



<b>Meeting</b>	<b>SPA Complaints and Conduct Committee</b>
<b>Date</b>	<b>1 March 2023</b>
<b>Location</b>	<b>Video Conference</b>
<b>Title of Paper</b>	<b>Police Scotland Professional Standards Department Quarterly Performance Report (Q3)</b>
<b>Presented By</b>	<b>ACC Alan Speirs, Professionalism and Assurance</b>
<b>Recommendation to Members</b>	<b>For Discussion</b>
<b>Appendix Attached</b>	<b>Appendix A – Performance Report Q3</b>

## 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 2022 – 31 December 2022).

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 2022 – 31 December 2022).

Data contained in this report is management information and is correct as at 23/01/2023, unless elsewhere specified.

Note: Appendix 'A' provides detail of allegations of Discriminatory Behaviour – sub categories for the current year-to-date versus 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 in this report.

## 4. PERSONNEL IMPLICATIONS

4.1 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 both individual and organisational learning opportunities are identified and addressed.

## 5. LEGAL IMPLICATIONS

5.1 There are no legal implications in this report.

## 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 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 seeks to mitigate the negative impact of those cases reported.

**8. COMMUNITY IMPACT**

8.1 As per 7.1 above.

**9. EQUALITIES IMPLICATIONS**

9.1 As per 7.1 above.

**10. ENVIRONMENT IMPLICATIONS**

10.1 There are no environmental implications in this report.

**RECOMMENDATIONS**

Members are invited to discuss the content of this report.



# Professional Standards SPA Performance Report Quarter 3 of 2022/23

Meeting Date: 01/03/2023  
Reporting Period: April 2022 – December 2022

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## Executive Summary

### Quarter 3 (Q3) 2022/23 Performance Overview

- A total of **1,595** complaints were received during Q3 of 2022/23, a decrease of **1.2%** on Q3 of 2021/22.
- **649** complaints (**40.7%**) were Frontline Resolved (FLR) during Q3 of 2022/23 (**-13.5%** compared to Q3 PYTD).
- **69** statutory referrals were made to the Police Investigations and Review Commissioner (PIRC) during Q3 of 2022/23, a **21.1%** increase on Q3 of 2021/22.
- The main driver for the volume of referrals pertains to Armed Policing, comprising **25** of the **69** statutory referrals during Q3 of 2022/23, the vast majority of which relate to the presentation of firearms.
- During Q3 of 2022/23, **50** of the **69** statutory referrals were marked as no investigations by PIRC (**72.5%**).
- During Q3 of 2022/23, **113** allegations of assault were referred to PIRC, **17** (**15.0%**) of which were subject to an investigation. **90** of those referrals (**79.6%**) are awaiting decision from PIRC, as of 23 January 2023.
- **47** Complaint Handling Reviews were conducted by PIRC during Q3 of 2022/23. Furthermore, **74.9%** of allegations reviewed during Q3 of 2022/23 were deemed by PIRC to have been handled to a reasonable standard, an increase of **8.4%** from Q3 of 2021/22.
- The proportion of complaints subject to a CHR by PIRC is **2.9%**. It should be noted that some of the complaints subject to CHR may predate the Q3 period.
- **85** preliminary conduct assessments were undertaken during Q3 of 2022/23, a **14.9%** increase on Q3 of 2021/22. Of those, **16** were deemed to amount to Gross Misconduct.
- YTD, **16** misconduct hearings in respect of Gross Misconduct were scheduled, resulting in **5** dismissals, **1** demotion in rank, **6** final written warnings and **5** written warnings. A further **12** allegations were concluded with resignation prior to a hearing and **1** resulted as not misconduct.
- During Q3 of 2022/23, **3** officers retired or resigned prior to a conduct meeting or hearing taking place.

# Complaints and Allegations

## Complaint Cases Received

### What is a 'Complaint'?

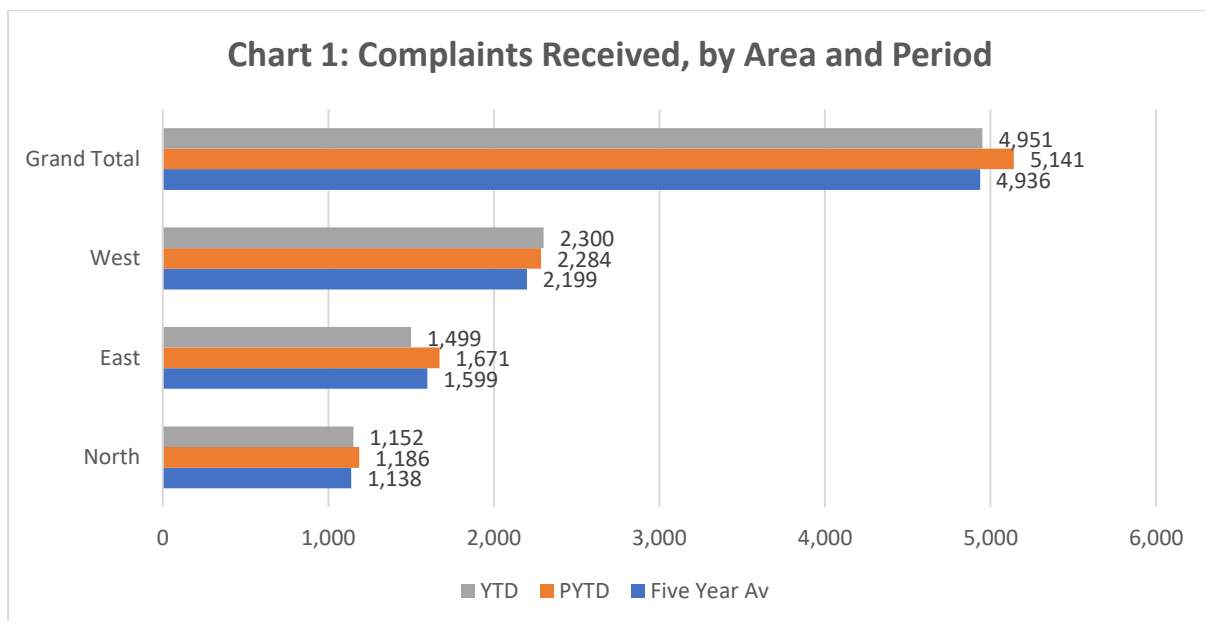
A complaint about the Police is defined in the Police, Public Order and Criminal Justice (Scotland) Act 2006 Section 34(2) as:

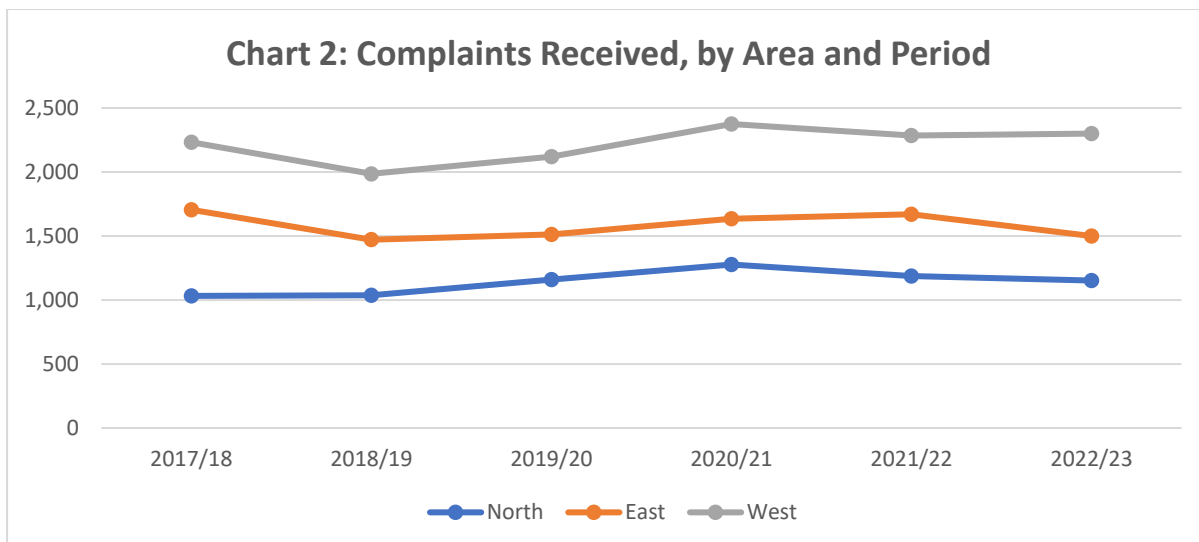
*“A statement (whether oral, written or electronic) expressing dissatisfaction about an act or omission by the Authority, by the Police Service or by a person who at the time of the act or omission was a person serving with the Police”.*

A total of **4,951** complaints were received from members of the public during the YTD, which represents a **3.7%** decrease from the same period in 2021/22. This total also represents a **0.3%** increase from the five year average. Based on this wider context, complaints during the YTD are at a level comparable with an average year.

An elevated volume of complaints during the PYTD, influenced considerably by Quality of Service allegations, should be accounted for when comparing against the PYTD in isolation. In particular, a notable decrease in Service Outcome allegations is assessed to be the key driver in this overall YTD decrease. Further substantial decreases in respect of Incivility and Irregularity in Procedure (chiefly the sub-types of Other and Insufficient Enquiry Carried Out) are linked to this overall decrease in complaint cases.

Within Q3 of 2022/23 alone, a total of **1,595** complaints were received, which represents a **1.2%** decrease on Q3 of 2021/22. Furthermore, this also represents a **1.7%** increase on the five year average of Quarter 3 periods.

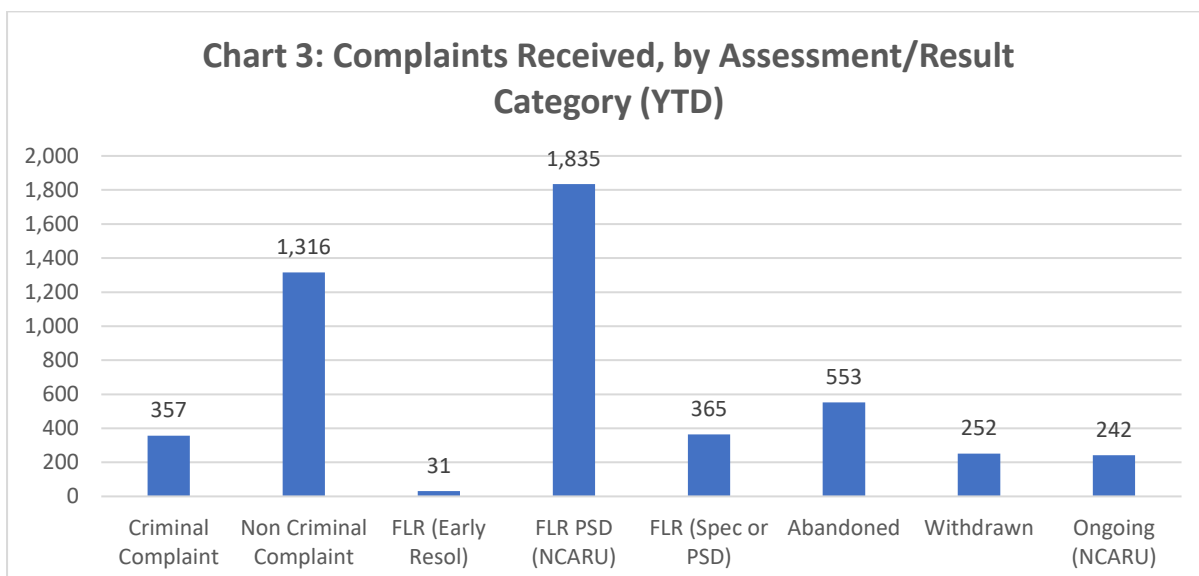




Increases were identified YTD in the North (+1.2%) and West (+4.6%) Command Areas, when compared against the five year average. The East registered a 6.3% decrease in this same period.

Moreover, the West registered a 0.7% increase when compared to the PYTD, with decreases recorded in the North (-2.9%) and East (-10.3%). As noted above, comparison against the PYTD in isolation is influenced by the impact of reduction in Quality of Service related complaints during the latter period.

As per Chart 2 above, the increase in the North across this timeline is influenced by comparatively low volumes of complaints during 2017/18 and 2018/19. Likewise, the increase in the West is influenced by comparatively low volumes of complaints during 2018/19 and 2019/20. Outwith those particular periods, complaint volumes within those areas remain at a relatively stable level.



The highest volume of complaints received during YTD were Frontline Resolved (FLR) by PSD National Complaints Assessment and Resolution Unit (NCARU), which applied to 1,835 complaints received. In addition, 31 complaints were subject to Early Resolution and 365 were subsequently FLR by PSD/Specialist officers. Overall, 45.1%



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of all complaints received during the YTD were resolved by FLR, a decrease from **48.6%** during the PYTD.

A further **1,316** 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 **357** complaints categorised as Criminal, representing a relatively low proportion (**7.2%**) compared to those which are Non-Criminal in nature (**71.6%**).

The remainder of complaints received were either Abandoned (**553**), Withdrawn (**252**) or are Ongoing with the PSD NCARU (**242**).

Specifically in relation to Q3 of 2022/23 alone, **40.7%** of complaints were Frontline Resolved (FLR), compared with **54.2%** in Q3 of 2021/22.

### North Command

In the North, a total of **1,152** complaints were received during the YTD. This represents a **2.9%** decrease on the PYTD and a **1.2%** increase against the five year average.

Notably, North East Division continues to register increases against the PYTD and the five year average:

- North East, **489** complaints (**+11.9%** from the PYTD, **+16.7%** against the five year average).

Continued increases in Quality of Service related allegations are the primary influence in the North East's increase. Service Delivery allegations have increased from the PYTD (an additional **85** allegations) and against the five year average (an additional **114** allegations), with **155** received overall YTD. Moreover, **118** Service Outcome allegations received represent an increase from the PYTD (an additional **30** allegations) and against the five year average (an additional **60** allegations). Assault allegations also impact on the increase, with **41** received YTD accounting for an additional **25** compared to the PYTD and **32** more than the five year average.

However, it is of note that the volume of complaints received YTD in Tayside have decreased by **12.0%** from the PYTD and **0.3%** from the five year average. This follows an increase identified during 2021/22. An analytical report detailing factors influencing this increase was briefed into the division and actions were taken locally to mitigate (as noted in the Q4 of 2021/22 report). This provides further assurance that those measures have had a positive impact and that the identified increase has since levelled.

**Analytical Action** – Further detailed analysis will be tasked to identify factors which have influenced the increase within North East Division and further dialogue undertaken with divisional management in respect of this.

## East Command

In the East, a total of **1,499** complaints were received during the YTD. This represents a **10.3%** decrease on the PYTD; however, this total also reflects a **6.3%** decrease against the five year average.

No increases of note were identified within divisions across the East.

However, it is noteworthy that decreases were registered in Fife Division (**-7.4%** from PYTD; **-1.5%** from the five year average) and C3 Division (**-25.3%** from PYTD; **-8.5%** from the five year average). This follows increases identified in the East during 2021/22. Analytical reports detailing factors influencing those increases were briefed into the relevant divisions and actions were taken to mitigate. The YTD complaint volume provides further assurance that those measures have had a positive impact and that the identified increase has since levelled.

**Analytical Action** – *No analytical actions have been tasked in relation to the East Command at this time.*

## West Command

In the West, a total of **2,300** complaints were received during the YTD. This represents a **0.7%** increase from the PYTD and a **4.6%** increase against the five year average. The former comparison accounts for **16** additional complaints, whereas the latter comparison accounts for an additional **101** complaints.

The primary drivers of this increase are the following divisions:

- Ayrshire (**287** complaints, **+16.2%** compared to the PYTD and **+18.6%** against the five year average).
- Renfrewshire and Inverclyde (**221** complaints, **+13.3%** from the PYTD and **20.1%** against the five year average).

It is notable that all territorial divisions in the West (excluding Argyll and West Dunbartonshire) displayed an increase against the five year average. At lower volumes, the following divisions also influence the extent of increase registered in the West:

- Lanarkshire (**507** complaints, **+1.0%** from the PYTD and **+6.3%** against the five year average).
- Dumfries and Galloway (**168** complaints, **+5.7%** from the PYTD and **+15.4%** against the five year average).

In each of these divisions, the increase against the five year average is linked to a rise in Quality of Service related allegations.

- Within Ayrshire, those are linked to Policy/Procedure (**+27**) and Service Delivery (**+12**). Assault allegations (**+15**) also influence the increase.

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- Within Renfrewshire and Inverclyde, those are primarily linked to Service Outcome allegations (+33) and, to a lesser degree, Policy/Procedure allegations (+18).
- Within Lanarkshire, those are primarily linked to Policy/Procedure (+42). Assault allegations also influence the increase (+16).
- Within Dumfries and Galloway, those are linked to Policy/Procedure allegations (+26).

It should also be noted that, despite a **16.7%** increase against the five year average, C3 Division in the West registered an **11.0%** decrease against the PYTD. An analytical report detailing factors influencing an increase across 2021/22 was briefed into the division in June 2022 and actions were taken locally to mitigate. Further to the decrease from the PYTD, the rate of those subject to complaint remains extremely low given the substantial volume of calls handled by C3.

***Analytical Action*** - Quality of Service related allegations in the noted divisions within the West, in particular Ayrshire plus Renfrewshire and Inverclyde given the extent of the overall increase in complaints, will be subject to further scrutiny to identify any emerging themes should further increase become evident.

### 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.*

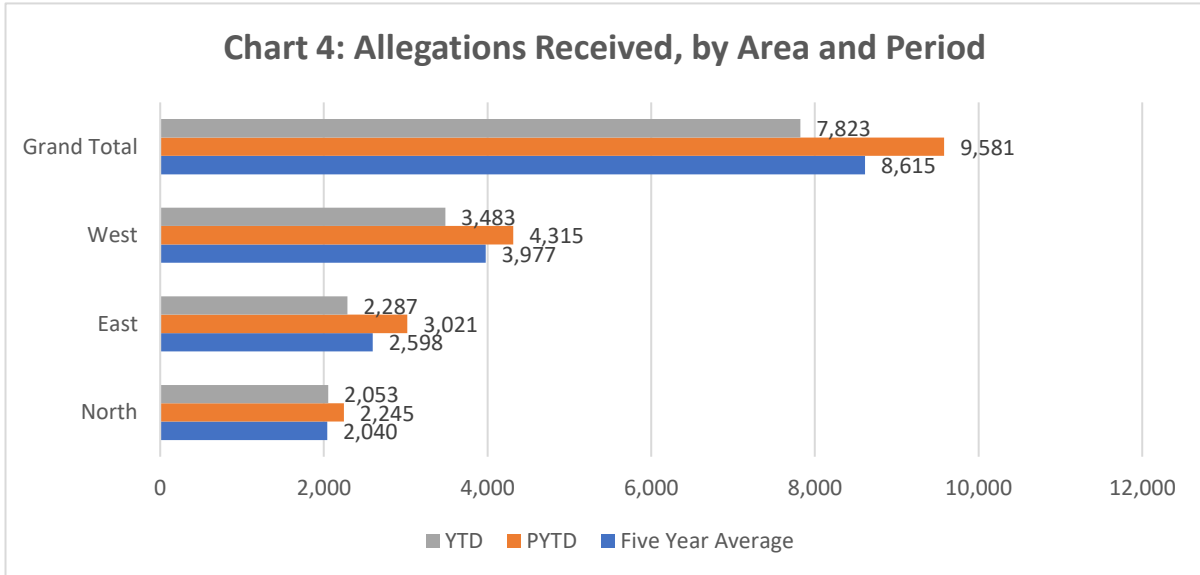
During the YTD, a total of **7,823** allegations were received. This represents an **18.3%** decrease compared to the PYTD and a **9.2%** decrease against the five year average.

During Q3 of 2022/23, **2,443** allegations were received. This represents a **17.7%** decrease on Q3 of 2021/22 where **2,969** allegations were received. Furthermore, this total represents an **11.0%** decrease against the five year average.

Decreases were identified YTD within the East and West Command Areas, when compared to the PYTD and the five year average. Despite the North also displaying decrease against the PYTD, a low volume increase was identified when compared to the five year average. As detailed below:

- North, **2,053** allegations (-8.6% compared to the PYTD, +0.7% against the five year average).

- East, **2,287** allegations (**-24.3%** compared to the PYTD, **-12.0%** against the five year average).
- West, **3,483** allegations (**-19.3%** compared to the PYTD, **-12.4%** against the five year average).



**Table 1: Allegations by Category (selected)**

<b>Allegation Category</b>	<b>YTD 2022/23</b>	<b>PYTD 2021/22</b>	<b>Trend</b>
Assault	375	322	+16.5%
Other - Criminal	89	70	+27.1%
Quality of Service – Policy/Procedure	622	612	+1.6%
Quality of Service – Service Delivery	1,014	979	+3.6%
Traffic Irregularity/Offence	101	87	+16.1%
Unlawful/Unnecessary Arrest or Detention	86	66	+30.3%

The increase in Assault allegations is primarily driven by Lanarkshire (+29) and North East (+25). Further increases at lower volumes were identified within Tayside (+17), Fife (+13), Ayrshire (+13), Forth Valley (+8) and CJSD (+5). Additional information regarding referrals relating to Assault (plus associated criminality) is listed within the PIRC Referrals section later in this report.

Furthermore, the increase in Other – Criminal allegations is primarily driven by Lanarkshire Division (+10). To a lesser degree, North East (+7), Operational Support Division (+7), Dumfries and Galloway (+5), plus Renfrewshire and Inverclyde (+4)

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influence the overall increase within this category. In terms of the criminal sub categories involved, the following influence this increase:

- Breach of Data Protection Act (+6 allegations, 16 in total YTD).
- Theft not elsewhere classified (+5 allegations, 17 in total YTD).
- Offences involving Motor Vehicles (+7 allegations, 19 in total YTD). The majority of these are linked to Dangerous & Careless Driving, plus Mobile telephone offences.
- Indecent Assault (+4 allegations, 12 in total YTD).

The increase in Quality of Service – Policy/Procedure allegations is primarily driven by Dumfries and Galloway (+24), Ayrshire (+22), Renfrewshire and Inverclyde (+19) and North East (+14). However, these increases are mitigated to a large degree by decreases registered across nine other divisions.

The increase in Quality of Service – Service Delivery allegations is primarily driven by North East (+85 allegations) and Highland and Islands (+44 allegations). To a lesser degree, this increase is influenced by Tayside (+20 allegations) and Lanarkshire (+13 allegations). These increases are mitigated to a large degree by decreases registered across ten other divisions.

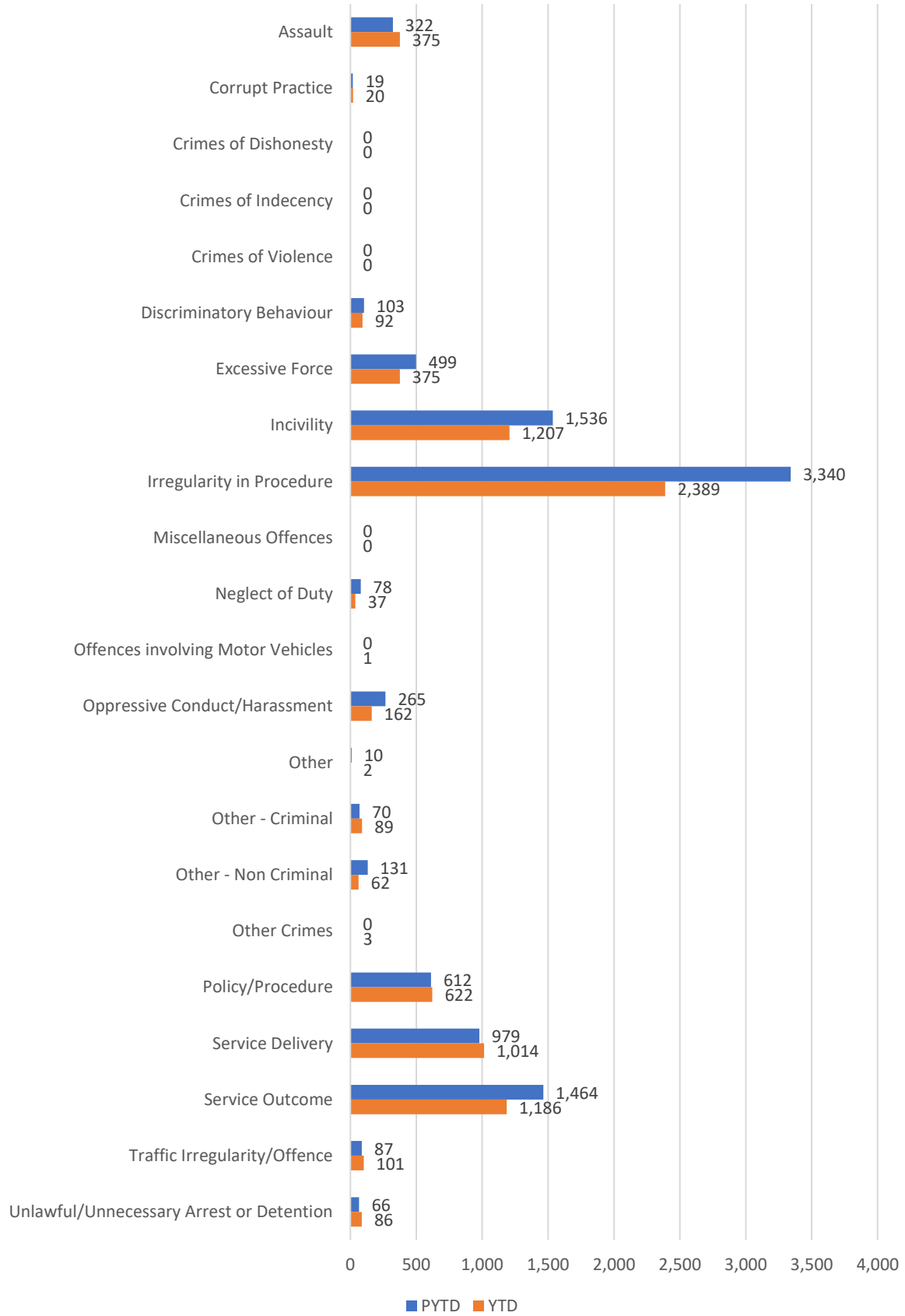
No clear geographical variance was identified in relation to the increase in Traffic Irregularity/Offence, with low volume increases across 7 divisions. The highest volume increase was registered in Forth Valley, with 9 allegations YTD accounting for an additional 7 allegations compared to the PYTD. However, the highest volume divisions for these particular allegations continue to be The Lothians and Scottish Borders (15) and North East (13). Together these account for 28 of the 101 such allegations received nationally (27.7%).

As regards Unlawful/Unnecessary Arrest or Detention, the overall increase is primarily driven by low volume increase within Renfrewshire and Inverclyde (+6) and North East (+5). Further lower volume increases were also identified across five other divisions. No specific themes were identified in relation to these allegations, outwith a general perception from the complainers that there was insufficient grounds for being arrested or detained by officers.

It should also be noted that Service Outcome allegations, assessed to have increased significantly during 2021/22 within previous reports, has decreased during the YTD. A total of 1,186 such allegations were received YTD, accounting for a 19.0% decrease from the PYTD (278 less allegations) and an 11.1% increase against the five year average (119 additional allegations). As this represents one of the high volume allegation categories, this decrease is assessed to be a primary driver of the overall decrease in complaints as described above.

All allegations received YTD and PYTD are summarised in Chart 5 below.

Chart 5: Allegations, by Type and Period



## Allegation Results

During the YTD period, a total of **7,969** allegations were closed. Of those, **6.8%** were upheld. This represents a decrease from the PYTD rate of **7.4%** and the five year average of **9.2%**.

During Q3 of 2022/23 alone, **2,473** allegations were closed. Of those, **7.0%** were upheld. This represents a decrease of **0.7%** from Q3 in 2021/22 (**6.3%**).

## 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. By comparison, at the conclusion of Q3 2022/23, there were **94** live complaints outstanding at these divisions. 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 94 live complaints via PSD monthly meetings.

During the YTD period, **3,180** non-criminal and Frontline Resolved (FLR) complaints were closed, with **2,124 (66.8%)** closed within the 56 day timescale. The average closure time was **77** days.

The comparative timescales for non-criminal and FLR complaints represent a **0.5%** decrease on the PYTD, where **67.2%** were closed within 56 days and the average closure time was **65** days.

During Q3 of 2022/23 alone, **1,040** non-criminal and Frontline Resolved (FLR) complaints were closed, with **68.7%** closed within 56 days. This represents a **0.3%** decrease on Q3 PYTD. Furthermore, the average closure time YTD was **70** days, an increase from **60** days' average closure time during Q3 PYTD.

FLR complaints are now included in this measure to better reflect the overall demand in complaint handling. Moreover, this further reflects the key aim of frontline resolution in providing an informed response within a shorter timescale, whilst also enabling an amicable conclusion for both complainers and subject officers.

The complaints detailed in this section may have been received prior to the Q3 reporting period.

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

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 4 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 **521** referrals were made to the PIRC during the YTD period. It should be noted, as referenced above, that this total now includes referrals related to alleged breaches of Articles 3 and 5 of ECHR.

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

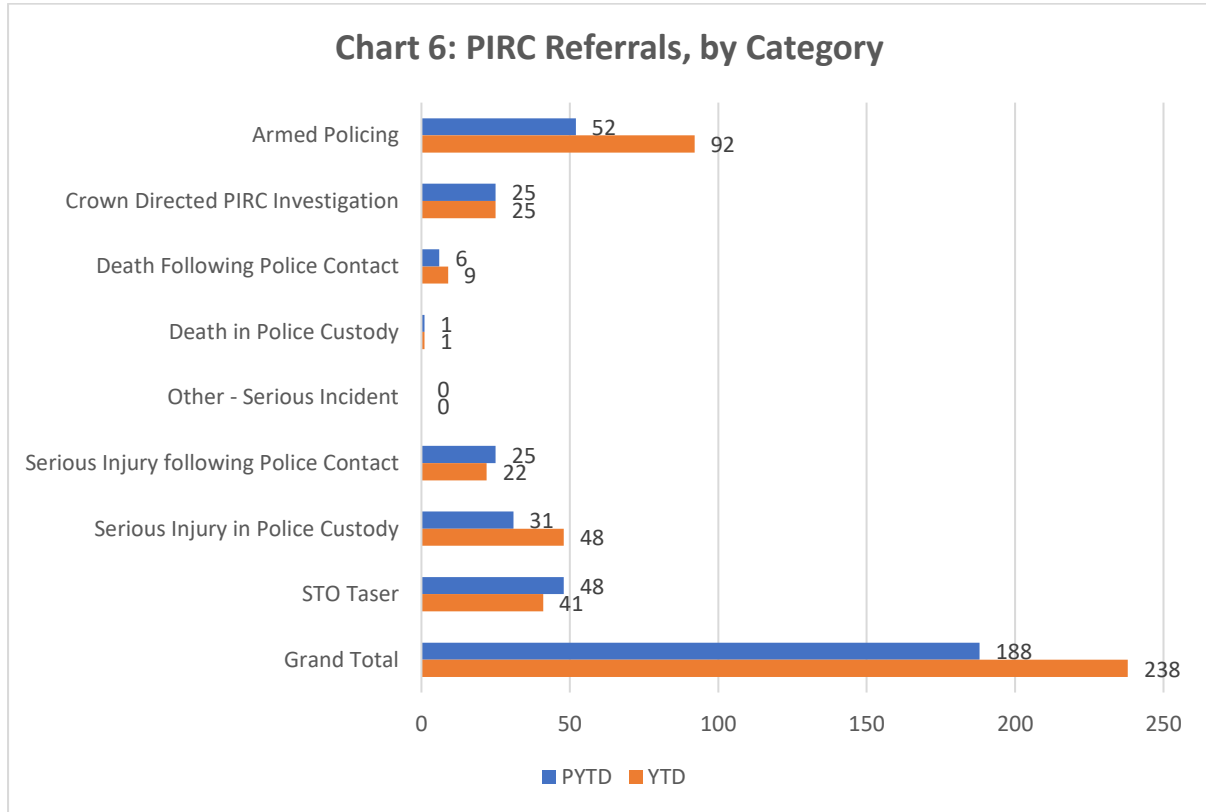
### PIRC Statutory Referrals

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 and Procurator Fiscal Service.

A total of **238** statutory referrals were made to PIRC during the YTD, a **26.6%** increase on the PYTD.



During Q3 of 2022/23 alone, **69** statutory referrals were made to PIRC. This represents a **21.1%** increase from the **57** referrals made during Q3 of 2021/22.

The key drivers in the YTD increase in statutory referrals overall are those pertaining to Armed Policing (**+40** from PYTD) and Serious Injury in Police Custody (**+17** from PYTD).

By way of context, the monthly average of Armed Policing referrals during 2021/22 overall was **6**, with a comparative monthly average of **10** during 2022/23 to date. Each individual month during the YTD has been above the 2021/22 monthly average, with further spikes during July (**14**), August (**12**) and September (**13**). The latter three are the highest monthly totals registered for Armed Policing referrals going back to April 2019.

However, the monthly volume has reduced within the latest few months, with **8** such referrals made in October and December respectively, plus **9** made in November. This would tentatively indicate a levelling in Armed Policing related referrals from the volume spikes detailed above, although those volumes still remain above the comparative monthly average from the PYTD.

Key themes of note amongst these Armed Policing referrals include:

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- The majority of Armed Policing referrals YTD relate to the East (**56.5%**, **52** in total). The remainder are split between the North (**25.0%**, **23** in total) and the West (**18.5%**, **17** in total).
- Most of the **92** referrals YTD relate to spontaneous incidents (**81.5%**, **75** in total) rather than planned operations (**14.1%**, **13** in total). The remaining **4** relate to accidental discharges in the Police training/armoury environment and the humane dispatch of an animal.
- Subjects with a mental health concern and in possession of an offensive weapon account for **64.1%** of the total (almost half of which refer to suicidal individuals).
- Subject in possession of bladed weapons alone feature in **45.7%** (**42**) of all referrals YTD, with reported firearms possession featuring in **28.3%** (**26**). A further **12.0%** (**11**) referrals involved both bladed weapons and reported firearms possession.
- The locus type involved in the majority of referrals was dwelling (**76.1%**, **70** in total). Public space (**10**) and vehicle stops on roadways (**7**) also feature.
- The vast majority of these referrals relate to the presentation of firearms (**87.0%**, **80** in total). The remaining **12** referrals involved the discharge of firearms, **6** of which were Taser discharges by armed officers in response to non-compliant subjects threatening officers and/or themselves with bladed weapons. A further two referrals involved the discharge of conventional firearms to conclude serious incidents which prevented significant harm to officers and members of the public. The remaining **4** relate to accidental discharges in the Police training/armoury environment and the humane dispatch of an animal.

Of these **92** Armed Policing related referrals YTD, **4** are subject to PIRC investigation. This provides further independent assurance that the use of Armed Policing resources in response to these events, broadly, have been proportionate and justified.

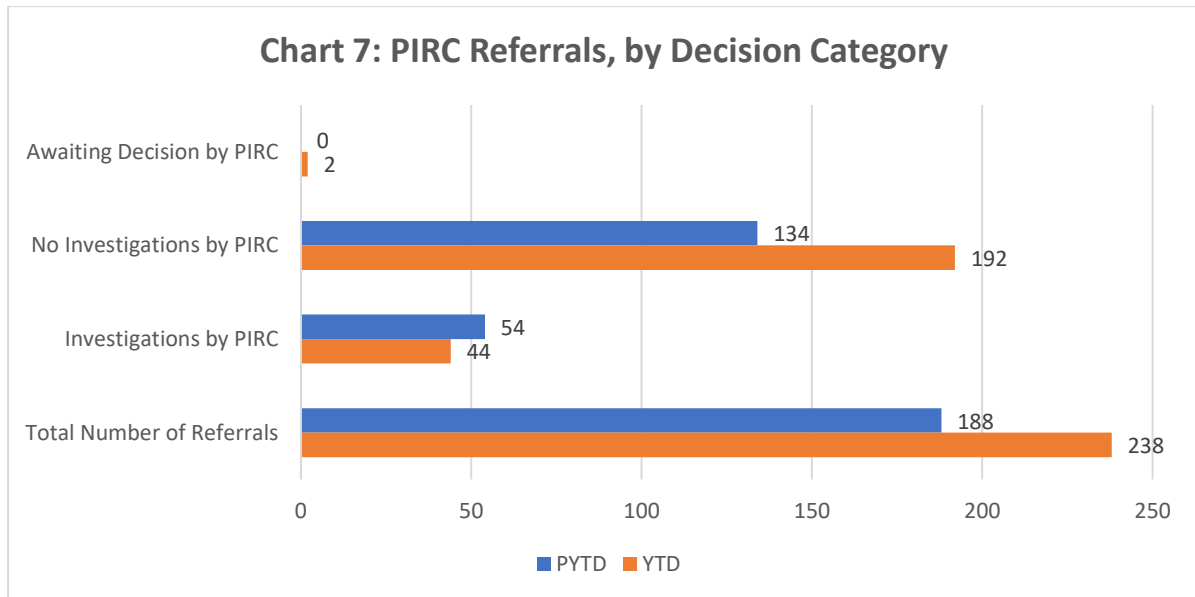
Moreover, the comparative volume of Serious Injury in Police Custody referrals is influenced by zero such referrals made during June of 2021. The average number of those referrals across the full 2021/22 financial year was **4** per month, with the YTD (April – December only) having an average of **5**. Although no clear geographical driver has been identified, the majority of these referrals relate to the West (**54.2%**, **26** in total). This continues to be assessed as a relatively low volume increase and is not yet indicative of a broader increase within this referral category.

Further low volume increase has been identified in relation to Death Following Police Contact (**+3**), from **6** PYTD to **9** YTD. This referral category remains at a relatively stable level and is assessed to represent a low volume increase, influenced by no such referrals during May and June of 2021. Notably, only one such referral has been submitted to PIRC in the past three months (October - December 2022).

The overall increase in referrals is partly mitigated by a **14.6%** decrease in the STO Taser category, accounting for **7** less referrals.

## PIRC Investigations

The majority of statutory referrals (**80.7%**) within the YTD were marked as no investigation required by PIRC, accounting for **192** of the **238** referrals.



During Q3 of 2022/23 alone, **50** of the **69** statutory referrals (**72.5%**) were marked as no investigation required by PIRC, with **24.6%** subject to a PIRC investigation (+**7.1%** from Q3 of 2021/22). A further **2** are awaiting decision by PIRC.

The percentage of the **238** statutory referrals YTD which led to a PIRC investigation has decreased (**-10.2%**) compared to the PYTD, with **18.5%** of these referrals subject to a PIRC investigation. Although decreases are visible across almost all referral categories, this is primarily influenced by a reduction in investigations relating to STO Taser (**-4**).

## Allegations of Assault

As of October 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 in Policing by Lady Elish Angiolini in relation to alleged breaches of Article 3 and 5 of the European Convention of Human Rights (ECHR).

During the 2022/23 YTD, **283** relevant cases have been referred to PIRC, **56** of which are subject to PIRC investigation (**19.8%**). A further **97** cases have been marked as no investigation by PIRC with the majority classed as 'no criminality established' or 'abandoned'. The remaining **130** referrals are awaiting decision from PIRC. These figures are summarised in Table 2 below. Status is correct as at 23 January 2023.

Within Q3 of 2022/23 alone, **113** such referrals were made to the PIRC. Of those, **17** (**15.0%**) are subject to investigation and a further **6** (**5.3%**) were marked as no

investigation by PIRC. However, the vast majority of those are awaiting decision from PIRC (**79.6%**, **90** in total).

**Table 2: Cases involving Allegations of Assault (01/04/22 – 31/12/22), by Status**

<b>Status</b>	<b>Number of Cases</b>
<b>Referred to PIRC</b>	<b>283</b>
Investigation by PIRC	56
No Investigation by PIRC	97
At PIRC - Awaiting Decision	130

### **Live PIRC Investigations**

Overall, **165** PIRC investigations remain live as at 23 January 2023, as detailed in Table 3 below. This total also involves matters referred outwith the YTD period (including referrals made prior to 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/CAAPD); however, due to criminal justice processes, matters remain outstanding.

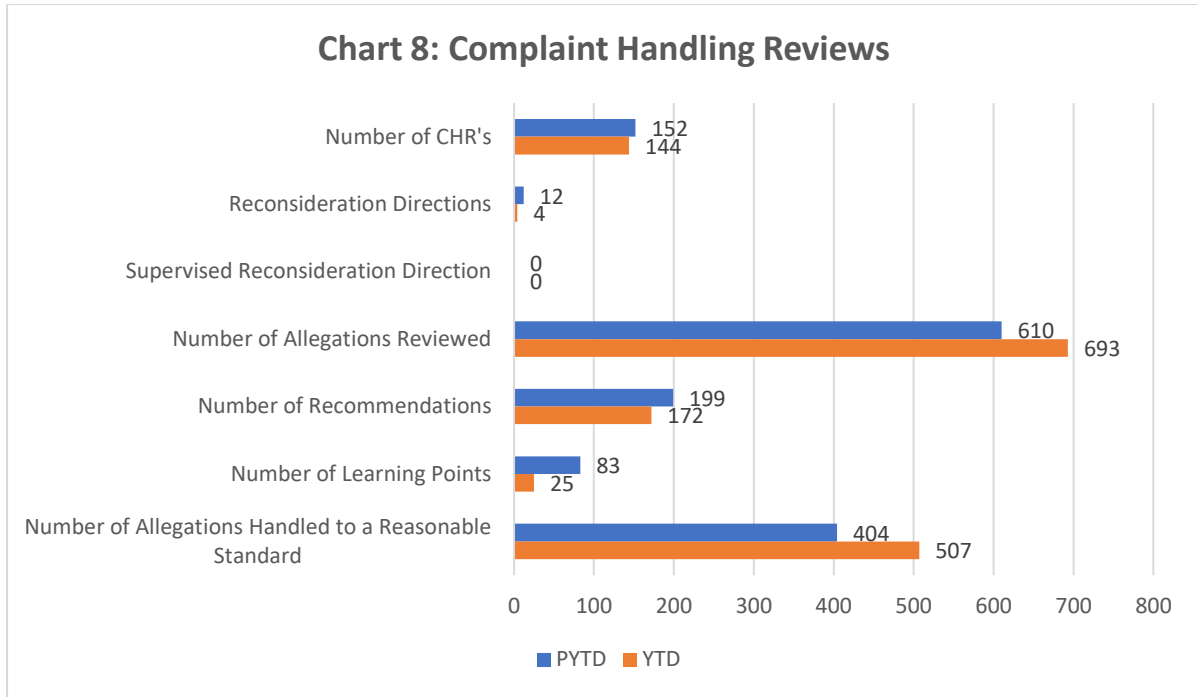
**Table 3: Ongoing PIRC Investigations, by Command Area (as at 23<sup>rd</sup> January 2023)**

<b>Command Area</b>	<b>Number Ongoing</b>
North	47
East	34
West	84
<b>Grand Total</b>	<b>165</b>

### **PIRC Complaint Handling Reviews (CHR)**

Complaints handled by Police Scotland may be subject of 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.

A total of **144** CHRs were received during the YTD, a **5.3%** decrease on the PYTD, equating to a decrease of **8** CHRs.



Within Q3 of 2022/23 alone, **47** CHR's were received. This represents a **27.0%** increase on the **37** CHR's received during Q3 of 2021/22.

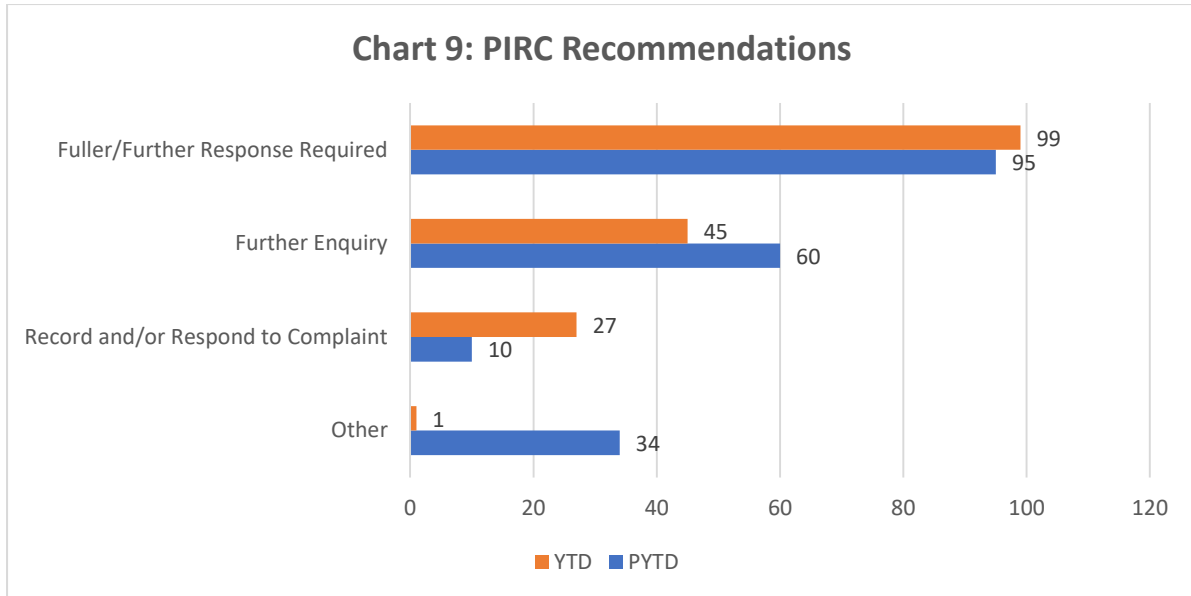
Of the **144** CHR's received YTD, **693** allegations were reviewed and **73.2%** were handled to a reasonable standard during the YTD. This represents a **6.9%** increase on the comparable rate during the PYTD.

Although the YTD rate is based on a lower volume of CHR's received, the number of allegations attached and subject to review has conversely increased (from **610** PYTD, to **693** YTD).

Overall, the YTD rate further evidences the continued improvement in complaint handling by Police Scotland in the broader context of recent years. CHR continue to be monitored and all relevant learning disseminated to ensure continued improvement.

Within Q3 of 2022/23 alone, **259** allegations were reviewed and **74.9%** were handled to a reasonable standard. This represents an **8.4%** increase on Q3 of 2021/22.

Based on the statistics of CHR's received during the YTD, notionally, the proportion of complaints subject to a CHR by PIRC is **2.9%**; however, some of the complaints subject to CHR may predate the YTD period.



The vast majority of the **172** PIRC CHR recommendations received during the YTD were in the 'further enquiry' or the 'fuller/further response required' category (**83.7%**) when combined.

Given the overall decrease in recommendations following CHR, it is notable that recommendations categorised as 'Record and/or Respond to Complaint' have increased from **10** PYTD to **27** YTD (**+170.0%**). The primary theme of these recommendations is for Police Scotland to split individual allegations into separate heads of complaint and record those as such.

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

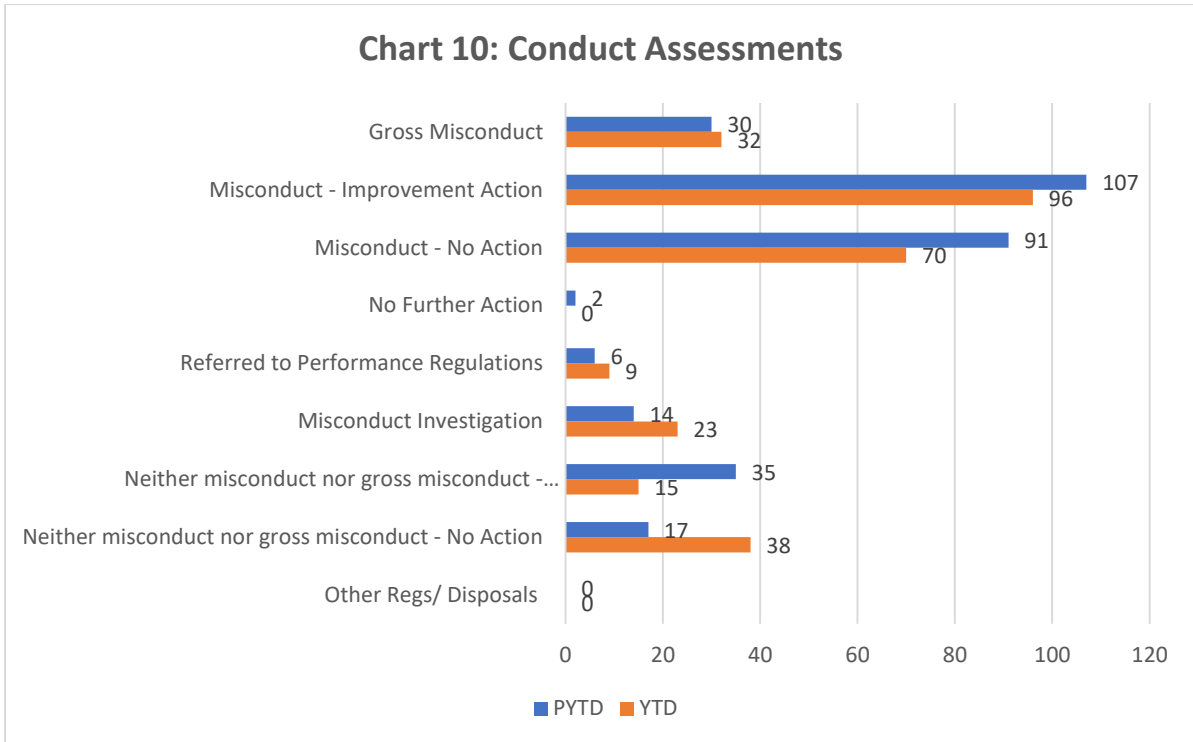
## Conduct Unit

### 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 **283** preliminary conduct assessments were undertaken by the Professional Standards Department during the YTD, a **6.3%** decrease on the **302** assessments undertaken PYTD. In respect of those **283** assessments, **4** officers retired or resigned prior to a conduct meeting or hearing taking place.

During this period, the majority of assessments (**58.7%**) were resulted as ‘Misconduct – Improvement Action’ or ‘Misconduct – No Action’.

Within Q3 of 2022/23 alone, **85** preliminary conduct assessments were undertaken, which represents a **14.9%** increase on the **74** assessments undertaken during Q3 of 2021/22.

Due to the overall decrease in conduct assessments YTD, decreases are visible across many assessment categories. Despite this, it is of note that misconduct investigations has increased compared to the PYTD, from **14** investigations PYTD to **23** YTD. The volume increase is influenced by **6** linked investigations. Moreover, assessments of ‘Neither Misconduct nor Misconduct – No Action’ also increased from **17** PYTD to **38** YTD. Although the nature of allegations subject to those assessments vary widely, road traffic matters were the most common.

During the YTD, **7** misconduct meetings and **16** misconduct hearings were scheduled.

As a result of the misconduct hearings, **5** dismissals, **1** demotion in rank, **6** final written warnings and **5** written warnings were issued. A further **12** allegations were concluded with resignation prior to a hearing, with a further **1** resulted as not misconduct.

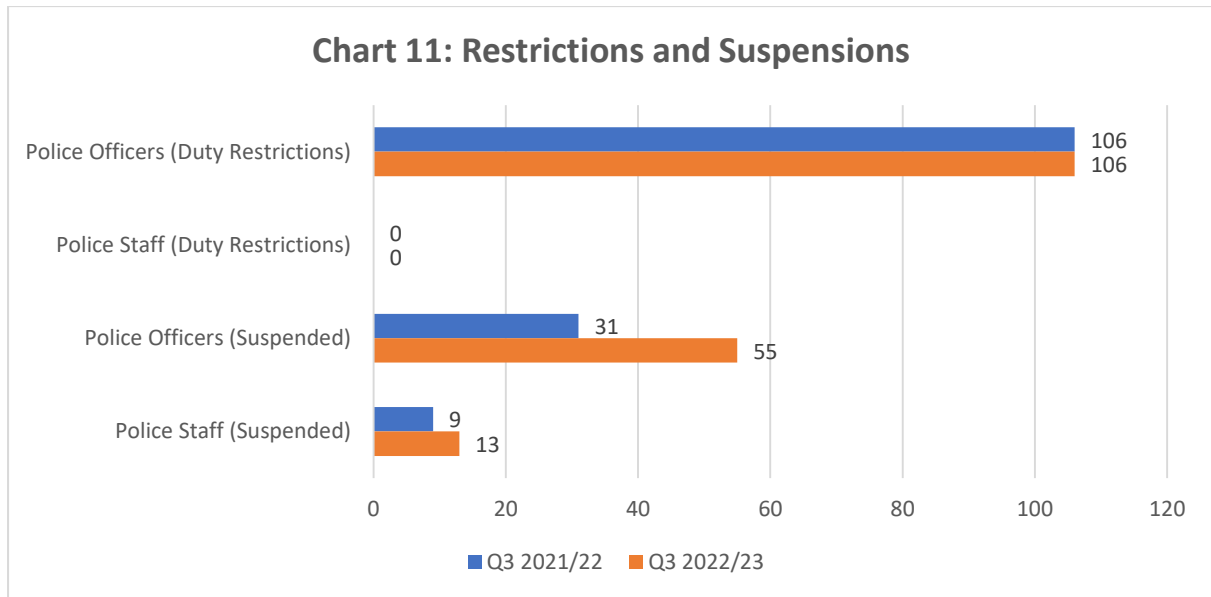
As a result of the misconduct meetings, **1** final written warning, **5** written warnings, **3** verbal warnings were issued. A further **1** meeting resulted in no action taken.

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

A total of **12** officers resigned or resigned prior to a scheduled hearing or meeting during the YTD period, with **3** of those occurring during Q3 of 2022/23.

### Restrictions and Suspensions

Chart 11 details the actual number of officers and staff suspended and restricted at the end of Q3 2022/23 compared with Q3 in 2021/22. Furthermore, **11** suspended officers and **8** restricted officers resigned/retired during the YTD.



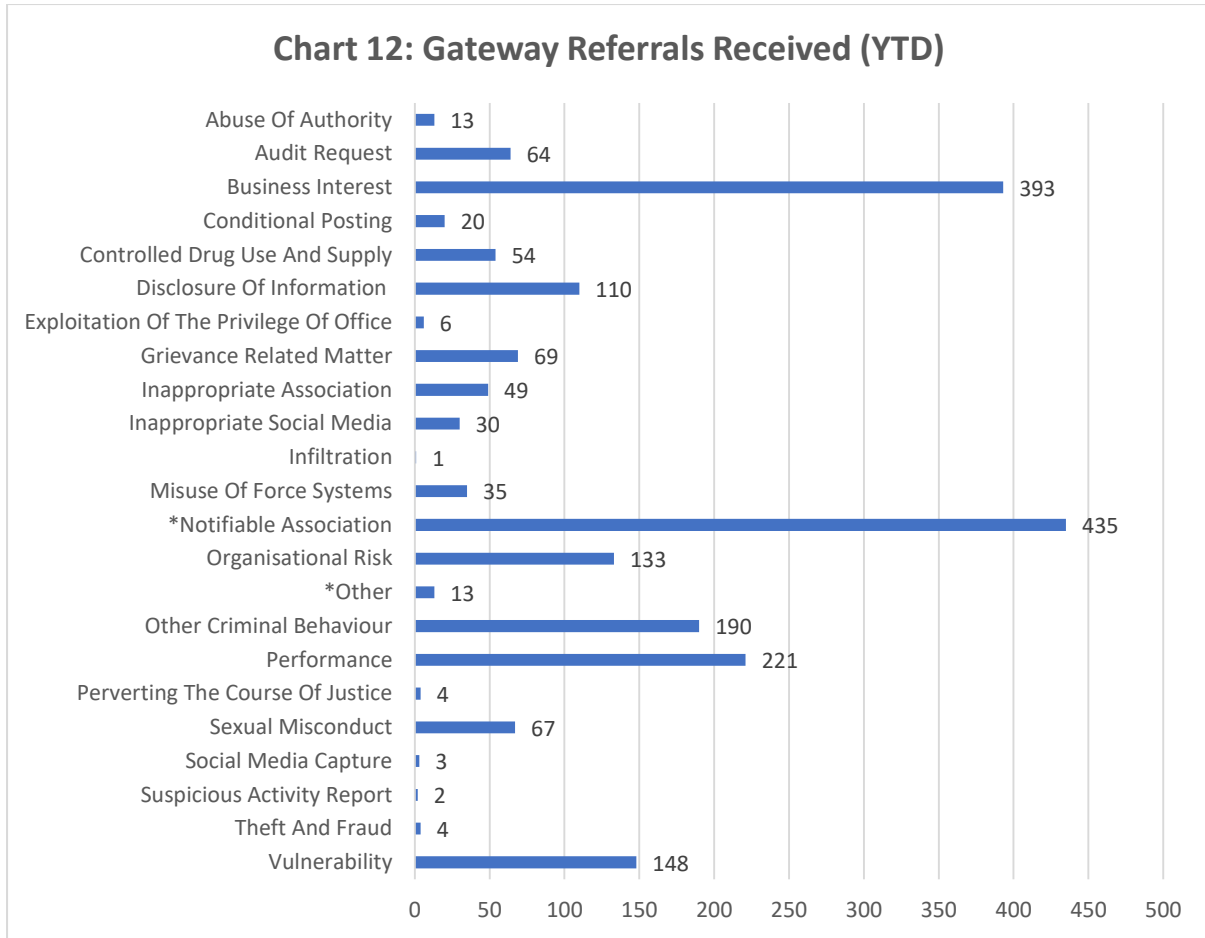
## National Gateway Assessment Unit

### National Gateway Assessment Unit

The Gateway Assessment Unit (GWU) has assessed **2,064** referrals during the YTD, which represents a **2.5%** decrease against the PYTD total of **2,117** referrals.

During Q3 of 2022/23 alone, **711** referrals were assessed. This represents a **3.3%** decrease on the **735** referrals assessed during the same period of 2021/22.





\*Other (Audit Requests etc.)

\*Notifiable Association Sec 4 complete & returned to Division

Despite the overall decrease, increases of note were identified in the following categories:

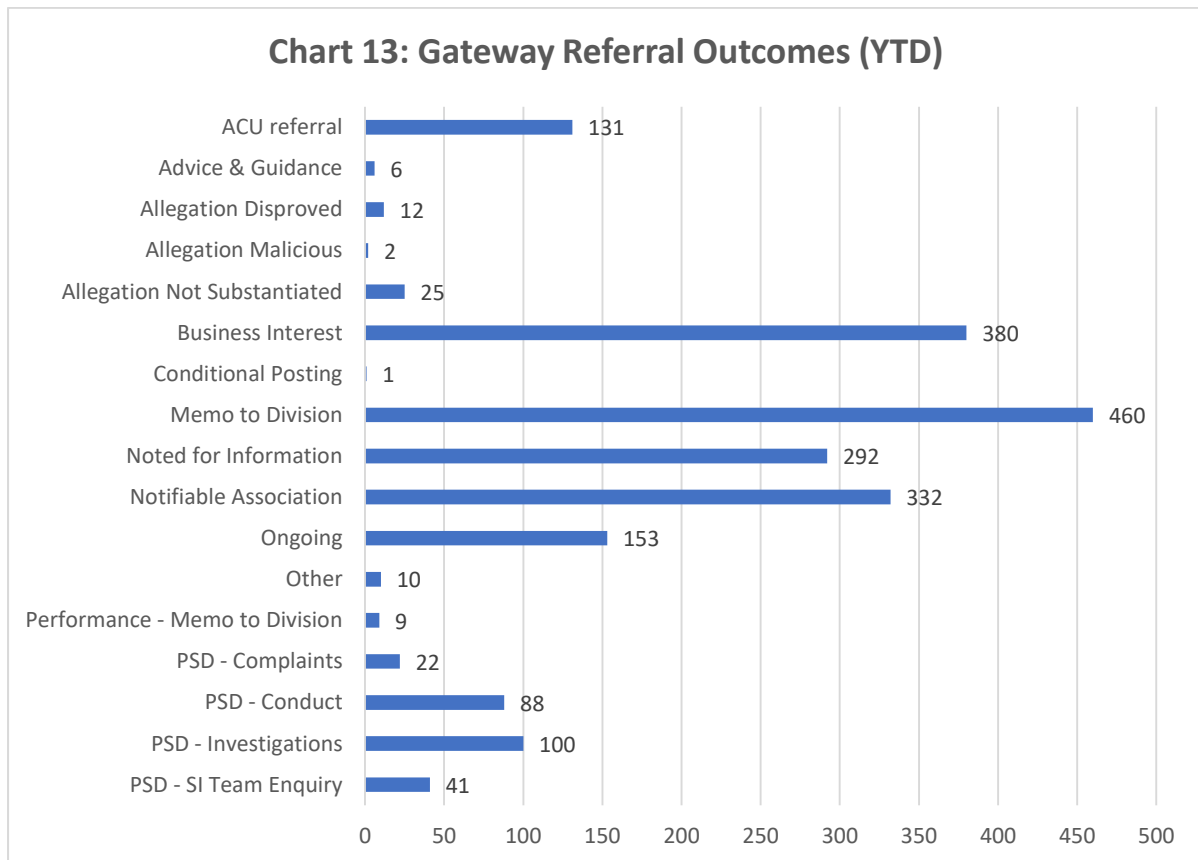
- Organisational Risk (up **62.2%** to **133** referrals YTD, an increase of **51** referrals).
- Notifiable Association (up **13.0%** to **435** referrals YTD, an increase of **50** referrals).
- Sexual Misconduct (up **97.1%** to **67** referrals YTD, an increase of **33** referrals).
- Grievance Related Matter (up **81.6%** to **69** referrals YTD, an increase of **31** referrals).

The increase in Sexual Misconduct referrals continues a trend identified within Q3 and Q4 of 2021/22, following increased media reporting in this area and internal promotion of our Standards of Professional Behaviour. The organisation has improved its recording mechanisms and actively encourages its workforce to challenge improper and inappropriate behaviour. The referral rate is evidence that officers and staff have the confidence to submit referrals in the knowledge that robust investigation will be undertaken into all reported sexual misconduct.

Awareness raising and educational inputs provided to probationary constables are designed to promote the use of reporting mechanisms and the function of PSD. The additional presentations delivered to new recruits invariably generates increased referral submissions, some of which are categorised under organisational risk. PSD continue to receive matters categorised as 'grievance related matters' and such items will be allocated appropriately upon triage and assessment.

A reduction in Misuse of Force Systems referrals (from **193** PYTD to **35** YTD) primarily influences the overall decrease in referrals, mitigating the multiple increases of note noted above. Those account for **158** less referrals and is related to process changes within the organisation.

Business Interest and Notifiable Association continue to be the highest volume referral categories, accounting for **40.1%** of all referrals received YTD.



Of the **2,064** referrals received during the YTD, **18.5%** resulted in a referral to PSD or the Anti-Corruption Unit (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 confirm 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, **9** individuals have been recognised as Whistleblowers and given employment protection under legislation in relation to their disclosures.

## Anti-Corruption Unit (ACU)

### Anti-Corruption Unit

The Anti-Corruption Unit (ACU) has instigated **117** enquiries between 1 April 2022 and 31 December 2022, compared to **91** over the same period last year. The figures show an increase of **28.6%**.

During Q3 of 2022/23, a total of **51** enquiries were instigated by the ACU, compared to **35** during Q3 of 2021/22 (**+45.7%**).

The most common allegations reported to the ACU during the YTD period relate to Inappropriate Association, accounting for **37.6%** of enquiries instigated.

A rise in enquiries YTD is linked to increases in Vulnerability, Controlled Drugs Use and Supply, plus Sexual Misconduct referrals. The latter category is assessed to have increased following media reporting in this area. Furthermore, the increase within the Vulnerability category indicates that enquiries are being directed to intervene where potential Vulnerability has been identified, in order to mitigate risk. Finally, the volume of Controlled Drug Use and Supply referrals relates to increased proactivity in recent months.

YTD comparison does not show any significant increase in any of the remaining 12 nationally agreed National Policing Counter-Corruption Advisory Group (NPCCAG) Corruption Categories.

Work is currently ongoing, both within Police Scotland and across the UK, regarding abuse of position by police officers or members of police staff in order to conduct predatory sexual behaviour. 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 conducting the investigations.

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.

Furthermore, 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 command areas.

## 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 Investigations reports shared by COPFS, PIRC Complaint Handling Reviews (CHR) and from internal feedback, identified as part of the complaint handling process.

### PIRC Investigations

Examples identified during Q3 of 2022/23 are presented below:

#### *Driver Training*

Police Scotland to consider the actions of the officer in order to determine if additional training, advice or guidance is required.

- Management advice and additional driver training given to an officer.

#### *Police Pursuits*

The officers involved should be reminded of the importance of informing the Area Control Room of such developing pursuit situations, allowing consideration for the deployment of additional police resources and ACR Supervisor authorisation of a vehicle pursuit in line with Police Scotland Vehicle Pursuits SOP.

- Management advice and reminders given to two officers.

#### *Serious injury in Police Custody*

The officers involved should be reminded of the importance of ensuring that a custody is clear of the cell door before closing it and of the Operational Safety Training options available to them, up to and including the final tactical option of the use of force, when dealing with non-compliant custodies, including those that are not aggressive.

- Management advice and reminders given to two officers.

*Accidental Discharge of a Firearm within Training/Armoury Environment*

Police Scotland should remind the AFOs of the Weapon Safe Handling Procedures protocols and the absolute necessity to ensure that the safety officer's instructions and directions are followed at all times during the weapons system function checks and the loading and unloading procedure.

- Two officers placed on a training development plan.
- Reminders issued to AFOs regarding the role of the designated safety officer.
- New signage installed within ARV changeover areas.

During Q3 of 2022/23 a further four PIRC Investigation reports have been received where no organisational or individual learning has been found; however, the positive conclusions highlight areas where Police Scotland can take confidence and reassurance from the procedures in place and the actions of officers. Examples of some positive learning articulated in PIRC investigation reports are presented below:

*Serious Injury Following Police Contact*

In accordance with the 'Use of Force National Guidance', the force used by the officer was reasonable, proportionate, legally accountable and absolutely necessary in the circumstances.

*Serious Injury Following Police Contact*

The use of force to restrain [named individual] was in the circumstances necessary, proportionate and justified to bring the incident to a conclusion and to prevent any further harm or injury to [named individual] or to the officers / police staff. The officers involved behaved in a professional manner throughout this incident and dealt with a challenging situation posed by an aggressive and violent [individual].

*Serious Injury Following Police Contact*

[Named police officer] made the decision to deploy 'use of force' techniques as a result of an unprovoked attack on her by [an individual] which resulted in her sustaining a broken nose and a concussion. She correctly ascertained the most effective 'use of force' technique to prevent further injury to herself and [named individual]. In accordance with the 'Use of Force National Guidance', the force used by [named police officer] at this time was reasonable, proportionate, legally accountable and necessary in the circumstances.

## Complaint Handling Reviews

Examples identified during Q3 of 2022/23 are presented below:

Officers are reminded that where a complaint investigation is going to take longer than the 56-day timescale that Police Scotland aim to adhere to in terms of the provisions of the Complaints about the Police Standard Operating Procedure, the final response letter should acknowledge the delay and provide the applicant with an explanation or apology. This should be borne in mind by complaint handlers when dealing with complaints in the future.

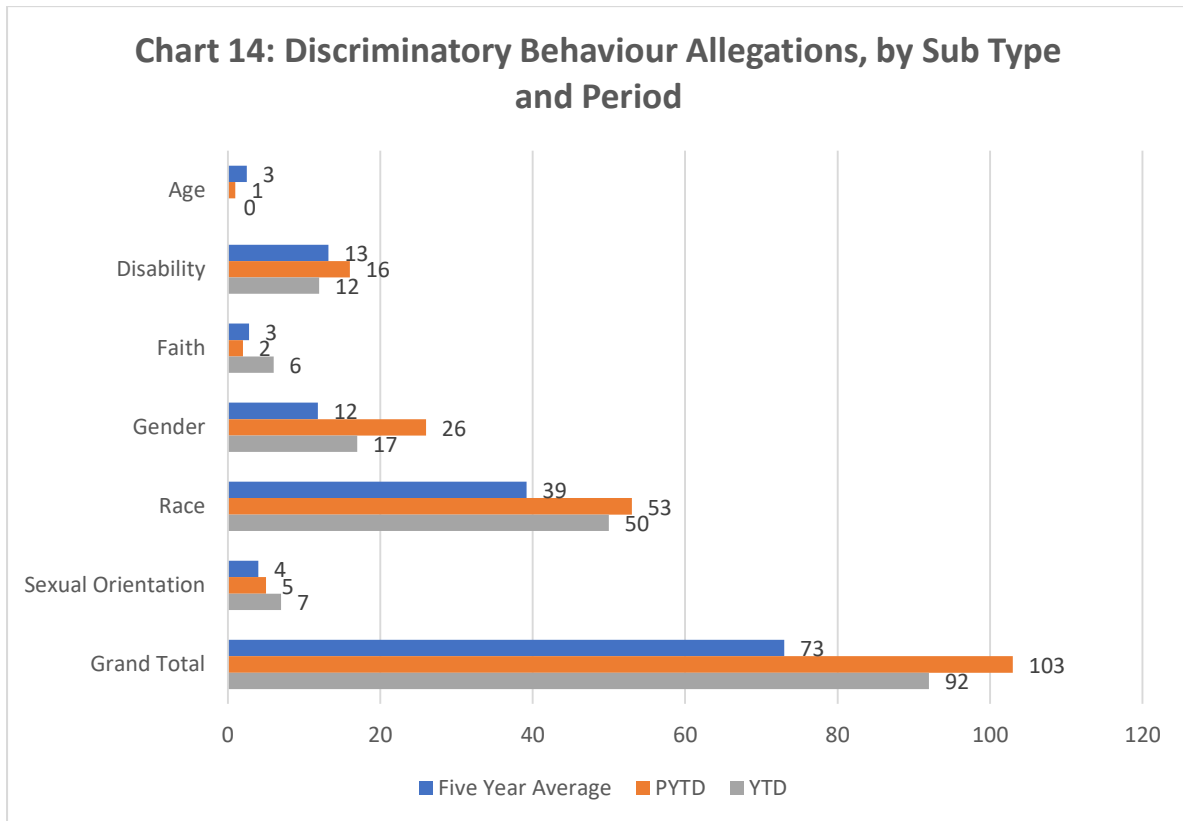
**OFFICIAL**

All officers involved in the handling of complaints to be reminded of the importance of carrying out a thorough complaint enquiry, resulting in the complaint responses containing full details, which allows PIRC to carry out a comprehensive review.

All officers involved in the handling of complaints to be reminded of the importance of ensuring that the information contained in complaint response is accurate which will allow PIRC to produce their review.

## Appendix A – Allegations of Discriminatory Behaviour

### Appendix 'A'



A total of **92** allegations of Discriminatory Behaviour were received during the YTD. This represents a **10.7%** decrease on the PYTD and a **26.0%** increase against the five year average.

During Q3 of 2022/23 alone, **29** allegations of Discriminatory Behaviour were received, which represented a **31.8%** increase from the **22** allegations received during Q3 in 2021/22.

Although showing decrease from the PYTD, allegations with a Race sub type are the primary driver of the overall increase against the five year average. This category accounts for an additional **11** allegations YTD compared to the five year average, with a decrease of **3** allegations from the PYTD.

Increases in allegations with a Faith sub type (**+4** from the PYTD; **+3** against the five year average) and a sexual orientation sub type (**+2** from the PYTD; **+3** from the five year average) have also been identified. However, these represent low volume increases.

Furthermore, a reduction of 9 allegations in the Gender sub type accounts for the majority of the volume decrease in Discriminatory Behaviour allegations from the PYTD.

***Analytical Action*** – An analytical report for the 2021/22 financial year regarding this allegation category has been completed and submitted to the Policing Together Community Group for consideration.

## Appendix B – Definitions of Selected Allegation Categories

### Assault

- An allegation that a member of the police service was responsible for a criminal attack on another person as defined by the common law crime of assault: “Every attack directed to take effect physically on the person of another is assault, whether or not actual injury is inflicted. There must be criminal intent: an accidental injury, even although caused by a mischievous act, does not amount to assault.”  
In order for a complaint about the police to be recorded as an allegation of assault the same standard of evidence in the complainer’s version of events which is required under Scottish Criminal Recording Standards (SCRS) is required i.e. the allegation being made by complainer should be such that it would justify recording and investigating the event as the crime of assault in circumstances where the perpetrator is not in the police service. Even though a complainer may use the word “assault” in their allegation, careful consideration should be given to the context in which they are claiming assault. Where there is no inference from the complainer or from the circumstances described that there has been criminal intent the category of “excessive force” is more appropriate.

### 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.

### Other – Criminal

- Any allegation that an on duty police officer or member of police staff has committed a crime under common law or statute which is not contained in any of the other headings. There are a number of sub-headings for recording criminal allegations.



### **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 complainer, 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 complainer was expecting a particular outcome and the outcome was different or where a policing response has not effectively dealt with a situation.

### **Traffic Irregularity/Offence**

- Complaints involving the conduct of officers while driving fall into this category. Common complaints such as allegations of speeding, parking on double yellow lines, dangerous driving, use of mobile phone when driving should be included under this heading.

### **Unlawful/Unnecessary Arrest or Detention**

- This category includes two distinct types of allegations. Firstly unlawful arrest or detention is where there is an allegation that an officer did not have power to arrest or detain an individual because there was no provision for the arrest or detention under common law or within statute. It should be noted that there is no criminal offence of “unlawful arrest” contained in common law or statute. Secondly there is unnecessary arrest or detention where there are relevant powers but the complainer believes that an officer should not have arrested them, on the grounds of necessity or proportionality.

**END OF REPORT**