

SCOTTISH POLICE
AUTHORITY

Complaints & Conduct Committee

2020-21 Annual Report

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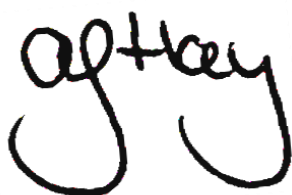
Committee Chair Foreword

In November 2020, the Final Report on the 'Review of Complaints Handling and Misconduct Issues in Relation to Policing', undertaken by Dame Elish Angiolini, was published¹. The Report recommended that:

- The SPA Complaints and Conduct Committee's scrutiny function should be reported on in the SPA annual report, drawing out particular trends, highlighting improvements or concerns and using complaints data as an indicator of communities' satisfaction or dissatisfaction with policing services (Recommendation 31).
- In order to ensure public confidence in the police, the SPA should confirm each year in its annual report whether or not in its view, based on an informed assessment by the Complaints and Conduct Committee and evidence from the relevant audits, the Chief Constable has suitable complaint handling arrangements in place (Recommendation 59).

Whilst high level summary has been included in the 2020-2021 SPA Annual Report, which is due to be published before the end of 2021, it was recognised that there was an opportunity to supplement this approach, through the publication of a more detailed, Committee-specific annual report.

This, the first of these reports, represents an important key milestone for the Authority going forward in highlighting trends in respect of complaints received, performance in respect of complaints handling and providing assurance in respect of Authority scrutiny in this important area, recognising its key link to public confidence in policing in Scotland. It is anticipated that, as work is progressed by partners in implementing recommendations from Dame Elish Angiolini's Preliminary and Final Reports, there will be opportunities to further develop future Committee annual reports. Tied to progression of wider recommendations, it is intended that the Authority will include confirmation in its 2021/22 Annual Report (and Committee-specific report) on whether, in its view, suitable complaint handling arrangements are in place in respect of both the SPA and Police Scotland. It is acknowledged that this will be based on an assessment by the Committee, and informed by consultation with the Police Investigations & Review Commissioner (PIRC).



Alasdair Hay
Chair – Complaints and Conduct Committee

¹ <https://www.gov.scot/publications/independent-review-complaints-handling-investigations-misconduct-issues-relation-policing/>

Introduction

The Authority has specific functions under the Police, Public Order and Criminal Justice (Scotland) Act 2006² and the Police & Fire Reform (Scotland) Act 2012³ in respect of complaints. These are summarised below:

- It must deal with “relevant” complaints against the Authority, its staff, and senior officers of Police Scotland
- Senior officers of Police Scotland are those of the rank of Chief Constable, Deputy Chief Constable and Assistant Chief Constable
- It must keep itself informed of the manner in which Police Scotland deals with relevant complaints, and be satisfied that Police Scotland has suitable arrangements in place.

The Police Investigations & Review Commissioner (PIRC) has a similar statutory duty to the Authority in this regard. Under the Police, Public Order and Criminal Justice (Scotland) Act 2006 it must keep under review all arrangements maintained by both the Scottish Police Authority and Police Scotland for the handling of relevant complaints; and seek to secure that those arrangements are efficient and effective, contain and manifest an appropriate degree of independent, and are adhered to.

In the context of Police Scotland:

- It must deal with “relevant” complaints against Police Scotland, police officers at the rank of Chief Superintendent and below, and police staff.

“Relevant” complaints are as defined in the 2006 Act, although a summary is provided in section 4 below.

The role of the Authority’s Complaints & Conduct Committee, specifically in relation to complaints, is⁴:

- To provide assurance that the Authority has suitable arrangements for the handling of complaints about the SPA, its staff and senior officers of Police Scotland; and
- To monitor the handling of complaints by the Chief Constable.

It fulfils this role by:

- Considering and approving arrangements, including policies and procedures and guidance, relating to the handling of complaints by the Authority, seeking the views of other stakeholders as necessary.
- Considering and determining complaints against the Authority, its staff and senior officers of Police Scotland in accordance with the provisions of the Police Public Order and Criminal Justice (Scotland) Act 2006 and the

² <https://www.legislation.gov.uk/asp/2006/10/contents>

³ <https://www.legislation.gov.uk/asp/2012/8/contents/enacted>

⁴ https://www.spa.police.uk/spa-media/dfjfqjrm/spa-corporate-governance-framework-final_approved-at-nov-board.pdf

statutory guidance produced by the Police Investigations and Review Commissioner (PIRC).

- Monitoring the handling of relevant complaints by the Authority and Police Scotland, seeking information on themes or trends as appropriate, with a view to the Committee satisfying itself that the arrangements maintained by the Authority and Police Scotland for the handling of relevant complaints are suitable.
- Critically examining reports from HMICS, PIRC, and any other information provided by Police Scotland in relation to complaints about the police, and ensuring that appropriate improvement plans are implemented or remedial action is taken within agreed timescales.
- Contributing to and considering the findings of official reviews of complaints and conduct matters, and ensuring that recommendations from such reviews are implemented as appropriate.

Committee Business during 2020-21

Current membership of the Committee⁵ is as follows:

- Alasdair Hay (Chair)
- Grant MacRae
- Professor Fiona McQueen CBE
- Paul Edie

The Committee met on 7 occasions during the 2020-2021 financial year. During this period the Committee considered a number of standing, cyclical and ad hoc items as outlined below, in respect of complaints.

Further information on Committee membership, as well as copies of reports, minutes and Livestream recordings of public sessions of the Committee are available from the SPA website⁶.

Complaints Handling Performance Reports

As a standing agenda item, the Committee receive quarterly reports on complaints handling performance in respect of both the SPA and Police Scotland. During 2020-21, the Committee also received biannual reports from the PIRC including updates on Complaint Handling Review (CHR) Applications; CHR Reports; and Outcomes including CHR Disposals and Recommendations. Following discussion at Committee in March 2021, and acknowledging commentary in the Dame Elish Angiolini Final Report, the PIRC now attend the Committee on a quarterly basis to provide update on Police Scotland's handling of relevant complaints. At its meeting in May 2021, the Committee recognised the benefits of now having complaints handling performance reports from each partner in terms of transparency and public confidence, alongside the importance of taking learning from complaints and seeing it being applied. A summary of annual complaints handling performance data, and resulting analysis and insights, is provided in section 4 below.

⁵ <https://www.spa.police.uk/meetings/complaints-and-conduct-committee/>

⁶ <https://www.spa.police.uk/meetings/>

Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing

Preliminary Report

In June 2018, the Cabinet Secretary for Justice and the Lord Advocate invited Dame Elish Angiolini to conduct an independent review on complaints against the police in Scotland. The 'Policing - complaints handling, investigations and misconduct issues: independent review - preliminary report'⁷ was published in June 2019. In advance of the subsequent publication of the Final Report in November 2020, the Complaints & Conduct Committee received regular updates on progress to discharge outstanding recommendations, specific to the SPA and to Police Scotland, from the Preliminary Report. These included:

- A review of SPA Complaints Handling Procedures and Guidance on the Police Service of Scotland (Senior Officers) (Conduct) Regulations 2013.
- Work to update and simplify the SPA and Police Scotland Complaints web pages.
- Work between the Police Scotland Professional Standards and People & Development functions focussed on the theme of capability of line managers when dealing with complaints, investigations and conduct matters, including adequacy of training and mechanisms for support.
- A Frontline Resolution (FLR) improvement project being undertaken by Police Scotland, seeking to broaden opportunities for its use as a complainer focussed, efficient way to deal with complaints.
- Collaborative work being progressed via the National Complaint Handling Development Group (NCHDG) (see below).

During the above period, the Committee were satisfied that, despite the impact of COVID-19, sufficient progress was being made to discharge outstanding recommendations from the Preliminary Report, noting that some actions were dependent on ongoing consultation. The Committee have sought to understand how the impact of actions completed will be evidenced, although noted that, in some instances, it will take time to embed the necessary cultural change.

Final Report

The 'Policing - complaints handling, investigations and misconduct issues: independent review – final report'⁸ was published in November 2020, and was considered for the first time at the Committee meeting that same month, which was additionally attended by representatives from Police Scotland, the PIRC and the SPA Interim Chair. The Committee acknowledged that many of the recommendations in the Final Report went beyond the area of complaints,

⁷ <https://www.gov.scot/publications/preliminary-report-independent-review-complaints-handling-investigations-misconduct-issues-relation-policing/>

⁸ <https://www.gov.scot/publications/independent-review-complaints-handling-investigations-misconduct-issues-relation-policing/>

extending to look at culture and behaviours within the police service and the links between those and where the origins and handling of complaints might lie. As such, it is acknowledged that other SPA committees will have an oversight role in respect of implementation of applicable recommendations. The Interim Chair noted that he had “no doubt on the commitment of the Chief Constable and Senior Officers to [taking action] to address these issues”, but noted that it will “[take] time and constant vigilance to eliminate these behaviours”.

The Committee subsequently considered and agreed to a high level plan outlining proposed SPA implementation actions and oversight arrangements in respect of those recommendations set out in the Final Report. At its meeting in May 2021, the Committee subsequently considered a more detailed plan in respect of SPA implementation actions, the majority of which are scheduled for completion during the current calendar year. Recognising that the greatest proportion of the recommendations are for Police Scotland, it has established a Complaint Handling Review Working Group to deliver the recommendations and more detailed reporting is expected to follow to the Complaints & Conduct Committee (and other Committees, as applicable) from August 2021.

Resulting evidence of progress by both the SPA and Police Scotland, as at 30 April 2021, against outstanding recommendations from the Preliminary Report and those arising from the Final Report which do not require legislative change, is set out within the Scottish Government first thematic progress report published in June 2021⁹. At its meeting in May 2021, Members emphasised the importance of the Dame Elish Angiolini Review and recognised the seriousness with which partners were taking delivery of recommendations.

Cross-Agency Joint Working

One of the recommendations arising from the Dame Elish Angiolini Preliminary Report was that there should be the immediate establishment of a senior cross-agency Working Group involving the SPA, Police Scotland and the PIRC to develop appropriate and up-to-date guidance drawing on the considerable knowledge and expertise that exists within, and outwith those organisations, consulting other experts and external organisations as and when required. The Report further recommended that this approach would benefit from Crown Office and Procurator Fiscal Service (COPFS) representation. In response, a cross-agency National Complaints Handling Development Group (NCHDG) and Strategic Oversight Group (SOG) were established. Regular updates on the work of both groups are provided to the Committee. Due to the immediate impact of the COVID-19 pandemic and lockdown in early 2020/21, both the NCHDG and the SOG were temporarily paused, although meetings resumed in the summer of 2020. At its meeting in May 2021, the Committee acknowledged the improved working relationships which now exist between all partners following the

⁹ <https://www.gov.scot/publications/complaints-investigations-misconduct-policing-implementation-recommendations-thematic-progress-report-june-2021/>

establishment of these groups, as well as the significant progress made as a result.

National Complaint Handling Development Group

The NCHDG was established in August 2019, with the purpose of providing a forum for SPA, Police Scotland and the PIRC to work collaboratively to consider all aspects of Complaint Handling in relation to Policing in Scotland, and to discuss and agree outcomes on new or emerging Complaint Handling matters. It considers matters such as legality, efficiency, accountability, accessibility and governance, ensuring Complaint Handling continues to support and promote Police Scotland's Standards of Professional Behaviour and Policing Values of Integrity, Fairness & Respect. The overall purpose of the group is to improve public trust and confidence in Policing in Scotland. During 2020/21, the group have progressed joint work in respect of applicable recommendations arising from the Preliminary and Final Dame Elish Angiolini Reports, as well as or including the following:

- COVID-19 Complaints handled by Police Scotland;
- Complaint processes and conduct regulations;
- Officer Safety Training;
- Amendments to Police Scotland's Complaints About The Police Standard Operating Procedure;
- Development of a revised Front Line Resolution (FLR) process and new 6-stage Process Form within Police Scotland;
- A review of Unacceptable Actions by Complainers Policies;
- A proposal for an annual multi-agency audit of Police Scotland complaint handling;
- Revised PIRC Statutory Guidance;
- SPA Dip-Sampling Exercises;
- Progression of joint training delivery and resources;
- Development of a coordinated approach to collation, interpretation and dissemination of complaints statistics; and
- Work to improve public communication and accessibility in respect of complaints.

Strategic Oversight Group (SOG)

The SOG was formally established following publication of the Dame Elish Angiolini Preliminary Report in June 2019, and comprises representatives from Police Scotland, PIRC, SPA and COPFS, with the purpose of working together to achieve:

- Increasing public confidence and satisfaction with service across all relevant bodies;
- Ensuring consistent practice in relation to complaints handling and investigations across the policing/justice sector;

- Dealing effectively and expeditiously with complaints to reduce delays;
- Increasing public awareness and understanding of the complaints handling and investigations process;
- Improving communication with the public around progress;
- Fostering proactive co-operation between organisations; and
- Sharing relevant information in relation to all aspects of complaint handling and investigations.

During 2020-21, the group has overseen joint work in respect of applicable recommendations arising from the Preliminary and Final Dame Elish Angiolini Reports, as well as or including the following:

- A revised Memorandum of Understanding (MoU) between the PIRC, Police Scotland and the SPA to ensure effective co-operation between agencies in the provision, sharing and exchange of information or services, to allow each organisation to fulfil their statutory functions and obligations;
- Revised PIRC statutory guidance on complaints handling;
- Diversity monitoring and joint training on equality and diversity issues;
- Capture of learning/good practice between agencies in supporting information requests to the Sheku Bayoh Public Inquiry Team;
- Updates on development of cross-jurisdictional post-incident procedures in respect of critical incidents involving death or serious injury following police contact;
- Police Scotland Complaint Handling model;
- COP 26 planning arrangements; and
- Update on COPFS Criminal Allegations against the Police Division (CAAP-D) inspection progress.

Following publication of the Dame Elish Angiolini Final Report, a new terms of reference was established for the SOG as part of the national governance structure established to oversee implementation of resulting recommendations, but with meetings having a partitioned agenda to allow for discussion of ongoing shared operational matters, in line with the original terms of reference for the group.

New Police Scotland National Complaint Handling Operating Model

In early 2020-21, the Committee heard that Police Scotland aspired to achieve greater consistency of front-line resolutions and complaint handling across the country and to see a national approach with greater consistency of how matters were dealt with and recorded across all divisions. In May 2021, following a successful pilot during the first COVID-19 lockdown, and to support a number of the recommendations arising from the Dame Elish Angiolini Final Report in respect of improvements to the efficiency and effectiveness of complaint handling, Police Scotland implemented a new national complaint handling operating model, whereby all non-criminal complaints received (regardless of criteria) are recorded, assessed and managed by the trained officers and staff

within the Police Scotland Professional Standards Department, including those which would previously have been managed within local and specialist Divisions.

The Committee heard that the new model will deliver a number of benefits, enhancing ownership, accountability and communication, whilst improving timescales and quality, improving efficiency and effectiveness in respect of the management, investigation and resolution of complaints, whilst fully contributing to the learning, development and education of the workforce and, ultimately, managing public satisfaction and building public trust and confidence. The Committee also heard from PIRC that the new model should serve to minimise Complaint Handling Review recommendations. The new model will be subject to quarterly review and the Committee will monitor progress against anticipated benefits going forward.

New PIRC Statutory Guidance on the Handling of Complaints about Police in Scotland

In March 2021, the PIRC published new statutory guidance on the handling of complaints about the Police in Scotland¹⁰. The purpose of the guidance is to set standards for police complaint handling in Scotland by providing practical advice on how complaints should be dealt with, and is principally intended for the SPA and Police Scotland, who must have regard to it when dealing with relevant complaints or developing their own internal complaints procedures. The Committee has acknowledged open discussion between the PIRC, SPA and Police Scotland, via the NCHDG and SOG, in respect of the Statutory Guidance review process.

The guidance sets out general overarching principles of good complaint handling and provides broad direction and support to policing bodies when dealing with relevant complaints. It is intended to improve policing complaint handling and to encourage policing bodies to adopt a culture that values complaints and promotes learning and improvement as the main focus of the complaint handling process.

Private Committee Business

During 2020-21, a number of regular or ad hoc matters in respect of complaints were considered by the Committee in private session. In line with the SPA Corporate Governance Framework, matters may only be considered in private in prescribed circumstances. Where applicable, a high level summary is provided below.

¹⁰ <https://pirc.scot/media/5262/statutory-guidance-march-2021.docx>

SPA Ongoing Complaints Update Report

This is a regular report outlining current ongoing complaints and workload being managed within the SPA Complaints Team. The Committee are asked to consider and agree further actions in relation to ongoing complaints, and to make determinations in relation to complaints, as applicable, in line with its Terms of Reference. During 2020-21, an additional section on Alternative Disposal Routes was added to the report to provide the Committee with assurance that all available and appropriate disposal routes were being fully explored in the consideration of complaints for which the SPA is responsible, with information being provided to the Committee to enable them to understand what, if any, alternative disposal routes had or had not been considered, and the rationale for decisions taken in this regard.

Reconsideration of Complaints

In May 2020, the Committee agreed to a proposed change in the manner in which the SPA handles Reconsideration Directions following a Complaint Handling Review by the PIRC. The new process serves to reduce the time taken to complete a Reconsideration Direction and provides scope for another Board Member to reconsider the complaint in circumstances where all Complaints & Conduct Committee members were involved in consideration of the original complaint.

Monitoring of the Handling of Complaints by the Chief Constable

In March 2021, the Committee considered a report from the SPA Complaints Team outlining proposals regarding its future role in monitoring the handling of complaints by the Chief Constable. The report noted earlier work by the team in respect of regular dip-sampling exercises of Police Scotland's closed complaints, as well as a specific review of PIRC Complaint Handling Reviews of Police Scotland complaints.

The report noted a specific recommendation following the Dame Elish Angiolini Preliminary Report that all 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. The Final Report, furthermore, notes that the Committee should consider which areas should be the subject of audit, and do so in consultation with the PIRC, as well as outlining a number of specific recommendations in respect of audit more generally.

The Committee report proposed the introduction of a joint SPA/PIRC annual audit process, as a new method of auditing Police Scotland complaints, as a means of addressing the above recommendations. At the time of writing, discussions are ongoing in this regard, but it is anticipated that the first such audit will take place during 2021-22.

Public Reporting of Committee Items Taken in Private

The Dame Elish Angiolini Final Report recommends that, to increase public confidence in the system, the Committee should consider using its minutes as a means of sharing with the public more of their substantive discussions and how Police Scotland is being held to account in this area; and consider whether some content of the minutes of the private sessions, where some strategic and policy matters are discussed, could be included in the published minutes.

At its meeting in May 2021, the Committee considered key principles and a proposed process in respect of the publication of items, as appropriate, from the minutes of private sessions. It should also be noted that the Chair of the Committee currently submits a summary report to Board meetings of the Committee's key considerations of both public and private business.

Review of Committee Effectiveness

A review of Committee performance is a beneficial way to provide a constructive view of its work and to enhance its effectiveness. At the end of each financial year, each Committee prepares a report on the discharge of its responsibilities based on its terms of reference and work plan. The purpose of these reports is to provide evidence that the Authority, supported by its Committees, has satisfactorily met its responsibilities for the governance of policing through the application of its governance principles.

In May 2021, Members of the SPA Complaints & Conduct Committee considered an evaluation of Committee effectiveness for the period 2020-21, and agreed the content of a formal assurance report to be submitted by the Committee Chair. A more in-depth review will be undertaken in 2021-22 that will benefit from the input of new Members, and which will provide scope to consider the impact of key developments progressed following recommendations arising from the Dame Elish Angiolini Final Report in respect of the role of the Committee.

Complaints Handling Performance¹¹

Definitions

What is a 'Complaint'?

A 'Complaint' relates to the overall expression of dissatisfaction provided by the complainer about an act or omission by the Police or Quality of Service received

What is a 'Relevant Complaint'?

A 'Relevant Complaint' is defined in legislation and is essentially a non-criminal complaint by a member of the public about the police, the SPA, or a staff member of the police or the SPA.

What is an 'Allegation'?

Allegations are the component parts of a Complaint, which

- Categorise specifically what has happened
- Are capable of being independently Upheld or Not Upheld
- Each complaint case may include multiple allegations.

COVID-19

Police Scotland COVID-19 Related Complaints

The Committee heard that COVID-19 had an impact on the number and nature of complaints during 2020/21. Following a peak in Quarter 1 at the outset of the pandemic, the volume of COVID-19 related complaints stabilised thereafter.

Table 1 below provides details of COVID-19 related complaints received by Police Scotland by quarter during 2020/21.

¹¹ More detailed reports available via SPA website

Table 1

Period	Number of COVID-19 Related Complaints
Quarter 1 2020-21 (Apr - Jun)	447
Quarter 2 2020-21 (Jul - Sep)	109
Quarter 3 2020-21 (Oct - Dec)	119
Quarter 4 2020-21 (Jan - Mar)	193
Total	868

In total, 868 of all complaints were COVID-19 related – a key driver in the overall increase in complaints received by Police Scotland during 2020-21. 54.7% of these complaints were resolved by Frontline Resolution (FLR) through simple explanation, assurance or apology.

Members heard that complaints during the first lockdown were used as a barometer to determine the public mood and response to lockdown, and contributed to shaping the changing approach of policing during the pandemic. Throughout the period, the Professional Services Department of Police Scotland have continued to identify key themes emanating from COVID-19 related complaints (causal factors in the main relating to maintaining physical distance and the wearing of appropriate personal protective equipment). These have then been shared more widely across the organisation, to inform the continual reinforcement of positive guidance and messaging, assisting operational officers in the discharge of their duties.

Policing in Scotland draws its legitimacy from the consent of the public. From these figures, it is clear that the policing approach has been effective in this regard. Officers and staff will continue to apply common sense, empathy and discretion in working with fellow citizens to help keep everyone safe.

Impact on Complaint Handling

2020-21 represented a challenging and unprecedented time for Police Scotland in terms of demand and its policing response. Following the outbreak of the pandemic, the Committee heard that Operation TALLA (Police Scotland’s response to COVID-19 in Scotland) had impacted on resources available to Professional Standards, resulting in a temporary operating model being implemented, and an initial pausing of some core business. However, assurance was provided that prioritisation was still being given to complaint handling functions during this time.

The Committee were advised that, due to remote working arrangements, Covid-19 restrictions had no impact on progress of work being undertaken by PIRC during the year.

SPA Audit

Dip-sampling of Police Scotland closed complaints is a means by which the SPA can discharge its statutory obligations and responsibilities in terms of satisfying itself as to the suitability of the arrangements which the Chief Constable has in place for dealing with relevant complaints.

Mindful of the extraordinary nature of the powers conferred on the police by the Coronavirus Act 2020 and the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations, as part of the Authority's broader approach to oversight, and to supplement matters being considered via the Independent Advisory Group¹² chaired by John Scott QC, it was considered appropriate that the SPA Complaints team undertake an audit of closed COVID-19 related complaints handled by Police Scotland (i.e. complaints which had a clear link to, or which were prompted/influenced by, the COVID-19 pandemic).

In August 2020, the Committee considered a resulting report on the findings of a dip-sampling exercise conducted in respect of 80 randomly selected Frontline Resolved (PSD) COVID-19 related complaint files and 6 non-criminal COVID-19 complaints, closed by Police Scotland during the period 23 March 2020 to 20 July 2020. All were deemed to have been handled in a manner consistent with Police Scotland's Complaints about the Police Standard Operating Procedures.

Police Scotland Complaints Performance

Table 2 below provides a summary of performance statistics in respect of the handling of complaints received by Police Scotland during 2020-21, including comparison to the previous year.

Table 2

Category	2020-21	% Change from 2019/20
Complaints Received	6,958	+9.7%
% of Complaints Frontline Resolved (FLR)	45.2%	+3.4%
Complaint Handling Reviews	226	+1.3%
% of Allegations Handled to a Reasonable Standard	70.4%	+7.8%
PIRC Referrals	279	+12.0%

Complaints & Allegations

During 2020-21, 6,958 complaints from members of the public were received, an increase of 613 (9.7%) from 2019/20. This overall increase in complaints is driven by 868 COVID-19 related complaints received in 2020-21, as detailed above. Members have sought further information on the profile of complainers

¹² <https://www.spa.police.uk/strategy-performance/independent-advisory-group-coronavirus-powers/>

and were informed that Police Scotland are working to establish a process to enable improved insight in this regard.

Increases in complaints were identified across all three Command Areas, as summarised in Table 3 below, the largest of which was registered in the West. Members are advised that Professional Standards maintain a local focus in order to respond to regional variances.

Table 3

Command Area	2019-20	2020-21	% Change from 2019/20
East	1,990	2,165	+8.8%
North	1,561	1,678	+7.5%
West	2,794	3,115	+11.5%
Total	6,345	6,958	+9.7%

During the period, 2,100 complaints were graded non-criminal, a 3.8% decrease on the previous financial year. These account for 30.2% of all complaints received within 2020-21.

The decrease in non-criminal complaints is assessed to be related to the volume of Frontline Resolved (FLR) complaints, which increased by 18.5% during 2020/21. The total volume of complaints which were FLR was 3,148, and accounts for an additional 492 cases. Much of this increase is attributable to COVID-19 complaints, of which 475 were resolved by FLR.

The national FLR rate overall for the 2020-21 financial year was 45.2%, an increase of 3.4% compared to 2019-20. Until 2020, the way statistics for FLR were recorded did not allow room for analysis. However, subsequent system change has helped in this regard, ensuring that issues resolved through FLR meet the required criteria.

Given the effect of COVID-19 complaints on FLR, and the related effect of decreased non-criminal complaints, as the country now eases out of significant restrictions it is assessed that this will impact on the volume and grade of complaints in the coming months.

During the full financial year of 2020-21, a total of 11,369 allegations were received, which represents a 6.2% increase from 2019/20.

During the full 2020-21 financial year, Irregularity in Procedure, Quality of Service and Incivility account for 72.2% of all allegations received. This proportion remains steady compared to 2019-20, as these categories accounted for 72.7% of all allegations received during the 2019-20. The most common allegation received continues to be Irregularity in Procedure, with 4,381 allegations received in 2020-21 (4.9% less than in 2019-20).

Police Investigations & Review Commissioner

Complaint Handling Review (CHR) Applications

As outlined in table 4 below, the PIRC received 270 applications requesting a complaint handling review during 2020-21. Whilst this represents an approximate 3% decrease compared to 2019-20, it represents an increase of approximately 5% compared to 2018-19, although is slightly below the previous 5 year average. Police Scotland advise that, as a proportion of all complaints received within 2020-21, only 3.2% of complaints resulted in the completion of a CHR by PIRC.

Table 4

	2018-19	2019-20	2020-21
Applications Received	259	279	270

CHR Timescales

The PIRC gives Police Scotland 14 days to provide them with initial case papers. Of the 219 sets of case papers received during 2020-21, the average timescale was 13.8 days, and Police Scotland met the 14 day timescale in 72% of all requests. For cases when Police Scotland were unable meet that timescale, the average wait was 32.2 days (with 2 cases where the timescale was in excess of 100 days, and one case in excess of 150 days).

For CHRs that were concluded in 2020-21, the average time spent waiting by PIRC following a request for information while the review was ongoing was 40.8 days. In 25 cases, the time spent waiting on information from Police Scotland to enable the review to proceed was in excess of 50 days or more. For those cases for which the review was effectively 'paused' for more than 50 days, the average wait for information was 91 days (with 3 cases where PIRC waited in excess of 100 days, and 2 cases in excess of 200 days).

The Committee heard that delays described were due in part to the impact of the pandemic, but also to earlier localised complaints handling arrangements. It is anticipated that the new Complaints Model should serve to minimise delays going forward.

Table 5 below provides a summary of the average time spent waiting on information for each application PIRC progress.

Table 5

	No. Days
Initial receipt of papers	13.8
Information awaited during review	40.8
Total time	54.6

CHR Reports

Table 6 below provides details of closed CHR cases – i.e. those for which CHRs have been issued and not when recommendations/reconsideration directions have been implemented during 2020-21. Figures only relate to CHRs for Police Scotland¹³.

Whilst there has been a slight decrease (approx. 3%) in the number of CHRs concluded for Police Scotland by the PIRC, the number of heads of complaint (HoC) reviewed increased by approximately 5% in 2020-21 in comparison to 2019/20.

Table 6

	2019-20	2020-21
No. of Cases	238	230
HoC Reviewed	839	879
Average HoC	3.5	3.8

CHR Outcomes

Of the 879 Heads of Complaint reviewed (and closed) by the PIRC during 2020-21, 71% had been handled by Police Scotland to a reasonable standard (compared to 62% in 2019-20), as part of an overall improving trend. The proportion of reasonably handled complaints in 2020-21 is at the highest it has ever been. Table 7 below provides a breakdown by region. PIRC continue to observe a gradual yet noticeable improvement this year in the overall quality of police complaint handling, which they note is reflective of the improved collaborative engagement and joint approach between PIRC and Police Scotland, primarily facilitated by the National Complaint Handling Development Group (NCHDG).

While CHR outcomes are assessed as 'reasonable' or 'not reasonable', the Committee have been keen to establish whether there is any opportunity to further distinguish, amongst the former category, those considered to have been handled to a particularly high standard. Whilst PIRC have advised that it is difficult to implement different determinations when it comes to complaint

¹³ Total number of CHRs issued by PIRC in 2020/21 is 233 – including 2 for SPA and 1 for Ministry of Defence Police (MoDP). For 2019/20, figures do not include 4 CHRs that were issued for SPA, British Transport Police and MoDP.

handling, they are proactive in highlighting good complaint handling practice in feeding back to Police Scotland and will comment in instances where this has been particularly good.

Table 7

Region	% Reasonably Handled
East	79%
North	75%
West	66%
Total	71%

CHR Disposals

Table 8 below provides details in relation to CHR disposals that have been issued during 2020-21. The increase in the overall proportion of reasonably handled complaints is directly linked to the reduction in the number of reconsideration directions, recommendations, and learning points issued during the current reporting period. Reconsideration Directions are reserved for cases where serious shortcomings or concerns have been identified. Reconsideration Directions currently account for approximately 10% of all complaints that have not been reasonably handled. It is noted that no Supervised Reconsideration Directions being made.

Table 8

	2019-20	2020-21	% Change
Reconsideration Direction - Supervised	0	0	-
Reconsideration Direction - Unsupervised	71	17	-76.2%
Recommendations	286	270	-5.6%
Learning Points	71	51	-28.2%

Police Scotland should implement all CHR outcomes made by PIRC within 56 days of the CHR being issued. Implementation rates relative to CHR outcomes made in 2020-21 have been affected by the COVID-19 crisis. However, PIRC has monthly meetings with PSD regions in order to ensure that CHR outcomes are satisfactorily implemented. Table 9 below provides further details.

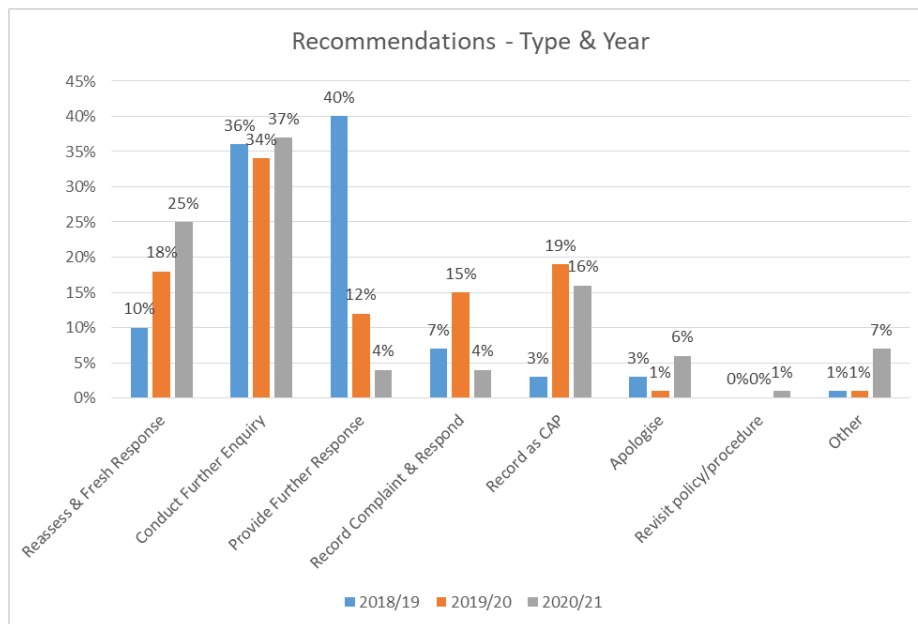
Table 9

	% Implementation Rate	Outcomes implemented within 56 days
Reconsideration Direction - Unsupervised	35.0%	0%
Recommendations	63.0%	41%
Recommendations Rejected	1.1%	-
Learning Points	69.0%	29%

Recommendations Made

37% of the recommendations issued to Police Scotland in 2020-21 relate to an insufficient complaint enquiry having been carried out; 34% of the recommendations arise from the quality of the final response letters that were sent by Police Scotland to complainers; and 21% of the recommendations relate to the recording of individual complaints by Police Scotland. There has been an increase in the proportion of recommendations to Police Scotland asking that they provide an apology to the complainer, which in 2020-21 accounted for 5% of all recommendations. However, for 2019-20, approximately 1% of all recommendations made related to an apology. One notable increase was within the 'Other' category, which Police Scotland have assessed as relating primarily to administration processes and which they advise will be subject to continued monitoring and review. Figure 1 below provides further details.

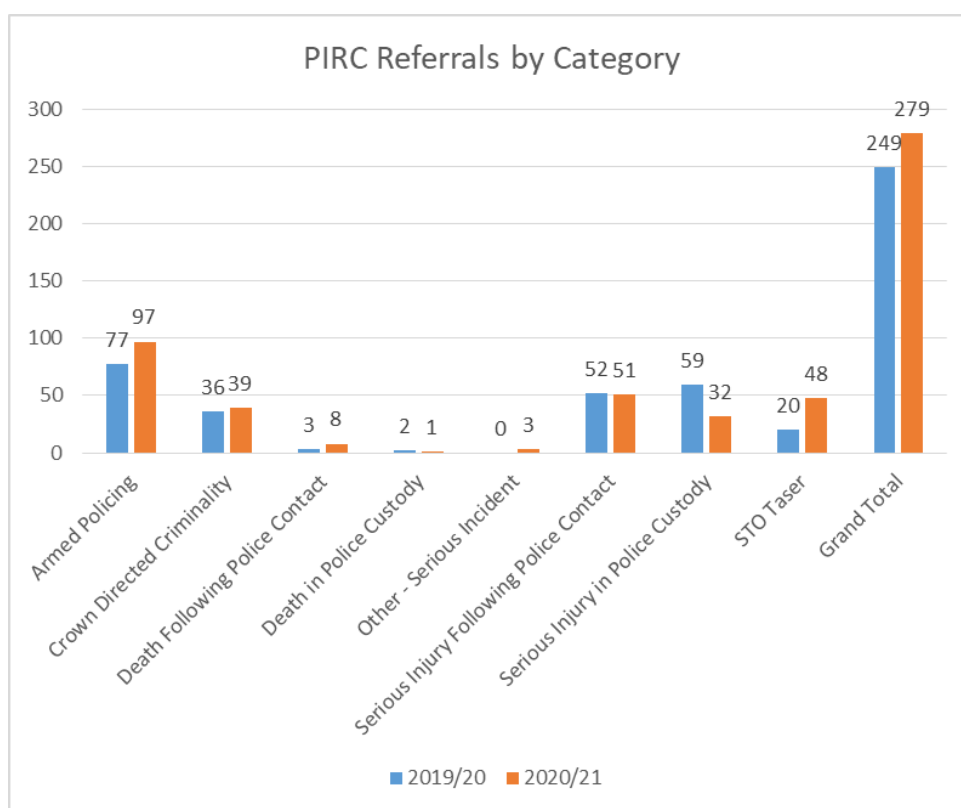
Figure 1



PIRC Referrals

A referral is made to PIRC by Police Scotland when an incident has occurred which falls within the categories detailed in Figure 2 below and it could be assessed that the action/ inaction of Police may have caused or contributed. This allows for an independent and transparent investigation to be undertaken. There were 279 referrals to PIRC during 2020-21, a 12% increase compared to 2019-20.

Figure 2

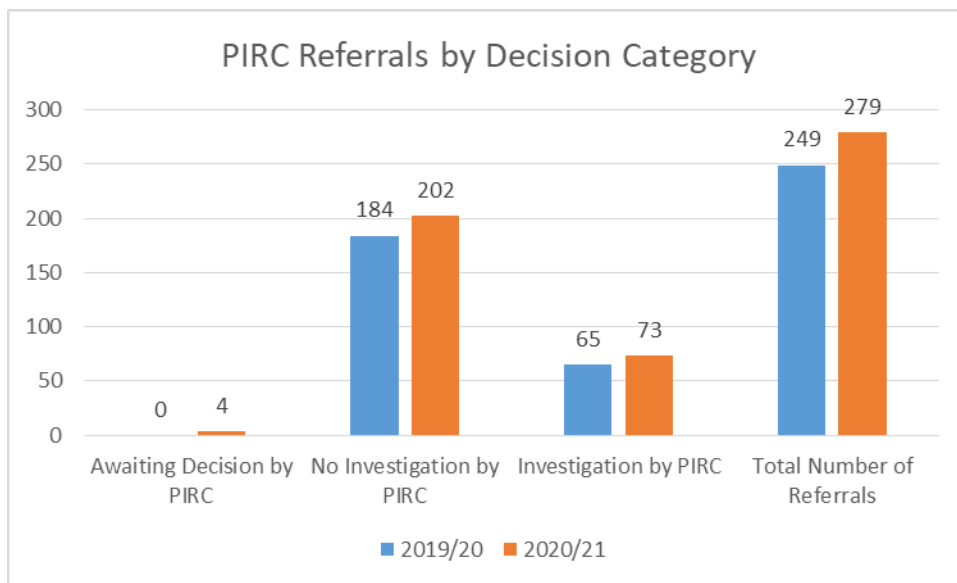


This increase is primarily driven by an increase in STO Taser referrals and, to a lesser degree, an increase in Armed Policing referrals.

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 that its use has been lawful, proportionate and necessary. These reports recognised that officers acted professionally in dealing with incredibly challenging incidents. This provides positive and independent assurance, in light of the recent increase in relevant referrals.

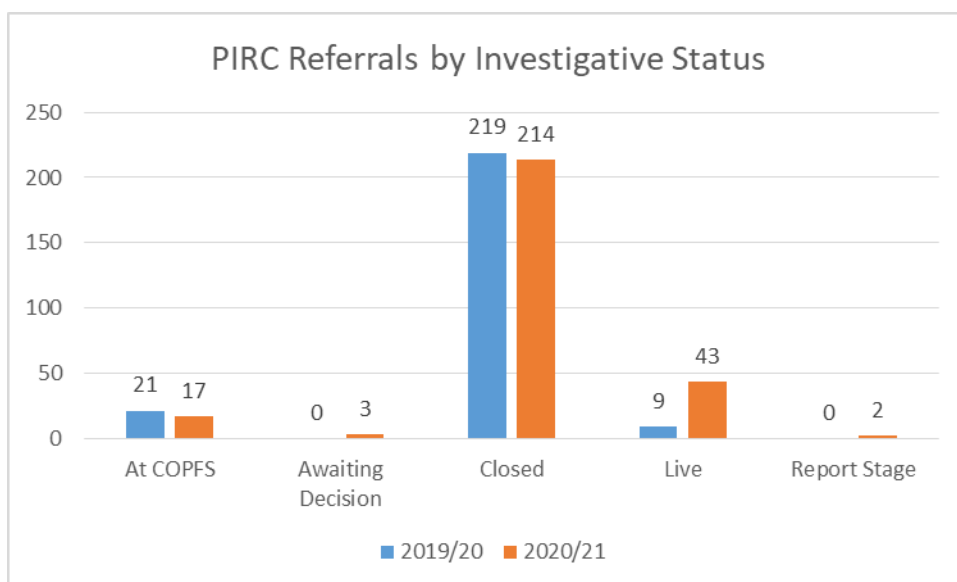
As outlined in figure 3 below, the majority of referrals within 2020-21 were marked as 'no investigations by PIRC' (72.4%, accounting for 202 of the 279 referrals). However, the percentage of referrals during 2020-21 which led to a PIRC investigation remained broadly compared to 2019-20.

Figure 3



As outlined in figure 4 below, there have been low volume increases in investigations into Crown Directed Criminality, Other-Serious Incident and STO Taser referrals. Strengthened links between Police Scotland and COPFS/ Scottish Fatalities Investigation Unit have enhanced the processes relating to Crown Directed Criminality referrals and the speed which these are progressed. Moreover, the additional investigations regarding STO Taser discharges is reflective of the increased volume of relevant referrals in 2020-21, as noted above. These categories continue to be monitored and will be subjected to further scrutiny in the coming months.

Figure 4



Police Scotland Organisational Learning

The Police Scotland Professional Standards Department (PSD) is committed to promoting a culture of organisational learning. Learning opportunities are identified through a variety of sources, including PIRC Complaint Handling Reviews (CHR's), PIRC Investigations, reports shared by the COPFS and from internal feedback identified as part of the complaint handling process. Examples identified during 2020-21 were as follows:

COVID-19

- In addition to disseminating learning to Operation TALLA from themes identified through complaints received, in the early days of lockdown PSD issued corrective advice and guidance via Divisions to officers subject to GWU referrals. This includes reminding officers of their responsibilities and adherence to the Coronavirus regulations and legislation.

Custody

- A trial of 'tablets' and Personal Digital Assistant (PDA) devices to improve the recording of custody visits; and guidance shared throughout Custody Division regarding the importance of accurately recording custody visits
- Improved maintenance of CCTV within custody centres and improvements to facilities for the monitoring of people in custody.
- Introduction of a standardised briefing process for officers undertaking custody supervision duties, with officers being provided a pro-forma briefing which details the expectations of these duties and also ensures that they are made aware of the circumstances of the observation and any particular risks.
- Guidance circulated highlighting the importance of ensuring that where a person is taken into custody that they are professionally supervised to ensure their and the officers safety.
- Learning circulated around recording the rationale for any intimate search and, following an incident where a person in custody secreted a razor blade in their mouth, the processes to follow when a person refuses to open their mouth during such a search.
- Recent PIRC investigations and reviews identifying the importance of the proper control of people in custody. PSD continue to work with Operational Safety Training colleagues to inform training and guidance around this important issue. In addition, work is ongoing with staff associations to further support this learning.
- While in the care of the police, an applicant was subjected to treatment properly characterised by Police Scotland as "degrading". The subject officers referred to the applicant's conduct as justification for the manner in which she was treated. While the evidence available supports that the

applicant was aggressive and shouted at officers, Police Scotland have reminded all custody staff and complaint handlers that an individual's protection against degrading treatment under Article 3 applies unconditionally and wholly irrespective of the individual's own conduct. At the time of writing, enquiries were ongoing with a view to strengthening the Custody SOP in relation to legal requirements.

Complaints Handling

- Learning circulated emphasising the importance that the officer allocated a complaint enquiry should have no prior involvement in the matter complained about, either actual, potential or perceived. This ensures the complaints process remains fair, objective, independent and impartial.
- Guidance circulated within Contact, Command and Control Division reminding Service Advisors that Complaints against the Police can be made over the telephone and recorded at first contact. This helps ensure that enquiry officers are given the opportunity to collect all information relevant to the enquiry and in a timely manner.
- Guidance circulated highlighting that any advice provided to officers which is subsequently relied upon, particularly during the course of a complaint enquiry, should be recorded. This ensures all relevant information is fully considered as part of an enquiry and any subsequent review by the PIRC.

Other

- Guidance circulated around vulnerable adults at risk of financial harm and the banking protocol. This reinforced the importance of identifying vulnerable adults at risk of financial harm and the importance of submitting intelligence logs and Vulnerable Person's Database submissions to ensure that the appropriate multi-agency response can be quickly instigated.
- An incident which highlighted that the Forced Entry SOP does not refer to Article 8 of the ECHR, which establishes that any infringement of the right to privacy must be in accordance with law, in pursuit of a legitimate aim, and necessary and proportionate in the circumstances. This SOP also does not provide guidance to officers in this respect. At the time of writing, enquiries were ongoing to consider strengthening the SOP by reflecting the legal requirements of Article 8 of the ECHR.
- Guidance circulated highlighting the importance of officers, when conducting Police National Computer checks on their PDA devices, ensuring that they ensure to fully check any duplicate nominal records allowing for appropriate action to be taken.
- Guidance circulated to Divisions reminding Officers undertaking training courses of their responsibilities under the Information Security Standard Operating Procedure (SOP). Furthermore, the PSD Conduct Unit have

liaised with Learning, Training and Development to ensure that course examination methods have been amended to mitigate against further such incident.

In May 2021, the Committee heard that a new communications process had been implemented within the Professional Standards Department which will capture organisational learning across all business areas, and facilitate enhanced sharing of relevant learning with Divisions.

Scottish Police Authority Complaints Performance

The following charts provide information regarding the handling of complaints received by the Authority during 2020-21, and provide comparison to previous years. Figure 5, below, shows the number of complaints cases received by the SPA, both for cases within and outwith its remit¹⁴. Complaint cases within the remit of the SPA were broadly comparable to the previous year, although there has been an increase in miscellaneous cases and cases outwith the remit of the SPA. Indeed, the SPA continues to receive significantly more complaints than it is responsible for within the legislative framework. The vast majority of cases not within the SPA's remit are matters which require to be brought to the attention of Police Scotland's Professional Standards Department. Despite earlier changes made to the information listed on the SPA website aimed at providing clarity on the types of complaints within its remit, this had not led to a reduction in the continued trend outlined above. Whilst this may be explained in part by the fact internet search results for 'Police Scotland complaints' identify the SPA website, further work is being progressed to refine the website itself, to ensure that information is clear and accessible, and with appropriate signposting in respect of matters which do not fall within the SPA remit. It is anticipated that this work will be completed in autumn 2021. It is also noted that many of those complaints which are outwith the SPA remit are received from police officers, and further work is being progressed via the National Complaints Handling Development Group to ensure that internal communications are equally clear in respect of appropriate signposting.

¹⁴ Enquiries or other correspondence received by the SPA are recorded as 'miscellaneous (MI)'. For reporting purposes, complaints and miscellaneous cases outwith the remit of the SPA are combined.

Figure 5

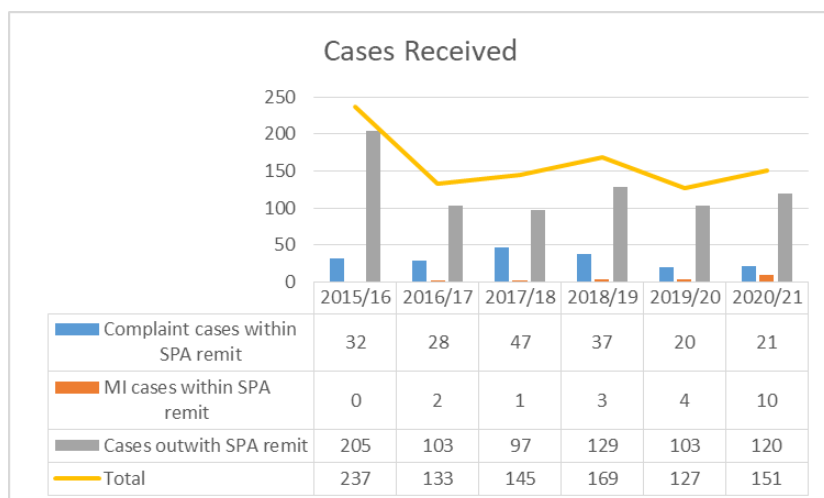


Figure 6, below, shows the number of Complaint Cases within the remit of the SPA broken down by the origin of the complaint and shows that complaints may be received from members of the public; serving or former police officers/members of staff; or made anonymously. The 'internal' complaints made by serving or former police officers/members of staff include those received through the 'Integrity Matters' confidential reporting system. Although Integrity Matters provides the option to report matters anonymously, the nature of the complaints are such that it is possible to identify them as 'internal' complaints. No anonymous complaints were received during 2020-21. Compared to the previous year, there has been a reduction in complaints made by members of the public. Whilst there was an increase in 'internal' complaints, the number is no higher than in earlier years.

Figure 6

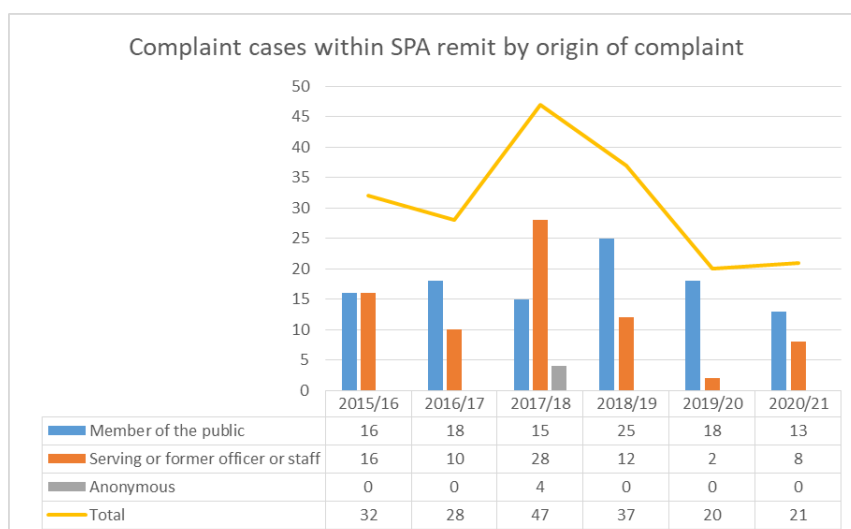


Figure 7 and 8, below, show the number of allegations contained in cases received by the SPA within its remit, broken down by both origin and subject of complaint. Miscellaneous cases do not contain allegations. As with the number of complaint cases within the remit of the SPA, the number of allegations are broadly comparable to the previous year. Trends in respect of allegations by origin mirror those in respect of complaints (above). 2020-21 saw an increase in allegations against senior police officers, albeit lower than in earlier years. Whilst there was a reduction in allegations against the SPA itself, there was a small increase in allegations against its staff. The latter predominantly relate to Forensic Services complaints which tend to involve more public contact, although there are no identifiable trends in the type of complaint received, and therefore no overall lessons to be learned.

Figure 7

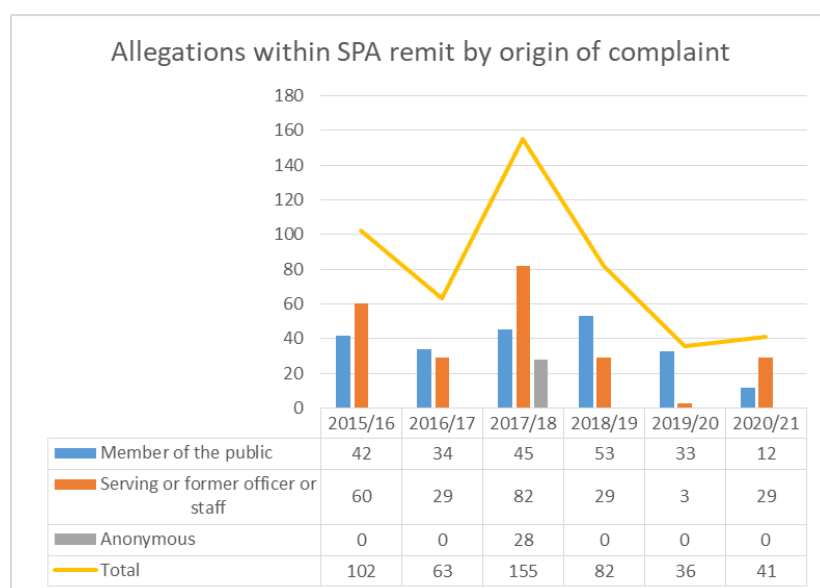


Figure 8

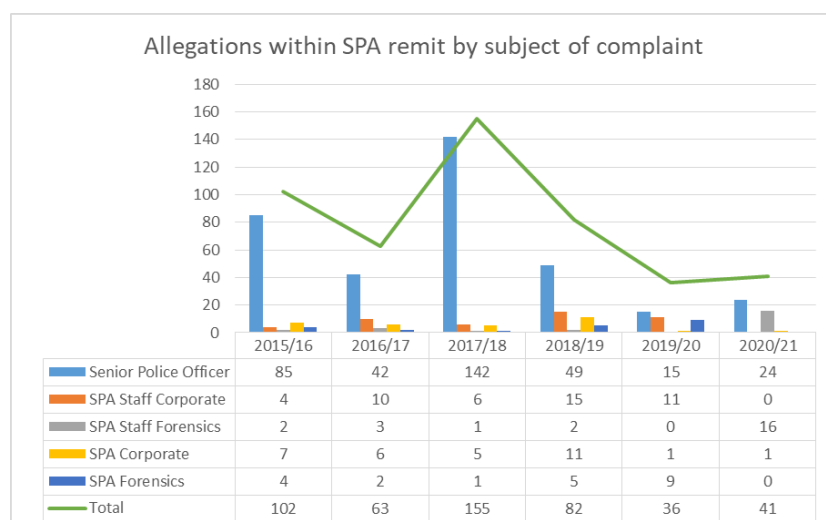
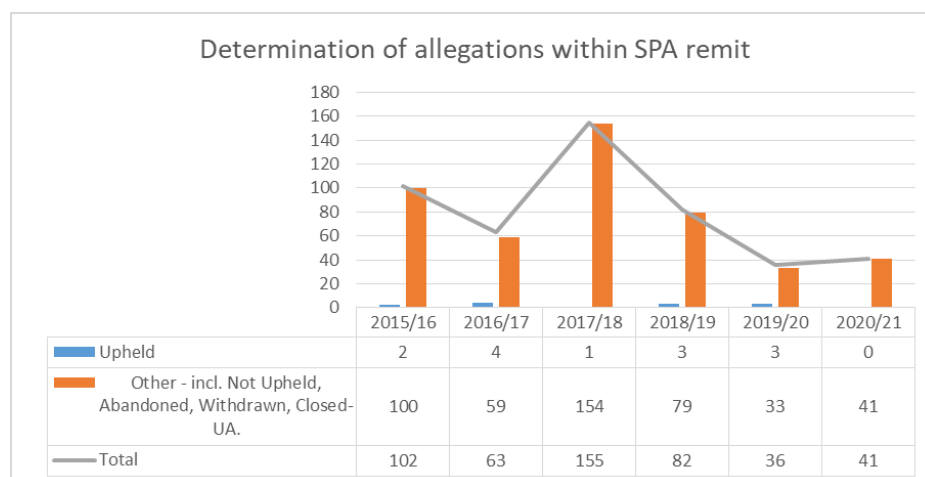


Figure 9, below, shows the determination of allegations within the remit of the SPA. Withdrawn complaints are those where the complainer intimates that they

wish to withdraw a complaint. Abandoned complaints are those which cannot proceed without the complainer's further co-operation. If a complaint cannot proceed due to the complainer being subject to the SPA's 'Unacceptable, Persistent or Unreasonable Actions by Complainers Policy', this is recorded in the table as 'Closed- UA'.

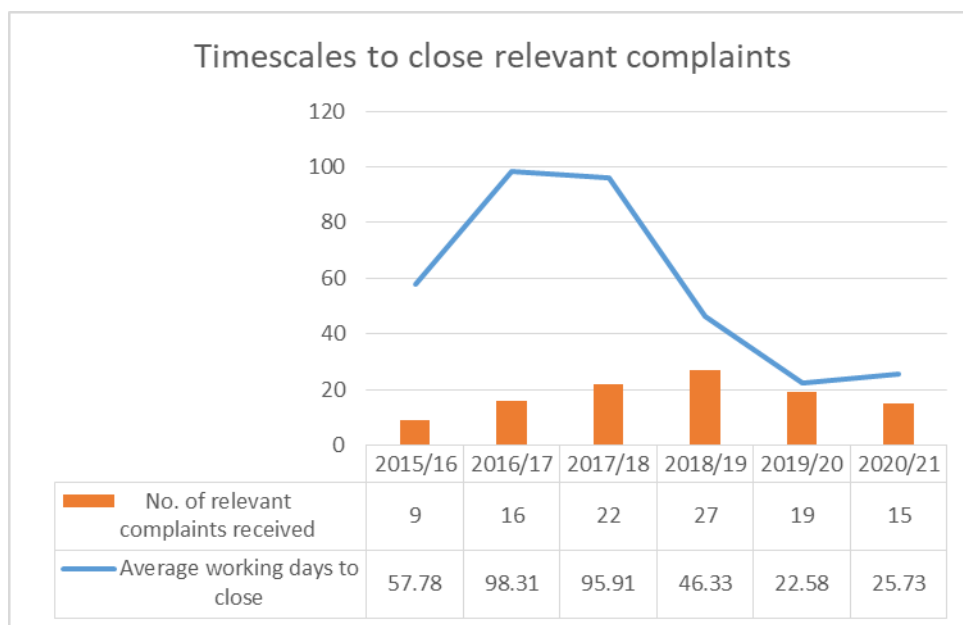
Figure 9



The handling of relevant complaints are subject to the oversight of the PIRC who have an expectation that such complaints should be completed within 40 working days. A number of factors can affect the time taken to conclude relevant complaints. These may include the number of allegations made by the complainer, the complexity of the complaint and the availability of the information required to determine the complaint. However, regular contact is made with those who raise complaints and to ensure that they are advised at the earliest opportunity once a clear indication of the complaint outcome is known. Figure 10, below, shows the timescales for the closure of 'relevant complaints' handled by the SPA. The average time to conclude relevant complaints has shown a significant downward trend compared with the previous 5 year average of 66.46 days. For the last 2 years, the average time for closure has been within the expected period.

Future SPA Quarterly Reports to Committee will provide statistics on the number of complaints within and outside timescales, and the reasons for any significant delays.

Figure 10



Look Ahead to 2021-22

In her Final Report, Dame Elish Angiolini comments:

"I believe that the two functions below are the significant responsibilities that the Complaints & Conduct Committee should focus on in future:

"(iii) Monitor the handling of relevant complaints by SPA and PS, seeking information on themes or trends as appropriate, with a view to the Committee satisfying itself that the arrangements maintained by SPA and PS for the handling of relevant complaints are suitable."

"(ix) Critically examine reports from HMICS, PIRC, and any other information provided by PS in relation to complaints about the police, and ensure that appropriate improvement plans are implemented or remedial action is taken within agreed timescales."

Looking ahead to 2021-22, the Committee will seek to capitalise on the earlier work via the NCHDG in respect of the collation and analysis of complaints handling statistics, with a view to seeking greater insights in respect of complaints handling performance through the quarterly reports provided by the SPA, Police Scotland and the PIRC. It will also provide continued oversight in respect of the delivery of actions being taken forward by the SPA and Police Scotland in respect of recommendations from the Dame Elish Angiolini Review, and seek evidence that those actions successfully have the desired impact. Linked to both of the above, a key planned development in 2021-22, will be the first joint SPA/PIRC annual audit of Police Scotland complaint handling arrangements.

In carrying out the above, the Committee will seek to enhance its ability to assess the suitability of complaints handling arrangements, as well as to promote ongoing continuous improvement in this regard, extending beyond the complaints handling process itself, seeking assurance that resulting organisational learning is identified, shared and embedded with a view to preventing those circumstances which give rise to complaints recurring in the future, serving to deliver against the Scottish Police Authority vision of 'policing in the public interest'.