

Meeting	SPA Complaints and Conduct Committee
Date	02 March 2022
Location	MS Teams
Title of Paper	Police Scotland Professional Standards Department Quarterly Performance Report (Q3)
Presented By	CS John Paterson
Recommendation to Members	For Discussion
Appendix Attached	Appendix A – Performance Report Q3

PURPOSE

To report to Members of the Complaints and Conduct Committee, for the purposes of noting, statistical information on the overarching performance activity in relation to complaints and conduct matters about members of Police Scotland for period (1 April 2021 – 31 December 2021).

Members are invited to discuss the content of this report.

1. BACKGROUND

- 1.1. The attached performance report provides data relating to the period ending Quarter 3 (1 April 2021 – 31 December 2021).

Data contained in this report is management information and is correct as at 28/01/2022.

Note: Appendix 'A' provides detail of allegations of Discriminatory Behaviour – sub categories for the current year-to-date v previous five year average (based on the year-to-date period).

2. FURTHER DETAIL ON THE REPORT TOPIC

- 2.1 There are no further details on this report.

3. FINANCIAL IMPLICATIONS

- 3.1 There are no financial implications associated with this paper.

4. PERSONNEL IMPLICATIONS

- 4.1 Clearly the nature of the matters reported inevitably leads to implications for both individual and wider personnel matters. These are considered on a case by case basis to ensure welfare, conduct and individual and organisational learning opportunities are identified and addressed.

5. LEGAL IMPLICATIONS

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

6. REPUTATIONAL IMPLICATIONS

- 6.1 As per Item 4.1, each case is assessed for individual and organisational reputational risks and implications and appropriate action taken.

7. SOCIAL IMPLICATIONS

- 7.1 The nature of the data reported in this paper is related to complaints about the police and related conduct matters. By its very nature, the subject matter implies a level of negative social, community and

equalities impact. By addressing the individual matters and thereafter considering holistically that which has been reported Police Scotland seek to mitigate the negative impact of those cases reported.

8. COMMUNITY IMPACT

8.1 As per 7.1 above.

9. EQUALITIES IMPLICATIONS

9.1 There are equalities implications associated with this paper, as per 7.1 above.

10. ENVIRONMENT IMPLICATIONS

10.1 There are no environmental implications associated with this paper.

RECOMMENDATIONS

Members of are invited to discuss the content of this report.



Professional Standards SPA Performance Report Quarter 3 of 2021/22

Meeting Date: 02/03/2022

Reporting Period: April – December 2021

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Executive Summary

This Performance Report provides the Scottish Police Authority (SPA) Complaints and Conduct Committee details of Professional Standards Department (PSD) activity from 1 April 2021 to 31 December 2021.

Quarter 3 (Q3) 2021/22 Performance Overview

- A total of **1,566** complaints were received during Q3 of 2021/22, a decrease of **4.9%** on Q3 of 2020/21.
- **753** complaints (**48.1%**) were Frontline Resolved (FLR) during Q3 of 2021/22 (**-0.4%** points compared to Q3 PYTD). This includes early resolution and subsequent resolution by PSD/Specialist officers.
- **6.4%** of allegations closed during Q3 of 2021/22 were upheld, a decrease of **4.5** percentage points from Q3 in 2020/21 (**10.9%**).
- **74** preliminary conduct assessments were undertaken during Q3 of 2021/22, a **39.3%** decrease on Q3 of 2020/21.
- **57** statutory referrals were made to Police Investigations & Review Commissioner (PIRC) during Q3 of 2021/22 a decrease of **17.4%** from the same period PYTD.
- During Q3 of 2021/22, **43** of the **57** statutory referrals were marked as no investigations by PIRC (**75.4%**).
- In October 2021 COPFS directed that in line with Article 3 & Article 5 ECHR all complaints of assault / excessive force would be automatically referred to PIRC in this quarter **64** such referrals were made, **23 (35%)** of which were not investigated.
- **37** complaint handling referrals (CHR) were made to PIRC and, as a consequence, **66.5%** of those CHR allegations reviewed during Q3 of 2021/22 were deemed by PIRC to have been handled to a reasonable standard (**-7.2%** on Q3 PYTD).
- Based on the statistics of CHR during Q3 of 2021/22, notionally, the proportion of complaints subject to a CHR by PIRC is **2.4%**. It should be noted that some of the complaints subject to CHR may predate the Q3 period.

Complaints and Allegations

Complaint Cases Received

What is a 'Complaint'?

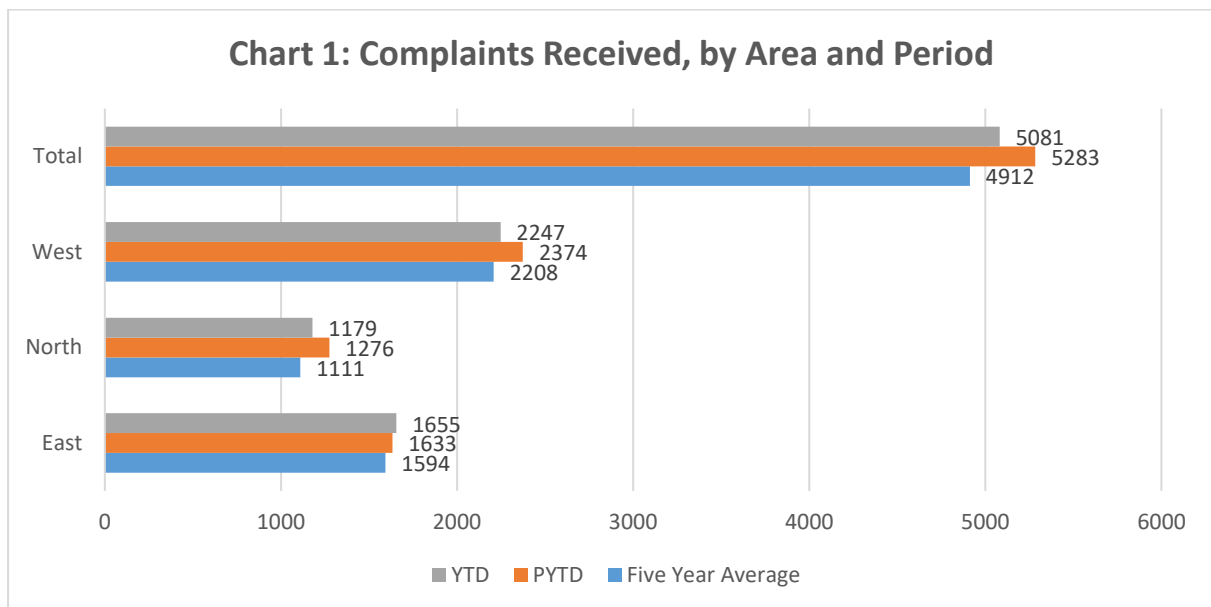
A complaint about the Police is defined in the Police, Public Order and Criminal Justice (Scotland) Act 2006 Section 34(2) as:

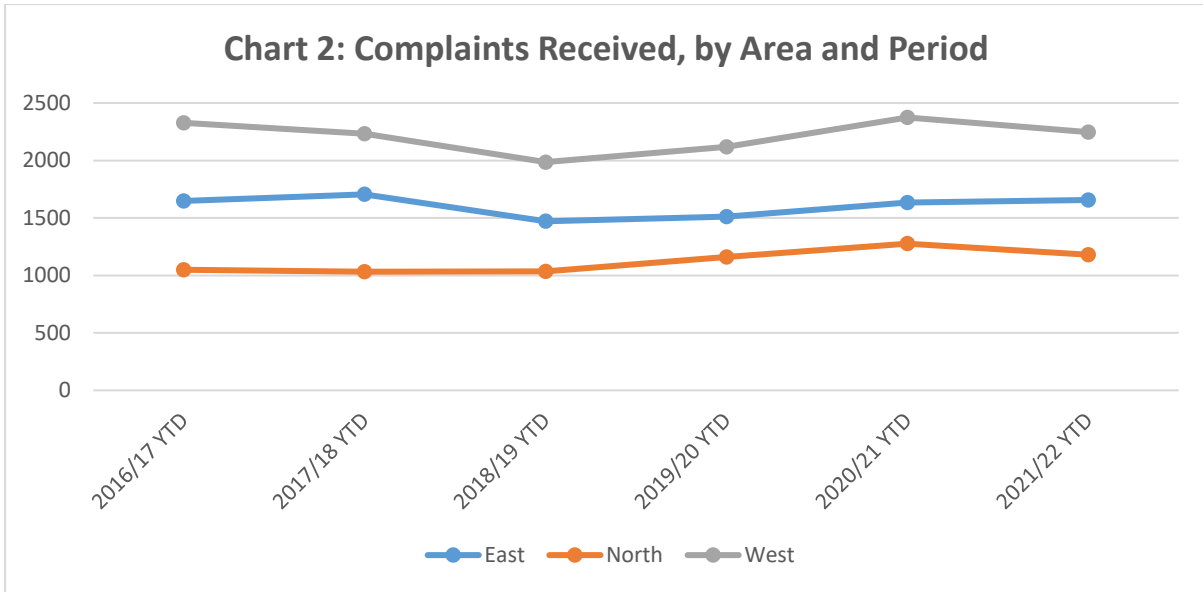
“A statement (whether oral, written or electronic) expressing dissatisfaction about an act or omission by the Authority, by the Police Service or by a person who at the time of the act or omission was a person serving with the Police”.

From the overall number of cases received during the YTD, a total of **5,081** cases were assessed as complaints from members of the public, which represents a **3.8%** decrease from the same period in 2020/21. This total represents a **3.4%** increase from the five year average. Based on this wider context, complaints during the YTD are at an increased level.

The impact of COVID-19 related complaints should be considered when comparing against the PYTD, as these are assessed to be the key driver in the decrease against the PYTD total of complaints. A total of **116** COVID-19 related complaints were received during the YTD, an **82.9%** decrease compared to the PYTD and which represents a reduction of **562** such complaints.

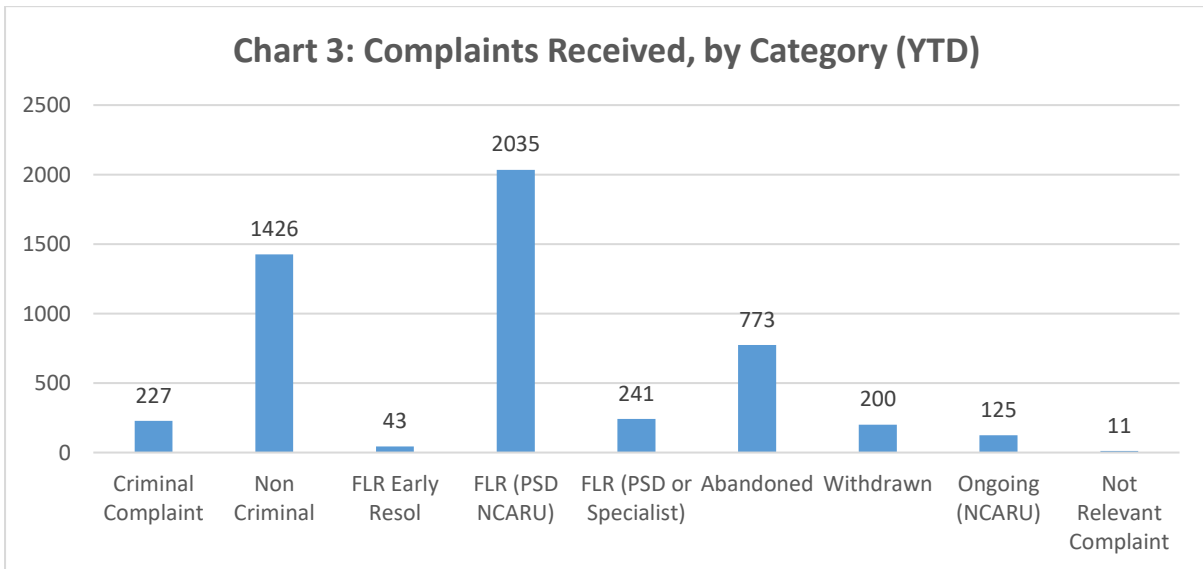
Within Q3 of 2021/22 alone, a total of **1,566** were received. This represents a **4.9%** decrease on Q3 of 2020/21. Furthermore, this also represents a **0.4%** increase on the five year average of Quarter 3 periods.





Increases were identified YTD across all three Command Areas, when compared against the five year average. Primarily those were in the North (+6.2%) and the East (+3.9%), with a lower rate of increase noted in the West (+1.8%).

Conversely, the North and West displayed a decrease YTD compared to the PYTD (along with low volume increase in the East). However, as noted above, comparison against the PYTD in isolation may be misleading given the impact of COVID-19 related complaints during the latter period.



The highest volume complaint category during the YTD was Frontline Resolved (FLR) by PSD NCARU, which applied to **2,035** complaints received. In addition, **43** complaints were subject to Early Resolution and **241** were subsequently FLR by PSD/Specialist. Overall, **45.6%** of all complaints received during the YTD were resolved by FLR.

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A further **1,426** complaints were categorised as Non-Criminal (not FLR). Taken together, the vast majority of received complaints were either FLR, at some stage, or resulted in Non-Criminal enquiry. This contrasts with the **227** complaints categorised as Criminal, representing a relatively low proportion compared to those which are Non-Criminal in nature.

The remainder of complaints received were either Abandoned (**773**), Withdrawn (**200**) or are Ongoing with the PSD NCARU (**125**).

Specifically in relation to Q3 of 2021/22 alone, **48.1%** of complaints were Frontline Resolved (FLR), compared with **48.5%** in Q3 of 2020/21.

North Command

In the North, a total of **1,179** complaints were received during the YTD. This represents a **7.6%** decrease on the PYTD and, conversely, a **6.2%** increase against the five year average.

The increase against the five year average is primarily driven by:

- Tayside, **439** complaints (**+5.3%** from the PYTD, **+19.4%** against the five year average).
- North East, **438** complaints (**-8.4%** from the PYTD, **+7.6%** against the five year average).
- Highland and Islands, **229** complaints (**-9.1%** from PYTD, **+18.7%** against the five year average).

The most notable increase within the North was identified in Tayside, with the total of **439** complaints representing an additional **22** complaints compared to the PYTD (**+5.3%**). This total also represents a **19.4%** increase on the five year average (**368**), accounting for an additional **71** complaints.

Analytical Action - *An analytical paper detailing the factors involved in the recent increase in complaints within Tayside has been collated and briefed into the Division for further consideration. It is assessed that Quality of Service allegations (Service Delivery and Service Outcome) are the primary drivers of this increase, with the key theme identified amongst those relating to a perceived lack of Police action.*

Complaints within Tayside Division will remain subject to close scrutiny at this time, with any further emerging themes shared as appropriate and with a view to addressing factors influencing those.

Although this will be prioritised having been assessed as the most notable increase within the region, complaints within North East Division and Highlands and Island Division will continue to be monitored.

East Command

In the East, a total of **1,655** complaints were received during the YTD. This represents a **1.3%** increase on the PYTD; however, this total also represents a **3.9%** increase against the five year average.

Increases of note were identified within the following areas:

- Lothian and Scottish Borders, **428** complaints (no change from PYTD, **+5.5%** against the five year average).
- Fife, **345** complaints (**+9.5%** from PYTD, **+4.4%** against the five year average).
- Contact, Command and Control, **91** complaints (**+18.2%** from PYTD, **+24.0%** against the five year average).

Each of these divisions are key drivers in the increase in the East, based on the wider context provided by the five year average. Lothian & Borders is the highest volume contributor to this, with the **5.5%** increase accounting for an additional **22** complaints.

The shorter-term picture in the East is notable for the **9.5%** increase within Fife during the YTD. As Fife Division experienced relatively low volumes of COVID-19 related complaints (33 PYTD and 9 YTD), this factor is less pertinent when comparing these periods. However, the broader picture of the five year average (**+4.4%**) suggests the volume of complaints PYTD within Fife was relatively low volume year, but also indicating that the YTD volume is at a higher than average level.

Analytical Action - Further analysis has been tasked in relation to complaints within Lothian and Borders Division during this period, and will be progressed. Once completed, the findings will be shared as appropriate with a view to addressing any factors assessed to contribute to this increase. Given the explanation provided above and lower volumes involved, complaints within Fife Division and C3 will continue to be monitored at this time.

West Command

In the West, a total of **2,247** complaints were received during the YTD. This represents a **5.3%** decrease from the PYTD and, conversely, a **1.8%** increase against the five year average. The latter comparison accounts for an additional **39** complaints.

The key divisions influencing the increase against the five year average are:

- Lanarkshire, **496** complaints (**-2.7%** compared to the PYTD, **+5.4%** against the five year average).
- Contact, Command and Control, **122** complaints (**-6.2%** compared to the PYTD, **+39.6%** against the five year average).
- Dumfries and Galloway, **157** complaints (**+6.1%** compared to the PYTD, **+12.8%** against the five year average).

Taken together, these three divisions account for an additional **78** complaints compared to the five year average. As the West registered an additional **39** complaints within this same period, these divisions account for double the overall volume increase within the Command Area.

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The highest volume contributor to the West's increase was C3 Division, with the **122** complaints received YTD, accounting for an additional **35** cases compared to the five year average (**87**).

Analytical Action - Further analysis has been tasked in relation to complaints within Lanarkshire Division during this period and will be progressed. Once completed, the findings will be shared as appropriate, with a view to addressing any factors which are assessed to contribute to this increase.

Regarding the C3 increase within the West, it is assessed that Quality of Service – Service Delivery allegations are a key contributory factor. Further detail has been provided in the Allegations Received section below.

Allegations Received

What is an 'Allegation'?

Allegations are the component parts of a Complaint, which

- *Categorise specifically what has happened*
- *Can be seen as an agreement between the complainer and the Enquiry Officer and sets out what exactly is to be investigated*
- *Are capable of being independently Upheld or Not Upheld*
- *Each complaint case may include multiple allegations.*

During the YTD, a total of **8,378** allegations were received. This represents a **9.5%** decrease compared to the PYTD and a **1.1%** increase against the five year average.

During Q3 of 2021/22 alone, **2,432** allegations were received. This represents a **15.9%** decrease on Q3 of 2020/21, where **2,891** allegations were received.

Decreases were identified YTD within the North and West, compared to the PYTD and the five year average. Increases against both periods was however identified in the East. As detailed below:

- North, **1,897** allegations (**-8.4%** compared to the PYTD, **-2.6%** against the five year average).
- East, **2,656** allegations (**+4.3%** compared to the PYTD, **+6.8%** against the five year average).
- West, **3,825** allegations (**-17.6%** compared to the PYTD, **-0.7%** against the five year average).

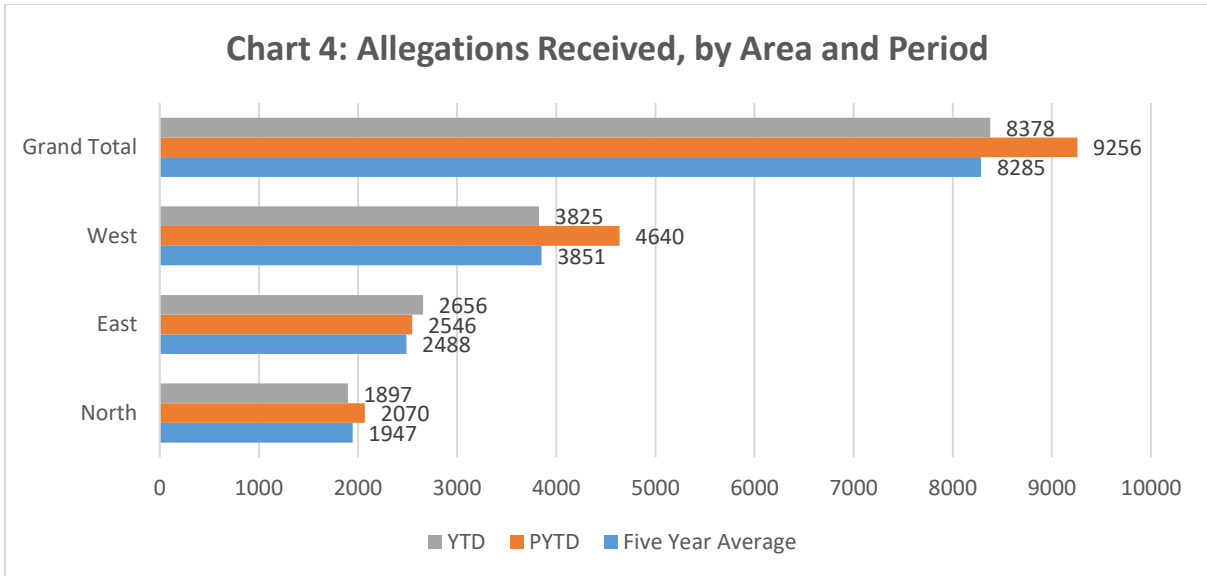


Table 1: Allegations by Category (selected)

Allegation Category	YTD 2021/22	PYTD 2020/21	Trend
Discriminatory Behaviour	96	83	+15.7%
Excessive Force	496	441	+12.5%
Quality of Service – Policy/Procedure	516	376	+37.2%
Quality of Service – Service Delivery	839	649	+29.3%

Low volume increases in Excessive Force were identified across various divisions during the YTD. However, the national increase is primarily driven by Ayrshire (+62.5%), Renfrewshire and Inverclyde (+70.0%), Lothian and Borders (+55.2%), Fife (+87.5%) and Greater Glasgow (+16.0%). When combined, these five divisions account for an additional **72** allegations YTD, therefore more than the national volume increase (+55).

The increase regarding Quality of Service - Policy/Procedure is primarily driven by Greater Glasgow (+162.9%) and Lanarkshire (+160.9%). Combined, these two divisions account for an additional **94** such allegations, which accounts for the majority of the national increase (+140). Relevant allegations within these particular divisions primarily relate to the Policing Procedure sub-category and the most common theme identified was regarding information/updates.

Although the volume of relevant allegations has broadly stabilised within Lanarkshire, these continued to rise within Greater Glasgow during September – November 2021, spiking within November. It is assessed that the latter is primarily driven by COP26 related complaints, with dissatisfaction within this category primarily relating to road closures and officers preventing members of the public accessing same.

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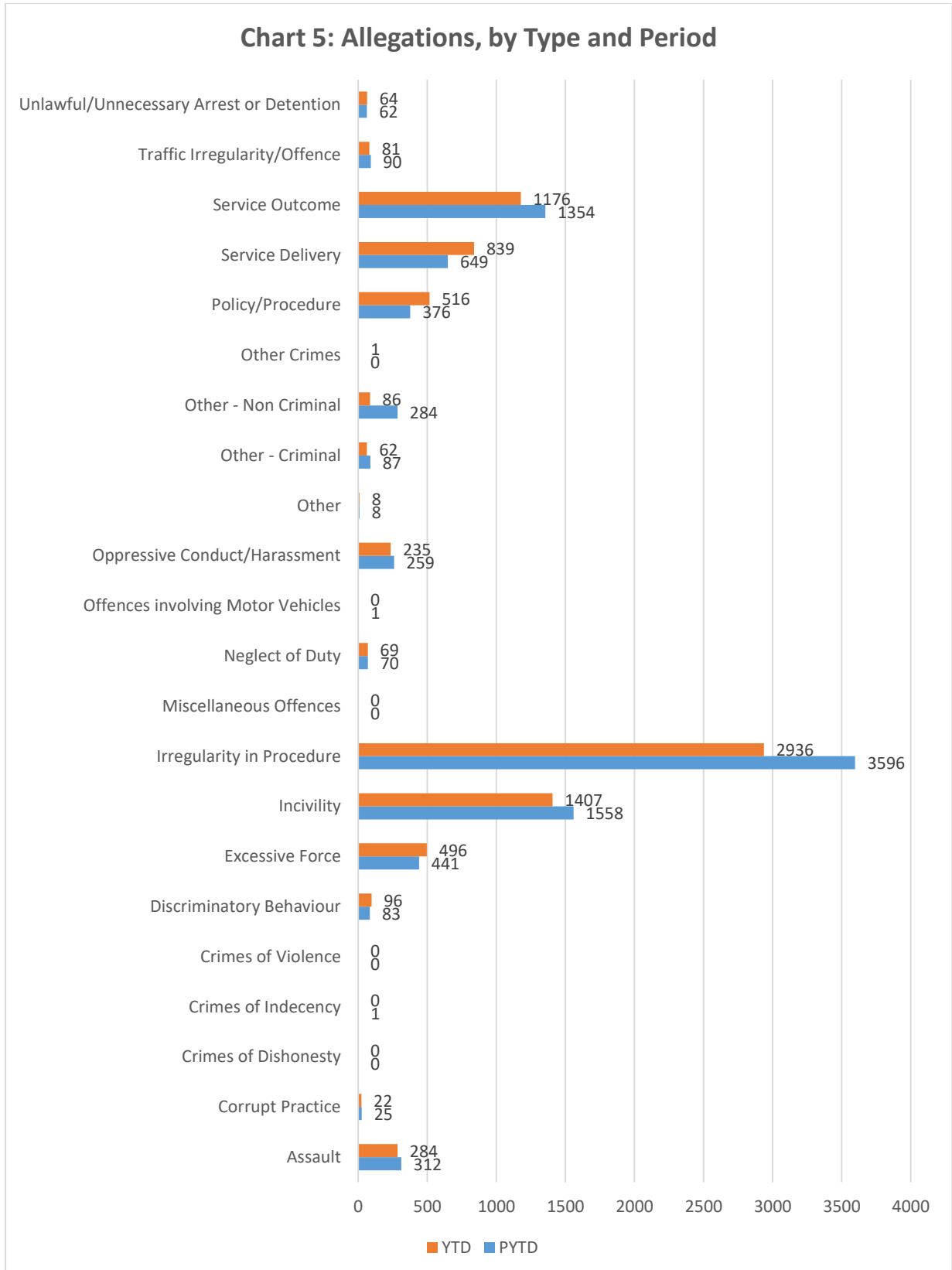
Furthermore, the increase in Quality of Service – Service Delivery allegations is primarily driven by Tayside (**+143.9%**, **100** allegations in total) and C3 Division (**+100.0%**, **82** allegations in total). Combined, these divisions account for an additional **100** allegations, which accounts for just over half of the national increase within this category (**+190**). This is chiefly supplemented by lower volume increases in each territorial division with the North and East.

Within this allegation category, the key themes identified in Tayside broadly relate to a perceived lack of Police action and also to Police attendance at properties. As noted above, an analytical paper - which includes detailing these factors - has been shared with the division for further consideration. Furthermore, the key theme identified as regards C3 Division relates to dissatisfaction over waiting times when contacting 101. The volume of relevant allegations have since stabilised between October and January of the YTD.

Further detail regarding the relatively low volume increase in Discriminatory Behaviour allegations YTD can be found in Appendix A of this report.

Moreover, further detail on the definitions of the allegation categories noted above can be found in Appendix B of this report.

A full breakdown of the allegation categories based on the YTD and PYTD has been provided in the chart below.



Allegation Results

During the YTD period, a total of **8,036** allegations were closed. Of those, **6.9%** were upheld. This represents a decrease from the PYTD rate of **8.1%**, and also the five year average of **9.9%**.

During Q3 of 2021/22 alone, **2,322** allegations were closed. Of those, **6.4%** were upheld. This represents a decrease of **4.5** percentage points from Q3 in 2020/21 (**10.9%**).

Timescales

The aim for Police Scotland is to respond to complaints requiring investigation within 56 days of receipt, as set out in PIRC Statutory Guidance; however, complaints vary in complexity and seriousness which may impact on the length of time required to conclude. Where the notional timescales are exceeded, complainers are regularly kept updated on the progress of the enquiry throughout the process until the complaint is concluded.

At the point of implementation of the new complaint handling model in May 2021, there were **743** live complaints being investigated by local and specialist policing divisions. In comparison, there are currently **165** live complaints outstanding at these divisions, the vast majority of which (**98.8%**) are outwith the 56 day timescale guidance. Again, there are impact factors which may account for delay, for example, complexity, volume of allegations per complaint and other, ongoing, judicial proceedings. PSD will continue to support these divisions to bring them to conclusion.

Analytical Action – PSD will continue to work with Local Policing & Specialist Service Divisions to pro-actively target these 165 live complaints via the PSD monthly meetings.

During the YTD period, **1,136** cases graded as non-criminal were closed, with **376 (33.1%)** closed within the 56 day timescale. The average closure time was **117** days.

These timescales for non-criminal cases represent a decrease on the PYTD, where **38.6%** were closed within 56 days and the average closure time was **118** days.

It should be noted that non-criminal cases closed during the YTD will also include cases handled by local and specialist policing divisions, which were received prior to the implementation of the new complaint handling model.

Amongst the **1,136** non-criminal cases closed during this period, **376** were received since the new model implementation on 03/05/2021 and therefore handled by PSD. Of those, **167 (44.4%)** were closed within 56 days and the average closure time was **72** days.

Further information on the Statutory Guidance can be accessed via the following link:

<https://pirc.scot/media/5262/statutory-guidance-march-2021.docx>

PIRC Complaint Handling Reviews, Referrals and Significant Investigations

PIRC Referrals

What is a PIRC referral?

Statutory referrals are made to PIRC under the provisions of the Police, Public Order and Criminal Justice (Scotland) Act 2006, the Police and Fire Reform (Scotland) Act 2012, and the Police Investigations and Review Commissioner (Investigations Procedure, Serious Incidents and Specified Weapons) Regulations 2013.

As of 4th October 2021, allegations of On Duty Assault - plus any associated criminal allegations - are now referred to the PIRC. These referrals relate to alleged breaches of Articles 3 and 5 of the European Convention of Human Rights (ECHR).

These referrals facilitate independent and transparent scrutiny in relation to serious incidents involving the Police. A decision on whether to investigate is taken by PIRC following a referral.

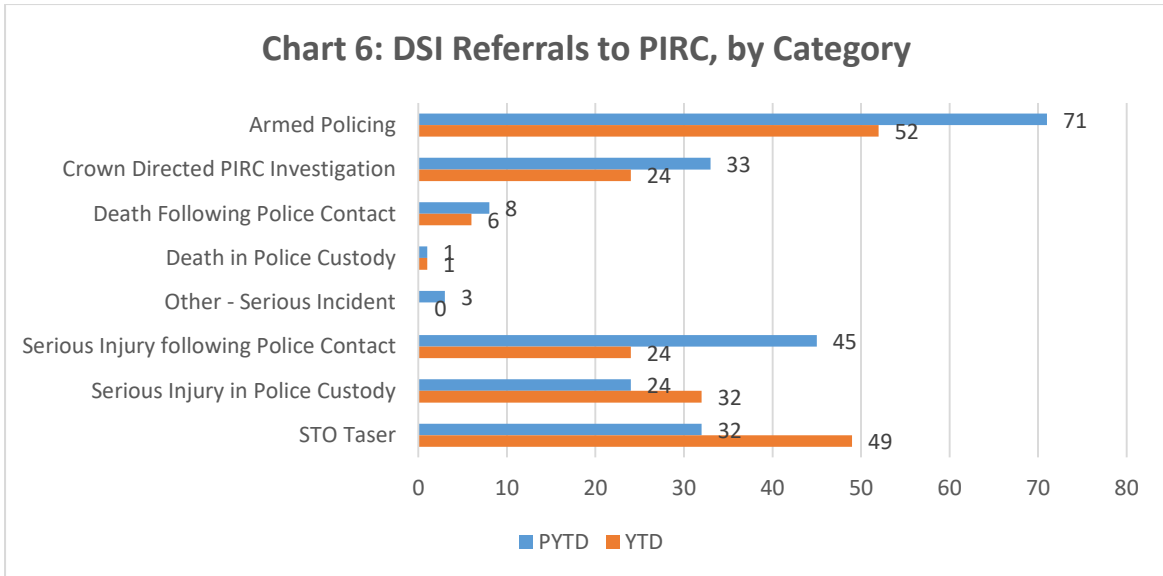
A total of **252** referrals were made to the PIRC during the YTD period. However, as referenced above, this total now includes referrals related to alleged breaches of Articles 3 and 5 of ECHR.

Given this change in process, this total is not directly comparable to referrals made in the periods prior to 4th October 2021. To ensure comparability, these referrals have been separated out and presented separately within the sections below – DSI and Assault Referrals.

PIRC DSI & Other Criminality Referrals

In addition to the new process involving referrals of assault, statutory referrals continue to be submitted to PIRC for serious incidents involving the Police – such as those involving death or serious injury in Police Custody and following Police contact, the presentation or discharge of Police firearms, plus other criminality matters as directed by the Crown Office Procurator Fiscal Service. For brevity, these are referred to hereafter as DSI referrals.

A total of **188** DSI referrals were made to PIRC during the YTD, a **13.4%** decrease on the PYTD.



During Q3 of 2021/22 alone, **57** DSI referrals were made to PIRC. This represents a **17.4%** decrease on the **69** referrals made during Q3 of 2020/21.

The key drivers in the YTD decrease in DSI referrals overall are Armed Policing (- **6.8%**) and Serious Injury Following Police Contact (-**46.7%**). The Armed Policing category includes the presentation and/or discharge of firearm or Taser by Armed Policing officers or in a policing operation with firearms officers. STO Taser refers only to Taser discharge by Specially Trained Officers.

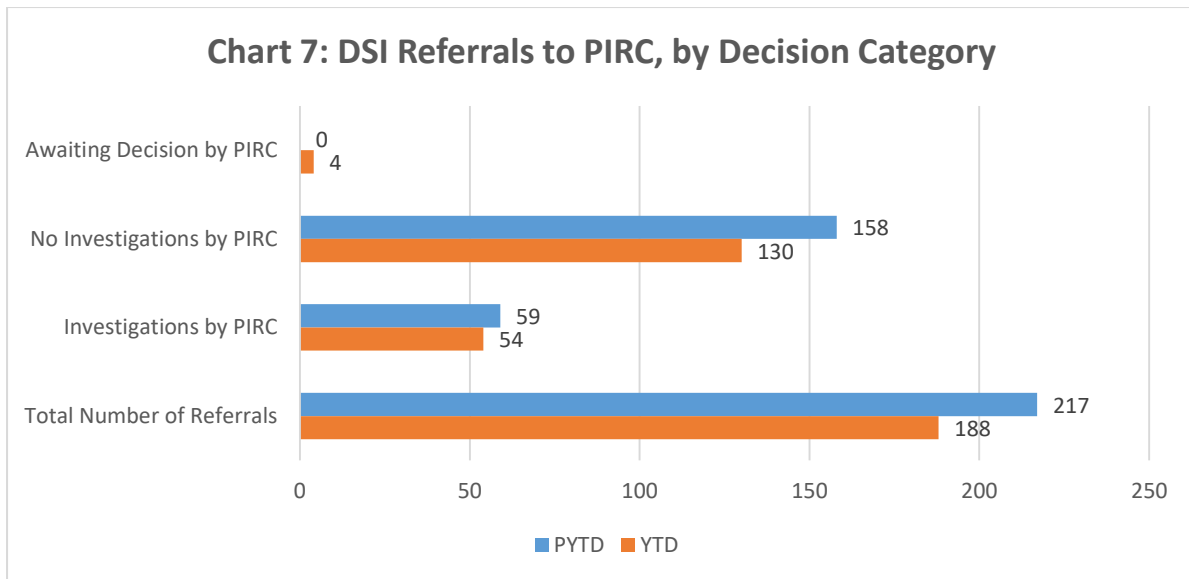
Despite this decrease, STO Taser referrals increased by **53.1%** during this period, with **49** relevant referrals during the YTD. However, **16** referrals during April and May 2021 primarily influence the YTD volume. It is assessed that the increased volume of STO Taser referrals is related to improved deployment capability of STO's across Scotland.

Police deployment of Taser on a member of the public automatically results in the matter being subject to a PIRC referral under statute.

Recent PIRC investigations into Police use of Taser have confirmed the lawful, proportionate and necessary use of Taser. These reports provide positive and independent assurance, in light of the recent increase in relevant referrals.

PIRC Investigations

The majority of DSI referrals (**69.1%**) within the YTD were marked as no investigations by PIRC, accounting for **130** of the **188** referrals.



During Q3 of 2021/22 alone, **43** of the **57** DSI referrals (**75.4%**) were marked as no investigations by PIRC. However, **17.5%** were subject to PIRC investigation (**-12.9%** points from Q3 of 2020/21).

The percentage of **188** DSI referrals YTD which led to a PIRC investigation has increased (**+1.5%**) compared to the PYTD, with **28.7%** of these referrals subject to PIRC investigations. This is primarily influenced by low volume increase in investigations into DSI referrals relating to Armed Policing (**+4**) and STO Taser (**+3**), with a respective total of four and five such investigations YTD.

The additional investigations regarding STO Taser discharges is reflective of the increased volume of relevant referrals, as noted above. This category continues to be monitored and will be subjected to further scrutiny in the coming months.

Allegations of Assault

As of 04/10/2021, all on-duty allegations categorised as Assault – plus any associated criminal allegations - are referred to PIRC for assessment and potential investigation. This follows recommendations made in the Independent Review of Complaint Handling, Investigations and Misconduct Issues by Dame Elish Angiolini in relation to alleged breaches of Articles 3 and 5 of the European Convention of Human Rights (ECHR).

At the conclusion of Q3 2021/22, **64** relevant cases have been referred to PIRC, **23** of which are subject to PIRC investigation. A further **23** cases have been marked as no investigation by PIRC, with **18** awaiting decision from PIRC. These figures are summarised in Table 2 below:

Table 2: Cases involving Allegations of Assault (04/10/21 – 31/12/21), by Status

Status	Number of Cases
Referred to PIRC	64
Investigation by PIRC	23
No Investigation by PIRC	23
At PIRC - Awaiting Decision	18

Live PIRC Investigations

Overall, **106** PIRC investigations remain “live” as at 08 February 2022, as detailed in Table 3 below. This total also involves matters referred outwith the YTD period (including referrals made prior to the YTD and beyond Q3 of the YTD). Please note that these figures include statutory referrals and referrals made in relation to alleged breaches of articles 3 and 5 of ECHR.

It should also be noted that the actual PIRC Investigation may have concluded and a report submitted to COPFS (SFIU/CAAPPD); however, due to judicial proceedings, such as criminal trials and FAI, matters remain outstanding.

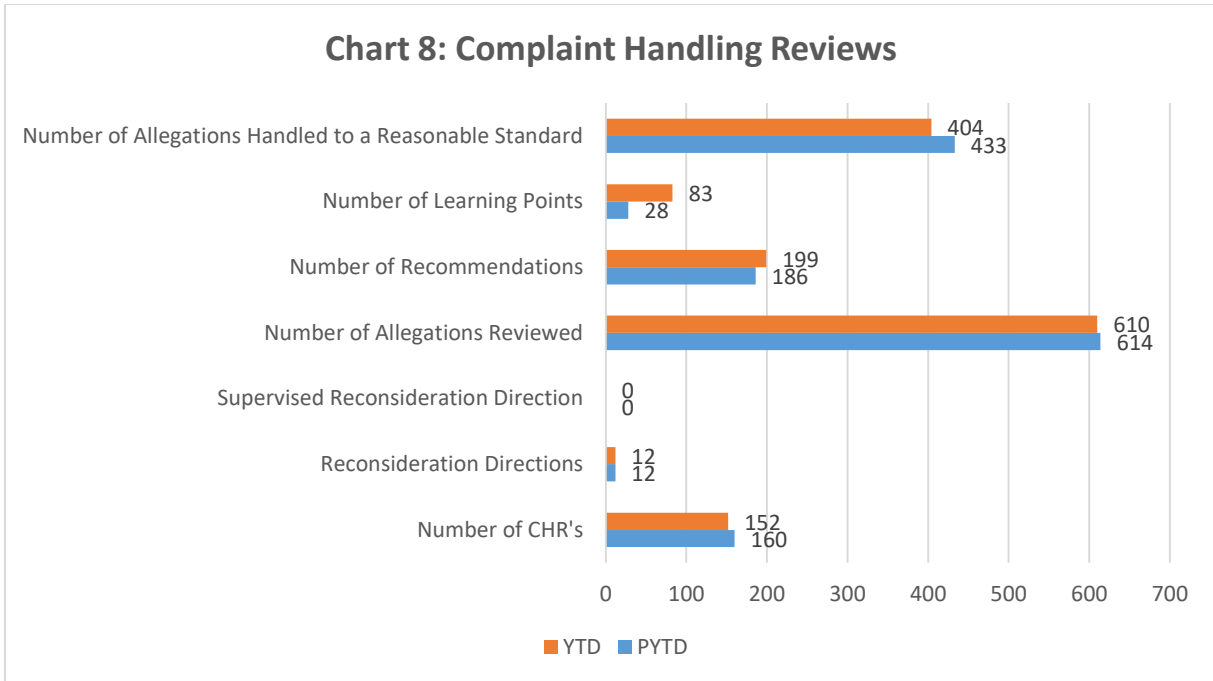
Table 3: Ongoing PIRC Investigations, by Command Area

Command Area	Number Ongoing
East	29
North	14
West	63
Grand Total	106

PIRC Complaint Handling Reviews (CHR)

Complaints handled by Police Scotland may be subjected to an independent Complaint Handling Review (CHR) by PIRC. Within three months of receiving a final response from Police Scotland, complainers have the opportunity to request an independent review by PIRC in respect of how their complaint was handled. Further details can be accessed via the following link:

A total of **152** Complaint Handling Reviews (CHR) were received during the YTD, a **5.0%** decrease on the PYTD, equating to a decrease of **8** CHR.



Within Q3 of 2021/22 alone, **37** CHR's were received. This represents a **35.1%** decrease on the **57** CHR's received during Q3 of 2020/21.

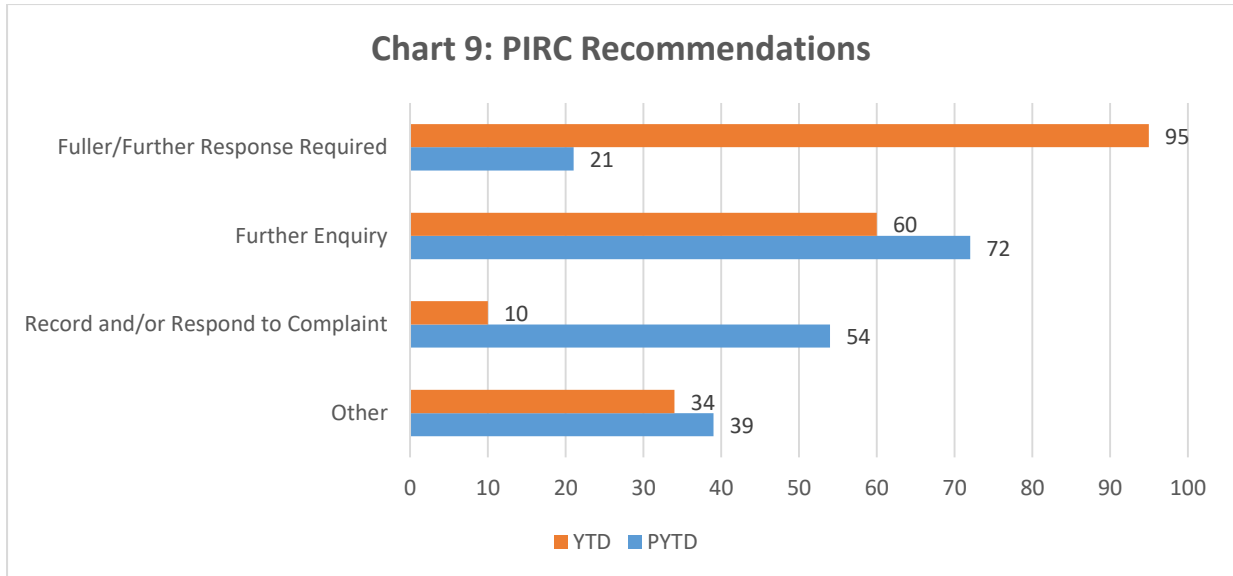
The volume of CHR has lessened during Q3 of the YTD, with **12** received in October and **9** received in December clearly below the monthly average of **17** CHR's during 2021/22 (to date). These are the lowest monthly totals since April 2020, when CHR'S were temporarily minimised at the outset of the COVID-19 pandemic. CHR's have shown decrease compared to the PYTD as a result of the low volumes received during October and December.

Of the **152** CHR received, **610** allegations were reviewed and **66.2%** were handled to a reasonable standard during the YTD; however, the percentage handled to a reasonable standard has decreased by **4.3%** compared to the PYTD.

This decrease comes on the back of notable increases in this rate during 2020/21 and which reflected continued improvement in complaint handling by Police Scotland. CHR continue to be monitored and all relevant learning disseminated to ensure continued improvement.

Within Q3 of 2021/22 alone, **158** allegations were reviewed and **66.5%** were handled to a reasonable standard. This represents a **7.2%** decrease on Q3 of 2020/21.

Based on the statistics of CHR received during the YTD, notionally, the proportion of complaints subject to a CHR by PIRC is **3.0%**; however, some of the complaints subject to CHR may predate the YTD period. Within Q3 of 2021/22 alone, this notional proportion is **2.4%**.



The vast majority of the **199** PIRC CHR recommendations received during the YTD were in the 'further enquiry' or the 'fuller/further response required' category (**77.9%**) when combined.

Notably, the 'fuller/further response required' category increased by **352.4%** during this period and now represents the highest volume recommendation category, with **95** received during the YTD. This has been a significant increase and as a result subject to close monitoring by PSD Senior Management Team (SMT). Regular meetings are ongoing with PIRC to establish individual or organisational matters leading to this increase.

Regular learning and advice from CHR recommendations is cascaded nationally and addressed with relevant individuals.

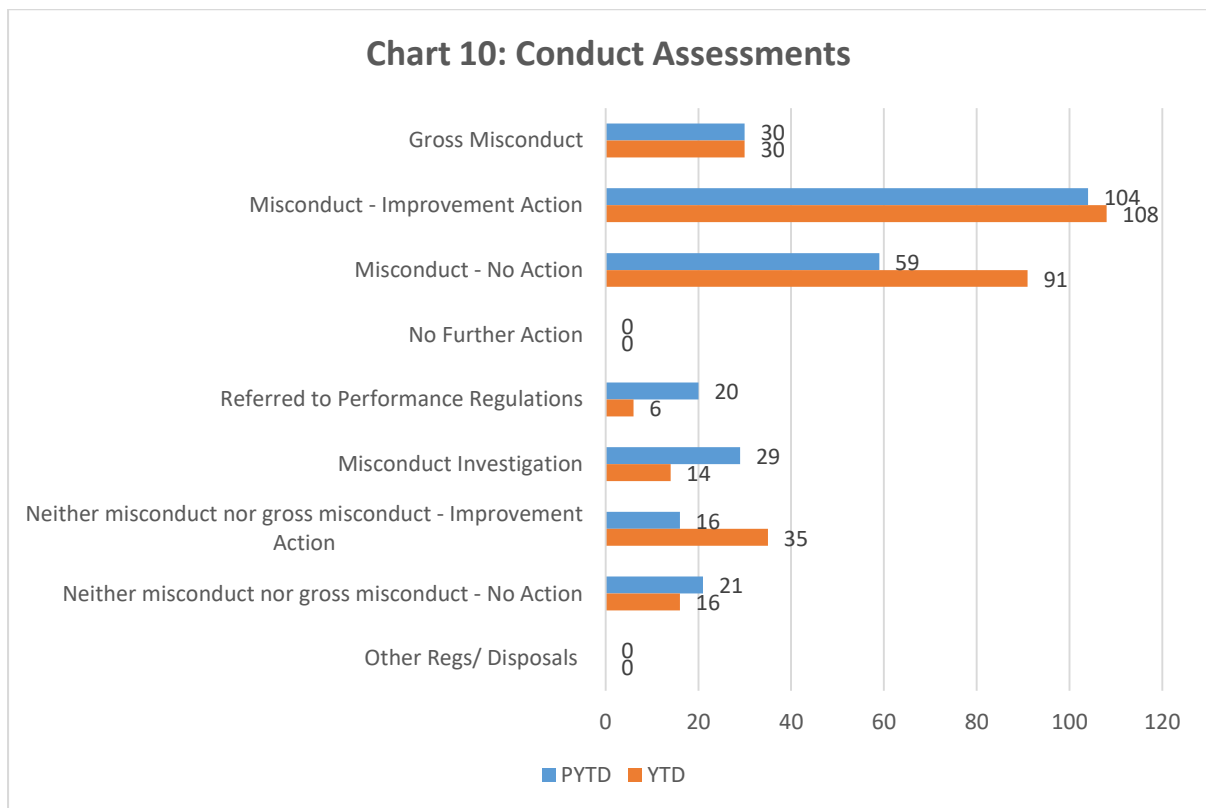
Conduct Unit

Conduct

The Police Service of Scotland (Conduct) Regulations 2014 is the primary legislation through which allegations of misconduct by serving police officers up to the rank of Chief Superintendent are considered. These regulations are supported by published guidance supported by staff associations, Scottish Government and Police Scotland.

The misconduct procedures aim to provide a fair, open and proportionate method of dealing with alleged misconduct while recognising that police officers have a special status as holders of the Office of Constable.

The procedures are intended to encourage a culture of learning and development for individuals and the organisation. Disciplinary action has a part, when circumstances require this, but improvement will always be an integral dimension of any outcome.



A total of **300** preliminary conduct assessments were undertaken by the Professional Standards Department during the YTD, a **7.5%** increase on the **279** assessments undertaken PYTD.

During this period, the majority of assessments (**66.3%**) were resulted as ‘Misconduct – Improvement Action’ or ‘Misconduct – No Action’.

Within Q3 of 2021/22 alone, **74** preliminary conduct assessments were undertaken, which represents a **39.3%** decrease on the **122** assessments undertaken during Q3 of 2020/21.

During this reporting year, the establishment of the new Complaint Handling Model has ensured that all CAPs are handled and coordinated by PSD. This allows for a consistency of assessment, not only in terms of the complaint but also consideration of any breaches of the Standards of Professional Behaviour. Therefore, we have an enhanced opportunity to identify and react to any breach of the Standards of Professional Behaviour by pro-actively engaging with individual officers via meaningful Improvement Action to mitigate further negative behaviour. This is assessed to be a key factor influencing the YTD increase in preliminary conduct assessments.

During the YTD, **19** misconduct meetings and **4** misconduct hearings occurred.

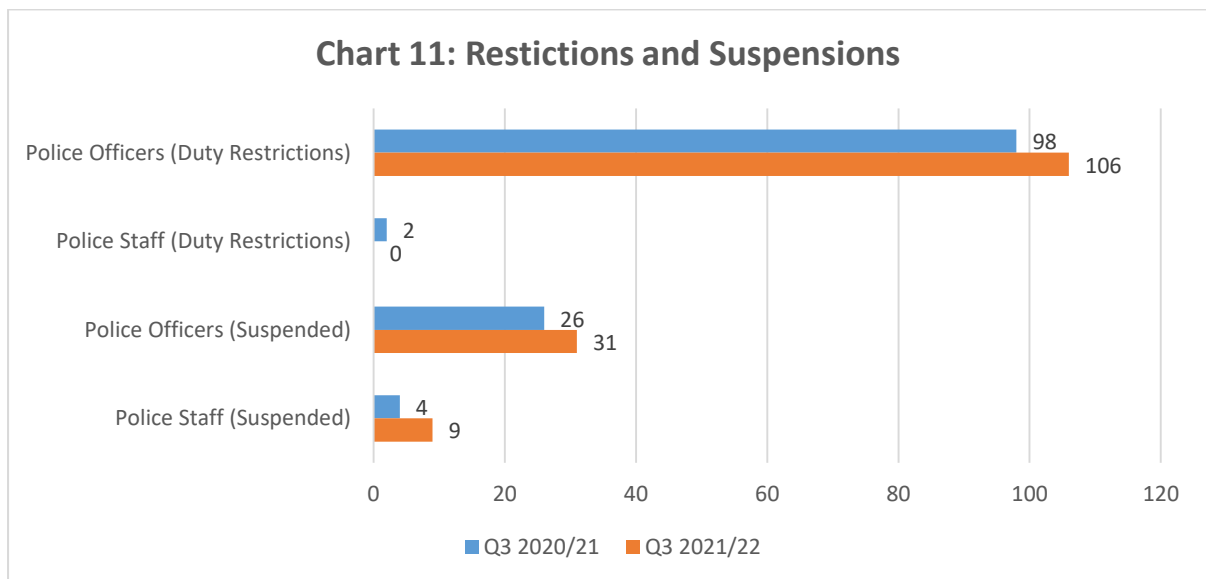
As a result of the misconduct meetings two verbal warnings, eight written warnings, eight final written warnings and one improvement action were issued. Seven concluded with a 'no misconduct' outcome. A further three allegations were related to an officer retiral/resignation prior to a misconduct meeting.

As a result of the misconduct hearings, two final written warnings were issued. An additional two allegations were concluded as not proven.

It should be noted that each meeting or hearing may have multiple allegations, with a disposal attached to each allegation.

Restrictions and Suspensions

Chart 11 details the actual number of officers and staff suspended and restricted at the end of Q3 2021/22 compared with Q3 in 2020/21. Furthermore, **8** suspended officers and **8** restricted officers resigned/retired during the YTD.

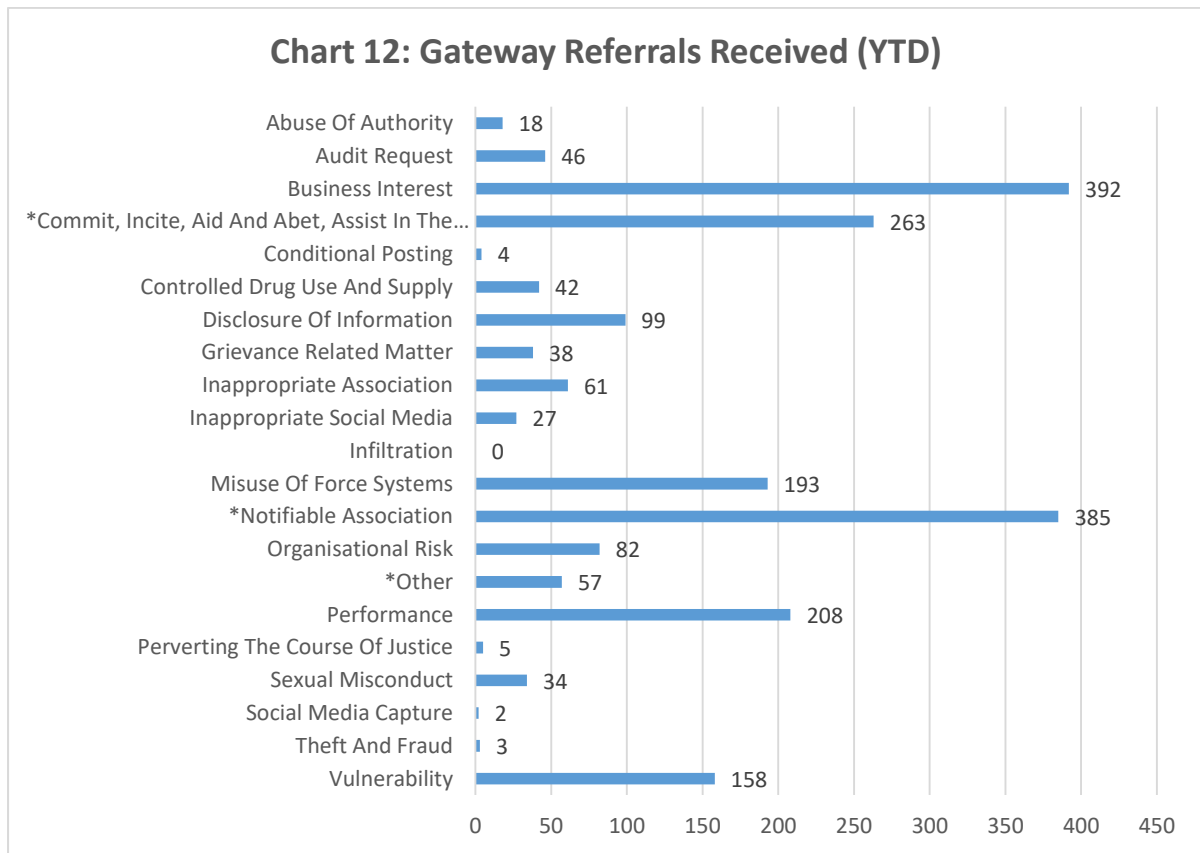


National Gateway Assessment Unit

National Gateway Assessment Unit

The Gateway Assessment Unit (GWU) has assessed **2,117** referrals during the YTD, which represents a **3.8%** increase against the PYTD total of **2,039** referrals.

During Q3 of 2021/22 alone, **735** referrals were assessed. This represents a **15.4%** increase on the same period of 2020/21.



*Other (Audit Requests, NCA Finance Referrals etc.)

*Commit, Incite, Aid and Abet, assist an offender in commission of crime

*Notifiable Association Sec 4 complete & returned to Division

The main drivers influencing in Gateway referrals during the YTD are:

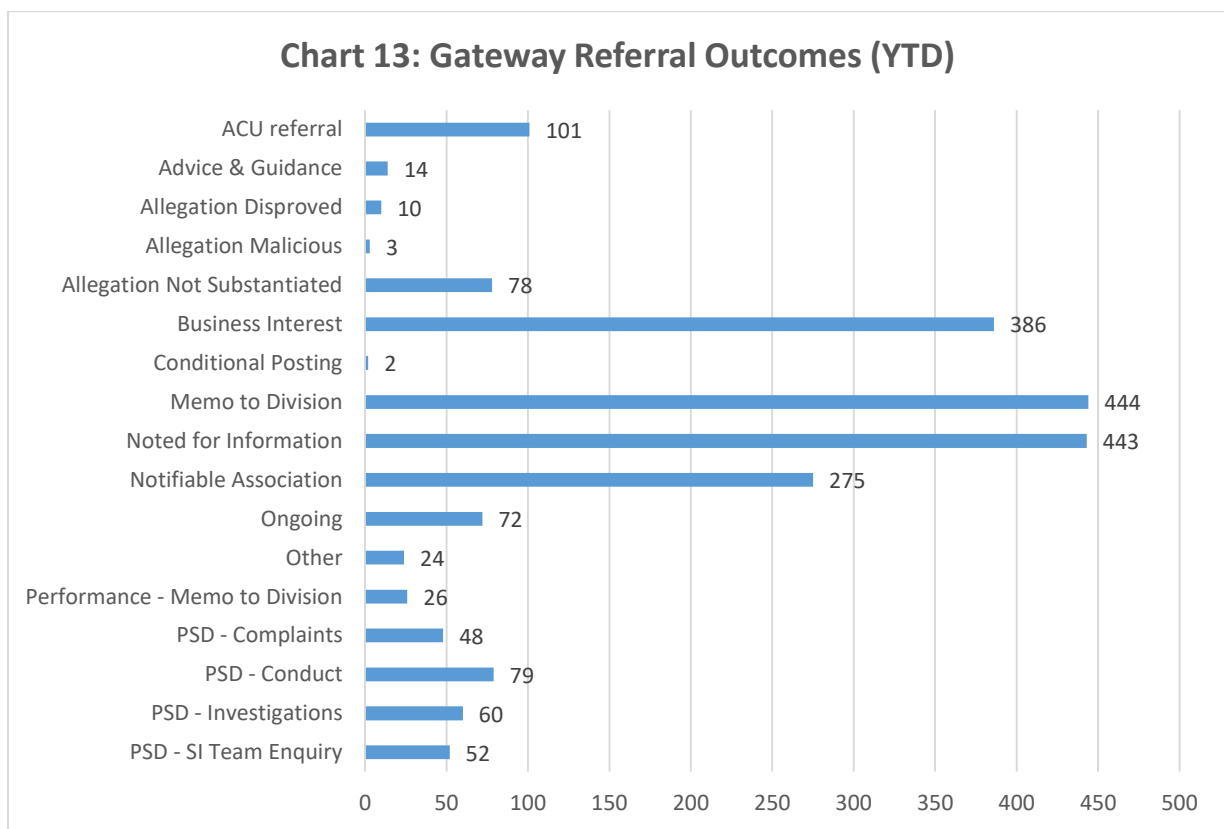
- Commit, Incite, Aid and Abet, Assist in the Commission of Crime (up **28.3%** to **263** referrals).
- Performance (up **57.6%** to **208** referrals).
- Vulnerability (up **46.3%** to **158** referrals).

The overall increase in GWU referrals is most notably influenced by the volume within the category of Commit, Incite, Aid and Abet, Assist in the Commission of Crime. It is assessed that the increase within this category involves Op Talla related referrals, however this does not explain the full extent of the increase.

Although no specific factor was identified as regards the increase in Performance related referrals, the increase within Vulnerability is assessed to have been influenced by the Employee Safeguarding app.

Business Interest and Notifiable Association are the highest volume referral categories, accounting for **36.7%** of all referrals received YTD.

It should be noted that audit checks are now included within the YTD referral figures (**46** in total). These checks have been carried out by the unit previously and are now being captured for reporting purposes.



Of the **2,117** referrals received during the YTD, only **16.1%** resulted in a referral to PSD or ACU.

The majority of the remaining referrals are disseminated to the relevant Divisions for further proportionate enquiries to be undertaken. Once concluded, Divisional updates are reviewed by the GWU to ensure these are sufficient to close the referral and to ensure consistent approach across the organisation.

Where enquiries indicate that the matter may reach a criminal/conduct threshold, they are re-submitted for further review and assessment by the GWU.

During the YTD period, five individuals have been formally recognised as a Whistleblower and given employment protection under legislation, in relation to their disclosures. One additional report relates to Whistleblowing from an anonymous

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source. Should the individual be identified during the enquiry, the protected disclosure will be formally recognised. Four further individuals are currently being assessed in relation to Whistleblowing, which may result in formal recognition once the relevant processes are concluded.

Anti-Corruption Unit (ACU)

Anti-Corruption Unit

The Anti-Corruption Unit (ACU) has instigated **90** enquiries between 1 April 2021 and 31 December 2021, compared to **91** over the same period last year. The figures show a slight decrease of **0.9%**.

During Q3 of 2021/22, a total of **35** enquiries were instigated by the ACU, compared to **39** during Q3 of 2020/21 (**-11.4%**). Factors contributing to the decrease include a reduction in referrals ascertained from Officers Reports, Integrity Matters and Intelligence logs. The COVID-19 pandemic must also be factored into this.

The predominant allegations reported to the ACU during the YTD period relate to Disclosure of Information, and Inappropriate Association.

YTD comparison does not show any great increase in any of the 12 nationally agreed National Policing Counter-Corruption Advisory Group (NPCCAG) Corruption Categories, other than Sexual Misconduct which is assessed to have increased significantly following media reporting in this area.

The abuse of position by Police Officers or Members of Police Staff in order to conduct predatory sexual behaviour, is currently under review within Police Scotland and across the UK. The significant harm with which a single instance of sexual misconduct or abuse of police powers can have on the public's trust and confidence in the Police Service requires this to remain a priority for Police Scotland with appropriate skilled resources investigating.

Moreover, there does not appear to be any significant decrease in any of the NPCCAG Corruption Categories when you compare the YTD figures from last year.

The most common outcome during the YTD period was the referral being passed to ACU Operations. This indicates that the quality of referrals remain high, as the vast majority of referrals assessed and closed have been pursued.

The unauthorised disclosure of sensitive information remains a significant concern to Police Scotland both in terms of scale and risk. Unauthorised disclosure can compromise ongoing enquiries and investigations, resulting in a loss of confidence in the wider criminal justice system.

The use of corruption by Serious Organised Crime Groups (SOCG) remains a key strategic priority for Police Scotland and is monitored by the ACU who engage closely with Police Scotland divisions in the North, East and West.

Organisational Learning

Organisational Learning

The Professional Standards Department is committed to promoting a culture of organisational learning. Learning opportunities are identified through a variety of sources, including PIRC Complaint Handling Reviews (CHR), PIRC Investigations, reports shared by COPFS and from internal feedback identified as part of the complaint handling process.

Examples identified during Q3 of 2021/22 are presented below:

Officers must ensure that final response letters have the necessary detail to explain the level of enquiry carried out into complaints, how the information was used to inform whether to uphold or not and of any corrective advice given so that any similar situations can be avoided in the future.

Final response letters should acknowledge any delay in complaint handling processes (i.e. for those over 56 days), explain the reasons for any delay and provide the applicant with an apology. This should be borne in mind by complaint handlers when dealing with complaints in the future.

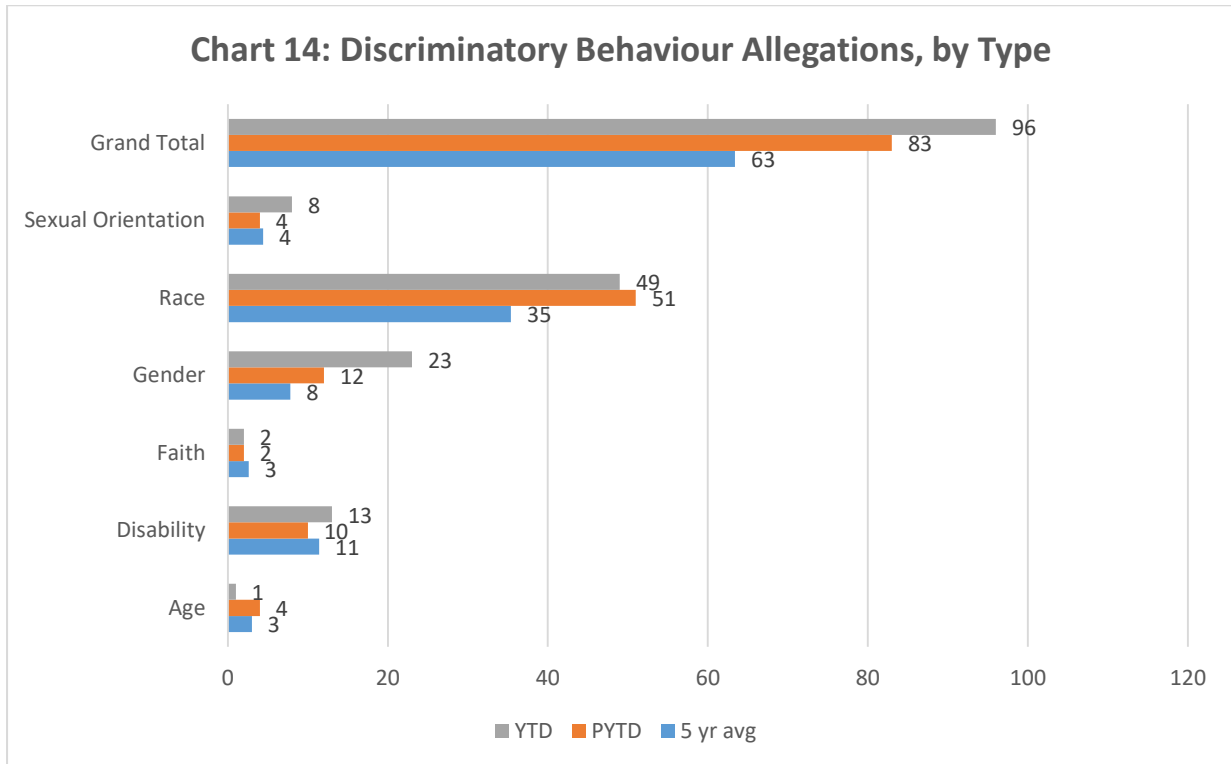
Officers are advised that all accounts from complainers should be taken in writing. Whilst verbal communication over the telephone is useful to clarify points, full accounts of the circumstances should always be written. Where accounts are noted over the telephone, these should then be sent to the complainer for verification.

Complaint Handlers must ensure that, where appropriate, CCTV footage should be seized at the earliest opportunity and that proper auditable records must be maintained. This ensures thorough investigation and its capture, as well as supporting any subsequent PIRC review.

Complaint Handlers need to carry out a sufficient and proportionate level of enquiry prior to attempting FLR.

Appendix A – Allegations of Discriminatory Behaviour

Appendix 'A'



A total of **96** allegations of Discriminatory Behaviour were received during the YTD. This represents a **15.7%** increase on the PYTD and a **51.4%** increase against the five year average.

During Q3 of 2021/22 alone, **21** allegations of Discriminatory Behaviour were received, which represented an **8.7%** decrease from Q3 in 2020/21.

The key driver of this increase is the Gender sub-type, with **23** allegations received YTD. This represents an increase of **11** allegations against the PYTD and an increase of **15** allegations against the five year average. Another key driver within the longer term context is the Race sub-type, with **49** allegations YTD representing an additional **14** allegations against the five year average (however the YTD has shown decrease by **2** allegations against the PYTD).

Analytical Action - Further analysis regarding this allegation category has been tasked and will be progressed. Once complete, findings will be shared as appropriate, with a view to addressing any factors which are assessed to contribute to this increase.

Appendix B – Definitions of Selected Allegation Categories

Excessive Force

- An allegation that a member of the police force has used excessive force in circumstances where they are exercising police powers to control a prisoner, or to control persons in a crowd, or the use of defensive tactics to prevent a person from interfering with officers in the execution of their duty. In general, this classification should be used where officer safety techniques have been utilised and the complainant perceives them to have been excessive for the circumstances. One of the deciding factors in distinguishing this allegation type from assault is “intent”. Where a complainant infers, or the circumstances appear to infer that there was “criminal intent” to injure then the allegation would be recorded as an assault. In cases where a person complains that they have been “assaulted” purely because they claim they have been wrongly arrested the allegation should be recorded as Unlawful/Unnecessary arrest.

Quality of Service

- Quality of Service complaints are complaints which relate to the service delivered by the police rather than the specific actions of any member of staff. Quality of Service complaints are broken down into three categories, which are further broken down into sub-categories:
 - Policy/Procedure: This type of complaint relates to a complaint about policing policy, practice or procedure rather than how a member of staff delivered the particular service. Often Quality of Service Policy/Procedure complaints are resolved by explanation to the complainant, however some of these complaints will result in changes to policy or procedure and these changes would be recordable for the Force as a Learning Outcome.
 - Service Delivery: This type of complaint relates to an expression of dissatisfaction about policing in general, or in a specific geographic area or in relation to a specific incident or event. It may also be about policing capacity, or ability to provide some form of specific service to the public.
 - Service Outcome: Service outcome complaints relate to the outcome of policing action and include instances where a complainant was expecting a particular outcome and the outcome was different or where a policing response has not effectively dealt with a situation.

Discriminatory Behaviour

- An allegation that a police officer or member of staff either engaged in a course of action or behaved in a manner which was discriminatory towards an individual or group on the basis of their race, sexual orientation, faith, age, gender or disability.