law	Protects	<p>The SPA Complaints Handling Procedures reference the following:</p> <ul style="list-style-type: none"> • The SPA must handle Relevant Complaints in accordance with the PIRC Statutory Guidance on the handling of complaints about the police in Scotland which sets out the guiding principles of effective and efficient complaint handling arrangements; • Complaints against senior police officers which contain allegations of misconduct are managed in accordance with statutory Regulations which set out procedures for determining cases of unsatisfactory conduct by senior police officers; and • In the course of assessing any complaints, where the SPA considers that it can reasonably be inferred that the person subject of the complaint a senior officer may have committed a criminal offence it must refer the matter to the COPFS for consideration. Criminal allegations made about members of SPA staff will be referred to Police Scotland, in the same manner as any other non-police officer criminal activity. 	<p>Legal Basis:</p> <ul style="list-style-type: none"> • The Police, Public Order and Criminal Justice (Scotland) Act 2006 as amended • The Police, Public Order and Criminal Justice (Scotland) Act 2006 (Consequential Provisions and Modifications) Order • Police and Fire Reform (Scotland) Act 2012 • The Police Service of Scotland (Senior Officers) (Conduct) Regulations 2013 • The Police (Conduct) (Senior Officers) (Scotland) Regulations 1999 • The Police Appeals Tribunals (Scotland) Rules 2013 • The Police Appeals Tribunals (Scotland) Amendment Rules 2020 • Human Rights Act 1998 <p>Legitimate Aim and Necessity:</p> <ul style="list-style-type: none"> • To ensure that complaints handling is covered by statutory guidance, regulations and legislation.

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Article 8 Right to Respect for Private and Family Life	Infringes & Protects	<p>The SPA Complaints Handling Procedures provide that complaints may be made against a senior officer or SPA staff member who was off duty at the time of the incident giving rise to the complaint. Such complaints can allege criminal conduct or non-criminal conduct.</p> <p>In determining whether an off-duty allegation will be dealt with as a complaint, consideration will be given as to whether a link exists between the subject matter of the complaint and the person’s role as a senior officer or member of SPA staff. The matter will be treated as a complaint only if the conduct (if established) would have a bearing upon the person’s role. Where no such link can reasonably be established, the matter will not be recorded as a complaint.</p>	<p>Legal Basis:</p> <ul style="list-style-type: none"> • The Police, Public Order and Criminal Justice (Scotland) Act 2006 as amended • The Police, Public Order and Criminal Justice (Scotland) Act 2006 (Consequential Provisions and Modifications) Order • Police and Fire Reform (Scotland) Act 2012 • The Police Service of Scotland (Senior Officers) (Conduct) Regulations 2013 • The Police (Conduct) (Senior Officers) (Scotland) Regulations 1999 • The Police Appeals Tribunals (Scotland) Rules 2013 • The Police Appeals Tribunals (Scotland) Amendment Rules 2020 • Human Rights Act 1998 <p>Legitimate Aim and Necessity:</p> <ul style="list-style-type: none"> • To ensure members of the public have access to a visible and accessible complaints process which is open, transparent and available to everyone • To ensure complaints are recorded, investigated, determined and reported appropriately • To ensure complaints which contain criminal allegations are covered by legislation

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5.1 Rights / Freedoms Relevant to Policing	5.2 Assessment Protects and / or Infringes or Not Applicable	5.3 Analysis What evidence is there as to how the process / practice protects or infringes Human Rights.	5.4 Justification – Summarise the following: <ul style="list-style-type: none"> • Legal Basis • Legitimate Aim • Necessity
Article 9 Freedom of Thought, Conscience and Religion	Not applicable	Not applicable	Not applicable
Article 10 Freedom of Expression	Not applicable	Not applicable	Not applicable
Article 11 Freedom of Assembly and Association	Not applicable	Not applicable	Not applicable
Article 14 Prohibition of Discrimination	Protects	<p>The SPA Complaints Handling Procedures highlight the importance of ensuring that complaints processes are open, transparent and accessible to enable complainers to readily submit complaints, confirming that;</p> <ul style="list-style-type: none"> • in addition to legislation and guidance which govern police complaint handling in Scotland, the SPA will have regard to the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010. Public authorities are required to take positive steps to eliminate discrimination, advance equality of opportunity, foster good relations and have due regard to the need to: <ul style="list-style-type: none"> i. Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the 	<p>Legal Basis:</p> <ul style="list-style-type: none"> • The Police, Public Order and Criminal Justice (Scotland) Act 2006 as amended • The Police, Public Order and Criminal Justice (Scotland) Act 2006 (Consequential Provisions and Modifications) Order • Police and Fire Reform (Scotland) Act 2012 • Ethical Standards in Public Life etc. (Scotland) Act 2000 • The Police Service of Scotland (Senior Officers) (Conduct) Regulations 2013 • The Police (Conduct) (Senior Officers) (Scotland) Regulations 1999 • The Police Service of Scotland (Senior Officers) (Performance) Regulations 2016 • The Police Appeals Tribunals (Scotland) Rules 2013 • The Police Appeals Tribunals (Scotland) Amendment Rules 2020

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5.1 Rights / Freedoms Relevant to Policing	5.2 Assessment Protects and / or Infringes or Not Applicable	5.3 Analysis What evidence is there as to how the process / practice protects or infringes Human Rights.	5.4 Justification – Summarise the following: <ul style="list-style-type: none"> • Legal Basis • Legitimate Aim • Necessity
		<p>Equality Act 2010;</p> <p>ii. Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and</p> <p>iii. Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.</p> <p>See Section 4- Equality Impact Assessment.</p>	<ul style="list-style-type: none"> • The Equality Act 2010 • The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 • Human Rights Act 1998 • PIRC Statutory Guidance on the handling of complaints about the police in Scotland (June 2022) <p>Legitimate Aim and Necessity:</p> <ul style="list-style-type: none"> • To ensure members of the public have access to a visible and accessible complaints process which is open, transparent and available to everyone • To ensure complaints are recorded, investigated, determined and reported appropriately
Protocol 1, Article 1 Protection of Property	Infringes & Protects	<p>The SPA Complaints Handling Procedures outline the processes for handling complaints which contain criminal allegations.</p> <p>On occasion, those subject of a criminal complaint may be deprived of property if required as part of a criminal investigation.</p> <p>It is essential that any infringement, such as deprivation of property, is covered by appropriate legislation.</p>	<p>Legal Basis:</p> <ul style="list-style-type: none"> • The Police, Public Order and Criminal Justice (Scotland) Act 2006 as amended • The Police, Public Order and Criminal Justice (Scotland) Act 2006 (Consequential Provisions and Modifications) Order • Police and Fire Reform (Scotland) Act 2012 • The Police Service of Scotland (Senior Officers) (Conduct) Regulations 2013 • The Police (Conduct) (Senior Officers) (Scotland) Regulations 1999 • The Police Appeals Tribunals (Scotland)

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			Rules 2013 <ul style="list-style-type: none"> • The Police Appeals Tribunals (Scotland) Amendment Rules 2020 Legitimate Aim and Necessity: <ul style="list-style-type: none"> • To ensure complaints which contain criminal allegations are covered by legislation • To report and investigate crime

6. Decision – Decide how you will proceed in light of what your analysis shows (Place ‘X’ in appropriate box)	
6.1	Actual or potential unlawful discrimination and / or unlawful interference with human rights have been identified, which cannot be justified on legal / objective grounds. Stop and consider an alternative approach. <input type="checkbox"/>
6.2	Proceed despite a potential for discrimination and / or interference with human rights that cannot be avoided or mitigated but which can and have been justified on legal / objective grounds. <input checked="" type="checkbox"/>
6.3	Proceed with adjustments to remove or mitigate any identified potential for discrimination and / or interference in relation to our equality duty and / or human rights respectively. <input type="checkbox"/>
6.4	Proceed without adjustments as no potential for unlawful discrimination / adverse impact on equality duty or interference with human rights has been identified. <input type="checkbox"/>

7. Monitoring and Review of Policy / Practice – State how you plan to monitor for impact post implementation and review policy / if required, and who will be responsible for this.

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The Authority’s Complaints Team will regularly review procedures in respect of any changes in best practice, working with partner organisations and being alert to any key learning that arise from the Authority’s handling of complaints. The team will also monitor changes in legislation/circumstances which may affect the procedures and assess how these changes may impact on vulnerable complainers and protected groups. It is envisaged that a review will be conducted on an annual basis.

8. Mitigation Action Plan – State how any adverse / disproportionate impact identified has been or will be mitigated.

Issue / Risk Identified	Action Taken / to be Taken	Action Owner / Dept.	Completion Date	Progress Update

9. Management Log

9.1 EqHRIA Author Log

Name and Designation	David Collie, SPA Complaints & Conduct Manager	Date (DD/MM/YY)	17/08/2022
Comments	EqHRIA v2.00 completed		
Name and Designation	David Collie, SPA Complaints & Conduct Manager	Date (DD/MM/YY)	04/09/2023
Comments	EqHRIA v2.01 completed New SPA website launched, 04/09/2023. The new website includes an Accessibility Statement and a facility to request information on the website in a different format (such as accessible PDF, large print, easy read, audio recording or braille). This mitigates a previously identified risk for the SPA Complaints Handling Procedures in relation to accessing information in a different format. Accordingly, no entry required for Section 8- Mitigation Action Plan.		
Name and Designation		Date (DD/MM/YY)	
Comments			

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9.2 Quality Assurance Log				
Name and Designation		Date		Document Version
Comments				
Name and Designation		Date		Document Version
Comments				
Name and Designation		Date		Document Version
Comments				

9.3 Divisional Commander / Head of Department Log		
Name and Designation		Date (DD/MM/YY)
Comments		
Name and Designation		Date (DD/MM/YY)
Comments		
Name and Designation		Date (DD/MM/YY)
Comments		

9.4 Publication of EqHRIA Results Log			
Name and Designation		Date Published	Location of Publication
Comments			

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Name and Designation		Date Published		Location of Publication	
Comments					
Name and Designation		Date Published		Location of Publication	
Comments					