

Meeting	SPA Complaints & Conduct Committee
Date	18 August 2022
Location	MS Teams
Title of Paper	Independent Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing - SPA Update
Presented By	Head of Workforce Governance
Recommendation to Members	For Noting
Appendix Attached	Yes – Appendix A – SPA Implementation Recommendations Action Plan

PURPOSE

The purpose of this report is to update the Committee on work being progressed to address recommendations arising from the Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing, led by Dame Elish Angiolini.

The paper is presented in line with:

- *Scottish Police Authority Committee Terms of Reference*

The paper is submitted:

- *For Discussion*

1 BACKGROUND

1.1 A report was presented to the Committee in March 2021, following publication of the Final Report on the 'Review of Complaints Handling and Misconduct Issues in Relation to Policing' on 11 November 2021. It provided a status update in respect of SPA implementation actions arising from recommendations contained in the Preliminary Report, as well as a high-level plan in respect of applicable recommendations arising from the Final Report. A more detailed action plan was then considered by the Committee in May 2021.

1.2 The action plan

- Describes action being taken to progress recommendations where Dame Elish identifies a specific implementation role for the SPA, as well as others where SPA officials have otherwise identified such a role.
- Identifies, for ease of reference, the corresponding recommendation from the Preliminary or Final Report to which the action pertains, as well as 'themes' identified via national governance and reporting arrangements (see below).
- Is being used to inform Highlight Report submissions to Scottish Government as part of national governance and reporting arrangements.

1.3 The action plan does not seek to capture recommendations directed at Police Scotland, where the Authority has an oversight role, acknowledging separate reporting to the Committee by Police Scotland in this regard (as well as to other Committees in respect of specific recommendations which fall within their terms of reference).

2 FURTHER DETAIL ON THE REPORT TOPIC

SPA Action Plan

- 2.1 Appendix A provides an up-to-date position on actions being progressed by SPA officers in respect of recommendations arising from the Final Report and those outstanding from the Preliminary Report.
- 2.2 For ease of identification of those recommendations which, through national governance and reporting arrangements, it has been identified that the SPA hold lead or joint responsibility, these are highlighted in yellow.
- 2.3 Members will note that, of the 31 recommendations identified within the action plan, actions linked with 22 of these are marked as complete or proposed for completion. Of those where SPA hold lead or joint responsibility, 3 remain outstanding, all of which are dependent on wider partners.

National Governance Update

- 2.4 As set out in the March 2021 Committee report, national governance structures have been established, through a Ministerial Group (attended by the SPA Chair, Committee Chair and Chief Executive) and Strategic Oversight and Practitioner Working Groups (both of which are attended by SPA officials), which now meet on a quarterly basis.
- 2.5 The Practitioner Working Group (PWG) has not met since the last Committee meeting, although the Strategic Oversight Group (SOG) met on 25 May 2022, where it considered a draft Assurance Report, including a draft Thematic Progress Report (in respect of the period 1 October 2021 to 31 March 2022), as well as undertaking a review of its Terms of Reference. The Ministerial Group (MG) subsequently considered the draft Assurance Report and any recommendations submitted for sign off, culminating in publication of the Thematic Progress Report on 23 June 2022 (<https://www.gov.scot/publications/complaints-investigations-misconduct-policing-implementation-recommendations-thematic-progress-report-june-2022/>).

- 2.6 A further cycle of meetings is planned in respect of the period 1 April 2022 to 30 September 2022, with the PWG scheduled to meet on 25 August 2022, where it will consider partner highlight report submissions, with a view to agreeing a draft Assurance Report for submission to the SOG on 15 September. The MG is due to meet again later that month to consider the draft Assurance Report and approve any recommendations for sign off, pending publication of the next Thematic Progress Report currently anticipated in December 2022, prior to the Scottish Parliamentary recess.
- 2.7 Scottish Government launched its full public consultation on 24 May 2022, seeking views to inform policy positions on 34 recommendations from the Review that require, or are likely to require, legislative change or new legislation. The consultation ran until 16 August 2022, following which the Scottish Government intends to bring forward a Bill and Regulations. During this period, Scottish Government continued to engage with partners, as well as a range of stakeholders, to ensure that policy is well informed. This included a further meeting with staff association, via the Scottish Police Consultative Forum, on 18 July 2022, which was additionally attended by wider partner organisations, including the Authority. Both the Authority and Police Scotland have responded to the consultation.

3 FINANCIAL IMPLICATIONS

- 3.1 There are no financial implications in this report.

4 PERSONNEL IMPLICATIONS

- 4.1 Whilst a number of recommendations arising from the Review have personnel implications, there are no such implications directly associated with this paper.

5 LEGAL IMPLICATIONS

- 5.1 Whilst a number of recommendations arising from the Review have legal implications, there are no such implications directly associated with this paper.

6 REPUTATIONAL IMPLICATIONS

6.1 There are reputational implications associated with this paper. It is critical that the Authority visibly demonstrates a timely and effective response to the Review, both in discharging recommendations for which it is directly responsible, and in its oversight of those recommendations directed at Police Scotland, in order to maintain and enhance public confidence in the handling of complaints and conduct matters within policing in Scotland.

7 SOCIAL IMPLICATIONS

7.1 There are no social implications associated with this paper.

8 COMMUNITY IMPACT

8.1 There are no community implications associated with this paper.

9 EQUALITIES IMPLICATIONS

9.1 Whilst a number of recommendations arising from the Review have equalities implications, there are no such implications directly associated with this paper.

10 ENVIRONMENT IMPLICATIONS

10.1 There are no environmental implications associated with this paper.

RECOMMENDATIONS

Members are requested to note the contents of this report.

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IN PROGRESS (4 AUGUST 2022) – RECOMMENDATIONS DAME ELISH REVIEW

The following provides an up-to-date position on actions being progressed by SPA officers in respect of recommendations arising from the Final Report and those outstanding from the Preliminary Report. As outlined in earlier reports to Committee, these include actions in relation to recommendations which are singly or jointly aimed at the SPA, plus a number of others, not aimed at the SPA, but which are nevertheless considered applicable. For ease of identification of those recommendations which, though national governance and reporting arrangements, it has been identified that the SPA hold lead responsibility, these are highlighted in yellow. Milestones dependent on other partners are highlighted in orange.

ID	Recommendation	Action	Action Update	Action Owner	Milestone	RAG
Audit & review						
001	42. The PIRC should conduct an annual audit of triage within PSD of public complaints against the police to ensure that matters that can be resolved by FLR, or misconduct, or potential criminality are being properly identified and routed accordingly, and to provide assurance that Article 3 and Article 5 cases are being correctly identified and reported forthwith to COPFS.	Develop joint PIRC/SPA annual audit process (first audit to address this recommendation)	Inaugural audit of triage within PSD commenced Mar 22. Fieldwork phase complete & report on findings in development. Update to be provided to Committee under separate agenda item.	Complaints (via NCHDG)	Q2 2022/23 (dependent on PIRC/PS)	
002	61. Both PS and the PIRC should consider drawing on the expertise of Audit Scotland and the Scottish Public Services Ombudsman in re-designing the audit arrangements in respect of police complaints.	See Action 001				
003	PR5. Frontline resolution of complaints should be subject to close and regular monitoring through regular, meaningful internal and external audits, and monitoring of decision making.	Complete				Complete
004	PR27. All the audit arrangements, including regular dip sampling, designed to identify poor practice, good practice and emerging trends should be prioritised and co-ordinated to support the common objective of improving standards and service to the public.	See Action 001				
Conduct & standards						
005	26. PIRC should work collaboratively with the SPA to agree and embed a proportionate and effective approach to preliminary assessment (for Regulation 8 of the senior officer conduct regulations) until such time as new regulations come into effect.	1. Revise SPA Guidance on Conduct Regulations in respect of preliminary assessment in accordance with this earlier narrative in Preliminary Report.	Complete		n/a	Complete

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ID	Recommendation	Action	Action Update	Action Owner	Milestone	RAG
		2. Liaise with PIRC to consider further developments in line with this recommendation, and update SPA Guidance accordingly.				
006	PR16. Complaints against senior officers should be prioritised and dealt with, by both the PIRC and the SPA, as speedily as is reasonable, because of the destabilising impact a prolonged investigation can have.	Amend SPA Complaint Handling Procedures to reflect priority to be given to complaints about senior officers	Complete		n/a	Complete
007	PR18. The range of options available to the SPA when a senior police officer is under investigation under the conduct regulations should be clarified and expanded, to provide alternatives to suspension.	Amend SPA Guidance on Conduct Regulations to make clear the range of alternatives to suspension.	Complete			Complete
008	PR19. Any process for preliminary assessment of senior officer misconduct should require the relevant authority both to take into account whether the allegation is made anonymously, is specific in time and location, or whether it appears, on the face of the allegation, to be either vexatious or malicious. SG should consider amending the conduct regulations to reflect this process.	Update SPA Guidance on Conduct Regulations to reflect points made in the review.	Complete			Complete
Efficiency & Effectiveness						
009	68. The SOG or NCHDG should take an early opportunity to engage with the SPSO to agree where their contribution and advice would be most useful.	Engage with SPSO via SOG / NCHDG	SPSO invited to present to next NCHDG meeting	Complaints (via NCHDG)	Q2 2022/23 (dependent on NCHDG)	
010	PR13. SG should consider the case for amending the legislation to include a provision to deal with vexatious complainers	Participate in joint review of partner 'Unacceptable, Persistent or Unreasonable Actions by Complainers Policy' via NCHDG to ensure consistency.	Complete		n/a	Complete
Equality, diversity & inclusion						
011	5. PS and SPA should consider expanding the collection of diversity data and the publication of information in order to enhance their understanding, and public understanding, of attitudes and concerns in different communities.	Review complaints forms to enable understanding of diversity of complainants	Complete		n/a	Complete

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012	16. PS should implement, where it is in their gift, the SEMPER Scotland proposal that the composition of panel members for disciplinary hearings should be more diverse.	Ensure, as far as possible, diversity of Police Appeals Tribunals (albeit Lord President appoints pool of members from which SPA selects).	Complete		n/a	Complete
013	17. Appropriate support for anyone in PS who is the subject of internal or external discrimination should be enhanced.	Engage with PS to ensure applicability of support for those working in SPA Corporate/Forensics	PS update - Discrimination training being actively progressed in conjunction with IOPC. Engagement is also continuing with EDI groups.	Workforce Governance	Q2 2022/23 (dependent on PS)	
Governance & accountability						
014	29. The SPA Complaints and Conduct Committee should hold PS to account for delays in investigations into complaints and misconduct. Where there is evidence of excessive delays in PIRC investigations having an effect on policing in Scotland the Committee should raise the matter with the Commissioner.	Liaise with PS to agree proposed content and timing of data required, with report to be submitted to Committee seeking their agreement (albeit recognising scope for ongoing development thereafter).	Whilst significant changes & improvements already made, engagement ongoing with PS on incorporation of enhanced assurance content from Q1 performance report onwards (recognising need for consistency of in-year reporting).	Complaints	Q2 2022/23 (dependent on PS) *Earlier milestone amended to reflect need for consistency of in-year reporting	
015	59. 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.	Include confirmation in 2021/22 Annual Report, based on assessment by Committee during the preceding 12 months, and based on consultation with the PIRC	Paper submitted to Committee meeting – propose complete	Complaints	Q1 22/23	Proposed Complete
016	79. The SPA Complaints and Conduct Committee should scrutinise PS performance in dealing with complaints and hold the service to account where the targets are not being achieved.	See Action 014				
017	PR26. There should be the immediate establishment of a senior cross-agency joint Working Group involving the SPA, Police Scotland and the PIRC to develop appropriate and up to date guidance.		Complete		n/a	Complete
Rights & ethics						
018	32. SPA and PS should consider together what role the SPA Complaints and Conduct Committee, or the Policing Performance Committee, might have in relation to the discussion of ethical issues in policing in Scotland.	Develop Framework setting out SPA approach	Published MoU between SPA/PS lays out framework of considerations which underpin development of ethics & human rights	Change & Operational Scrutiny	Q3 2022/23* (dependent on SG)	

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		to oversight of ethical issues.	focused decision making for new strategies, policies & practices in Scottish Policing. Approach being further enhanced through work of SG IAG on Emerging Technology Resulting recommendations (now expected Q3) will be considered as part of SPA wider approach to oversight of ethical assurances.			
019	70. Independent Custody Visitors should, as a matter of course, check with custody officers and with detainees that a third party has been notified of their detention.		Complete		n/a	Complete
020	1. PS Code of Ethics should be given a basis in statute. SPA and the Chief Constable should have a duty jointly to prepare, consult widely on, and publish the Code of Ethics, and have a power to revise the Code when necessary.	Recommendation for legislative change is for SG. However, scope to consider Code of Ethics as part of broader SPA ethical oversight approach (see Action 018)	Action superseded by recent SG consultation			Propose to close in respect of SPA action
021	20. PIRC should be added to the list of prescribed persons in The Public Interest Disclosure (Prescribed Persons) Order 2014 in order that people working in PS and SPA are able to raise their concerns with an independent third-party police oversight organisation.	Explore (through discussion between SPA, PS and PIRC) scope to identify PIRC as an external organisation to whom individuals can raise concerns, in advance of legislative change formally adding them to the list of prescribed persons	Complete		n/a	Complete
022	21. Whistleblowing can be an indicator of what is happening within an organisation and therefore PS should review and audit its whistleblowing arrangements and data on a regular basis.	Introduce regular process for review and audit of SPA whistleblowing arrangements and data on a regular basis.	Complete		n/a	Complete
Training & HR						
023	62. PS should appoint a PSD training officer to maintain the momentum in training and development arising from its internal Risk, Assurance and Inspection (RAI) team audit, and to liaise with the SPSO, the PIRC and the SPA on joint training, best practice and other relevant development opportunities.	Engage in joint development opportunities via NCHDG	Complete		n/a	Complete

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024	65. PIRC and PS should work together to develop training and development opportunities that take the theoretical learning from thematic analysis of complaints and embed it in practical learning for individual officers.	Input to development of practical learning opportunities via NCDHG.	Complete		n/a	Complete
025	PR4. PS should scrutinise complaints thoroughly on receipt so as to ensure that grievance matters that would in any other walk of life be treated in an HR context are not artificially elevated and dealt with as conduct matters.	Amend SPA Complaints Handling procedures to state that, in general, HR-related complaints are dealt with, in the first instance, as grievances.	Complete			Complete
026	PR10. PS should consider the importance of providing all officers involved in frontline resolution with training in mediation and customer handling.	Consider mediation training for SPA Complaints Team, seeking access to PS provision where applicable	Complete (Specific action re SPA consolidated under Action 027 below)	Complaints (via PS)	n/a	Complete
027	PR17. Further training for complaints and conduct officers in SPA should be consolidated and broadened in order to ensure the right skillset and up to date knowledge of complaint handling best practice in other sectors.	Develop programme of training and personal development for the SPA Complaints Team, seeking access to PIRC/PS provision where applicable	Paper submitted to Committee meeting – propose complete	Complaints	n/a	Complete
Transparency & accessibility						
028	30. To increase public confidence in the system the SPA Complaints and Conduct Committee should consider using its minutes as a means of sharing with the public more of their substantive discussions and how PS 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.	Develop proposed approach to publication of private Committee discussions where applicable, whilst ensuring appropriate safeguards in place.	Complete		n/a	Complete
029	31. 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	Develop a Committee-specific 2020/21 annual report, and summary extract for inclusion in SPA Annual Report (albeit recognising scope for ongoing development thereafter, particularly in light of progression of other actions outlined in this plan).	Complete		n/a	Complete
030	46. The ability to report directly to the CAAPD of COPFS a complaint of a crime by a police officer should be much better publicised and made more accessible to the public by COPFS, by PS and by the PIRC.	Publicise role of CAAPD via SPA website.	Complete		n/a	Complete

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031	PR8. PS should simplify and streamline systems to make it as straightforward as possible for members of the public to navigate this rather opaque landscape and as easy as possible for them to access and understand information on how to make a complaint. In particular the online complaints form on the PS website should be made more prominent.	1. Assess prominence given to complaints on SPA website and ensure clarity provided on kinds of complaint which SPA can deal with 2. Review online complaints form to ensure provides simplest possible means of making a complaint.	Complete		n/a	Complete

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