



<b>Meeting</b>	<b>SPA Complaints and Conduct Committee</b>
<b>Date</b>	<b>15 November 2022</b>
<b>Location</b>	<b>Virtual – MS Teams</b>
<b>Title of Paper</b>	<b>Police Scotland Professional Standards Department Quarterly Performance Report (Q2 – 22/23)</b>
<b>Presented By</b>	<b>Chief Superintendent Catriona Henderson</b>
<b>Recommendation to Members</b>	<b>For Discussion</b>
<b>Appendix Attached</b>	<b>Appendix A – Performance Report Q2</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 – 30 September 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 1 (1 April 2022 – 30 September 2022).

Data contained in this report is management information and is correct as at 20/10/2022, unless elsewhere specified.

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

## 2. FURTHER DETAIL ON THE REPORT TOPIC

- 2.1 There are no further details on this report.

## 3. FINANCIAL IMPLICATIONS

- 3.1 There are no financial implications in this report.

## 4. PERSONNEL IMPLICATIONS

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

## 5. LEGAL IMPLICATIONS

- 5.1 There are no legal implications 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 related conduct matters. By its very nature, the subject matter implies a level of negative social, community and equalities impact. By addressing the individual matters and thereafter considering holistically that which has been

reported, Police Scotland seek to mitigate the negative impact of those cases reported.

**8. COMMUNITY IMPACT**

8.1 As per 7.1 above.

**9. EQUALITIES IMPLICATIONS**

9.1 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 2 of 2022/23

Meeting Date: 15/11/2022

Reporting Period: April 2022 – September 2022

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## Executive Summary

### Quarter 2 (Q2) 2022/23 Performance Overview

- A total of **1,633** complaints were received during Q2 of 2022/23, a decrease of **4.5%** on Q2 of 2021/22.
- **593** complaints (**36.3%**) were Frontline Resolved (FLR) during Q2 of 2022/23 (**-10.5%** compared to Q2 PYTD).
- **99** statutory referrals were made to the Police Investigations and Review Commissioner (PIRC) during Q2 of 2022/23, a **43.5%** increase on Q2 of 2021/22.
- During Q2 of 2022/23, **82** of the **99** statutory referrals were marked as no investigations by PIRC (**82.8%**).
- The main driver for the volume of referrals pertains to Armed Policing, comprising **39** of the **99** statutory referrals, the vast majority of which relate to the presentation of firearms.
- During Q2 of 2022/23, **81** allegations of assault were referred to PIRC, **11** (**13.5%**) of which were subject to an investigation. **62** of those referrals (**76.5%**) are awaiting decision from PIRC, as of 20 October 2022.
- **51** Complaint Handling Reviews were conducted by PIRC during Q2 of 2022/23. Furthermore, **68.4%** of allegations reviewed during Q2 of 2022/23 were deemed by PIRC to have been handled to a reasonable standard, an increase of **1.0%** from Q2 of 2021/22.
- Based on the statistics of CHR during Q2 of 2022/23, notionally, 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 Q2 period.
- **113** preliminary conduct assessments were undertaken during Q2 of 2022/23, an **8.1%** decrease on Q2 of 2021/22.
- **8** conduct assessments were deemed to amount to Gross Misconduct.
- During Q2 of 2022/23, **1** officer 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:

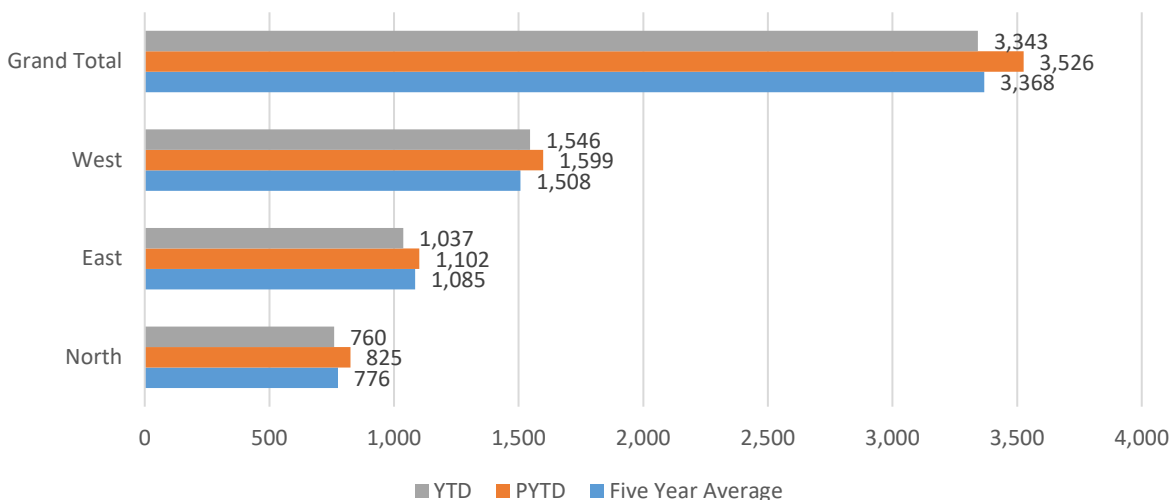
*“A statement (whether oral, written or electronic) expressing dissatisfaction about an act or omission by the Authority, by the Police Service or by a person who at the time of the act or omission was a person serving with the Police”.*

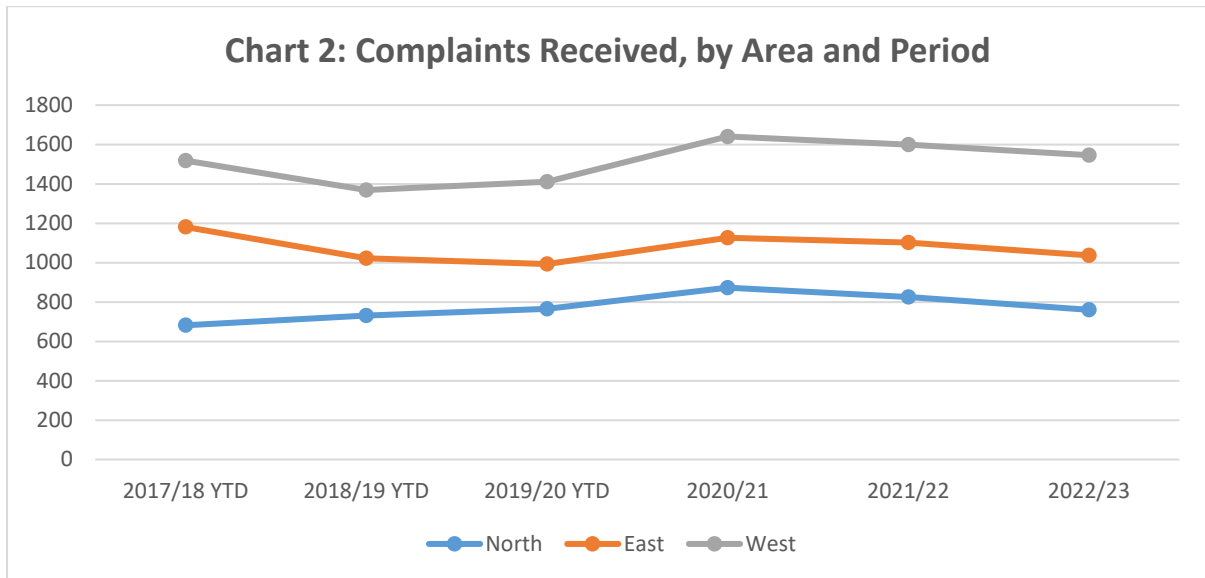
A total of **3,343** complaints were received from members of the public during the YTD, which represents a **5.2%** decrease from the same period in 2021/22. This total also represents a **0.7%** decrease from the five year average. Based on this wider context, complaints during the YTD are at a level broadly 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 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 Q2 of 2022/23 alone, a total of **1,633** complaints were received, which represents a **4.5%** decrease on Q2 of 2021/22. Furthermore, this also represents a **4.3%** decrease on the five year average of Quarter 2 periods.

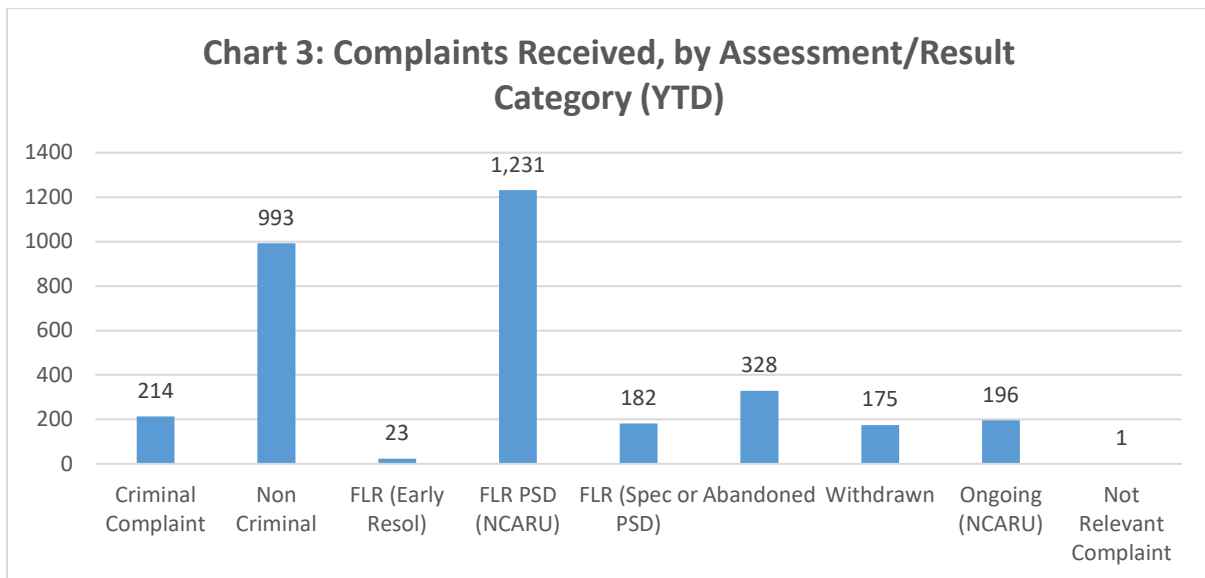
Chart 1: Complaints Received, by Area and Period





Decreases were identified YTD in the North (-2.0%) and East (-4.4%) Command Areas, when compared against the five year average. The West registered a 2.5% increase in this same period.

Moreover, each Command Area displayed decreases YTD compared to the PYTD – in the North (-7.9%), East (-5.9%) and West (-3.3%). As noted above, comparison against the PYTD in isolation is influenced by the impact of Quality of Service related complaints during the latter period.



The highest volume of complaints received during YTD were Frontline Resolved (FLR) by PSD National Complaints Assessment and Resolution Unit (NCARU), which applied to 1,231 complaints received. In addition, 23 complaints were subject to Early Resolution and 182 were subsequently FLR by PSD/Specialist officers. Overall, 43.0% of all complaints received during the YTD were resolved by FLR, a decrease from 45.9% during the PYTD.



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A further **993** 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 **214** complaints categorised as Criminal, representing a relatively low proportion compared to those which are Non-Criminal in nature.

The remainder of complaints received were either Abandoned (**328**), Withdrawn (**175**) or are Ongoing with the PSD NCARU (**196**).

Specifically in relation to Q2 of 2022/23 alone, **36.3%** of complaints were Frontline Resolved (FLR), compared with **46.8%** in Q2 of 2021/22.

### North Command

In the North, a total of **760** complaints were received during the YTD. This represents a **7.9%** decrease on the PYTD and a **2.0%** decrease against the five year average.

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

- North East, **316** complaints (**+3.3%** from the PYTD, **+11.2%** 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 **49** allegations) and against the five year average (an additional **64** allegations), with **91** received overall YTD. Moreover, **71** Service Outcome allegations received represent an increase from the PYTD (an additional **20** allegations) and against the five year average (an additional **33** allegations).

However, it is of note that the volume of complaints received YTD in Tayside have decreased by **12.7%** from the PYTD and **1.4%** 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** – the YTD increase of complaints within North East Division is noted and will be subject to continued monitoring. Further analysis will be tasked where it is assessed as proportionate and necessary.

### East Command

In the East, a total of **1,037** complaints were received during the YTD. This represents a **5.9%** decrease on the PYTD; however, this total also represents a **4.4%** decrease against the five year average.

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

However, Fife Division did register YTD increase of **4.5%** against the five year average, balanced against a **2.5%** decrease from the PYTD. The former represents a

relatively low volume increase accounting for an additional **10** complaints. An analytical report detailing factors influencing an increase in complaints during 2021/22 was briefed into the division in June 2022 and actions taken locally to mitigate. Despite a positive reduction from the PYTD, the volume remains at a relatively high level based on the wider context of recent years. Furthermore, Fife Division continues to have the highest volume of complaints per head of population within the East (**62** per 100,000 population). Given this, complaints within the division will remain subject to close monitoring at this time.

Furthermore, C3 Division registered decreases of **25.0%** against the PYTD and **9.3%** against the five year average. This follows an increase identified in the East during 2021/22. An analytical report detailing factors influencing this increase was briefed into the division – focussed across regions as C3 is a national division - 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** – *Complaints in Fife Division will continue to be monitored.*

## West Command

In the West, a total of **1,546** complaints were received during the YTD. This represents a **3.3%** decrease from the PYTD and, conversely, a **2.5%** increase against the five year average. The former comparison accounts for **53** less complaints, whereas the latter comparison accounts for an additional **38** complaints.

Consistent with the overall decrease from the PYTD, no increases of note were identified at divisional level in the West. However, when contrasted against the five year average, increases were identified almost all territorial divisions (excluding Greater Glasgow, plus Argyll and West Dunbartonshire). The most notable increases are:

- Ayrshire (**189** complaints, **+3.8%** compared to the PYTD and **+15.7%** against the five year average).
- Renfrewshire and Inverclyde (**145** complaints, **-0.0%** compared to the PYTD and **+15.3%** against the five year average).
- Dumfries and Galloway (**110** complaints, **-0.0%** compared to the PYTD and **+13.9%** against the five year average).

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

- Within Ayrshire, those are linked to Policy/Procedure (**+13**) and Service Delivery (**+12**). Assault allegations (**+9**) also influence the increase.
- Within Renfrewshire and Inverclyde, those are primarily linked to Service Outcome allegations (**+23**) and, to a lesser degree, Policy/Procedure allegations (**+9**).
- Within Dumfries and Galloway, those are linked to Policy/Procedure allegations (**+13**).

It should also be noted that C3 Division in the West registered no change (**0.0%**) YTD against the PYTD and a **22.8%** increase against the five year average. The latter accounts for an additional **16** complaints. 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. Although there is no further deterioration in volume from the PYTD, this area continues to be monitored. Given the substantial volume of calls handled by C3, the rate of those subject to complaint remains extremely low.

***Analytical Action*** - *Complaints in C3 Division within the West will continue to be monitored, as no further deterioration from PYTD has been identified and the overall volume remains relatively low, despite the noted increase against the five year average.*

*Furthermore, Quality of Service related allegations in the noted divisions within the West will be subject to further scrutiny to identify any emerging themes should further increase become evident.*

### **Operation Unicorn**

A total of **9** complaints have been received to date in relation to Operation Unicorn, the policing response to events following the death of Her Majesty, The Queen, on 08 September 2022. The vast majority of these complaints were non-criminal, non-serious and non-complex in nature, with **55.6%** successfully concluded by Frontline Resolution (FLR); **4** complaints remain subject to live enquiry.

Given the complexity and scale of the associated events, the relatively low volume of complaints reflects very positively on the policing operation and the professionalism of the officers involved.

All relevant complaints have been reviewed to ensure learning has been recorded and actioned.

### **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.*

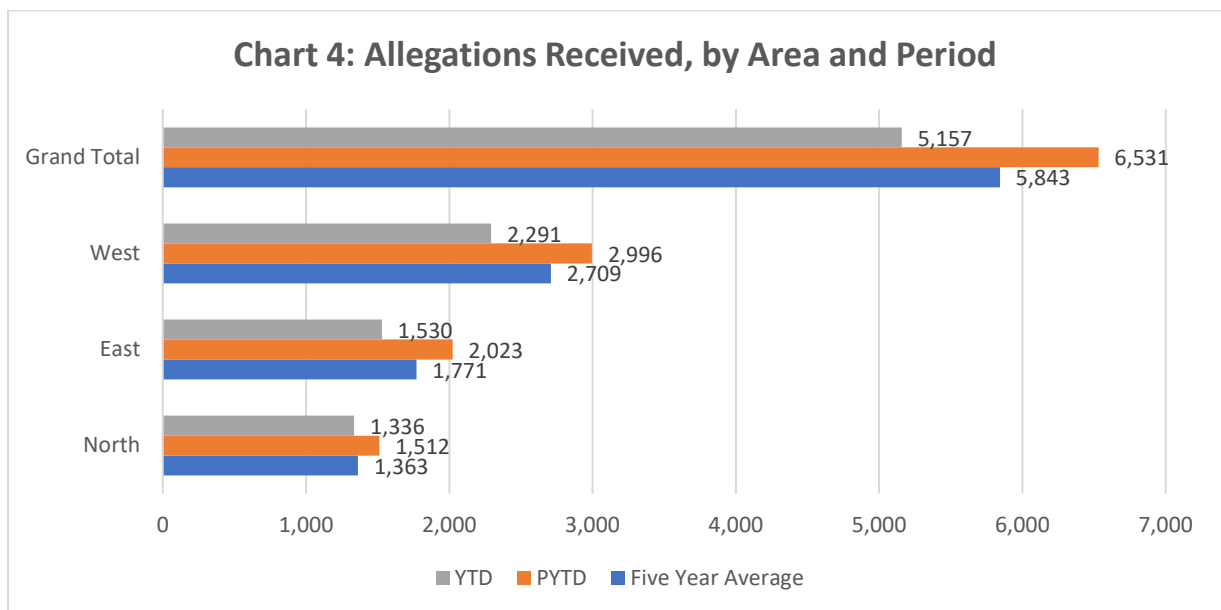
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During the YTD, a total of **5,157** allegations were received. This represents a **21.0%** decrease compared to the PYTD and an **11.7%** decrease against the five year average.

During Q2 of 2022/23, **2,498** allegations were received. This represents a **20.9%** decrease on Q2 of 2021/22 where **3,157** allegations were received. Furthermore, this total represents a **15.5%** decrease against the five year average.

Decreases were identified YTD within each Command Area, when compared to the PYTD and the five year average. As detailed below:

- North, **1,336** allegations (**-11.6%** compared to the PYTD, **-2.0%** against the five year average).
- East, **1,530** allegations (**-24.4%** compared to the PYTD, **-13.6%** against the five year average).
- West, **2,291** allegations (**-23.5%** compared to the PYTD, **-15.4%** 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	227	190	+19.5%
Corrupt Practice	20	12	+66.7%
Other - Criminal	56	44	+27.3%
Quality of Service – Service Delivery	694	660	+5.2%
Traffic Irregularity/Offence	69	54	+27.8%
Unlawful/Unnecessary Arrest or Detention	55	40	+37.5%

(+10) and Lanarkshire (+10). Further increases at lower volumes were identified within Forth Valley (+7), Fife (+7), Ayrshire (+7), CJSJ (+5) and Dumfries and Galloway (+5). Additional information regarding referrals relating to Assault (plus associated criminality) is listed within the PIRC Referrals section later in this report. Although not a direct overlay with Assault allegations received figures, the broad indication from those referrals is that, in the majority of cases, no criminality is established by PIRC at the initial assessment stage.

The majority of Corrupt Practice allegations YTD are attributed to the North East plus Highlands and Islands (13 of the 20 allegations received), with the volume increase within those two divisions combined exceeding the national increase. The dominant theme amongst these allegations overall YTD were alleged dishonesty of subject officers in relation to charges libelled against the complainers and a perceived lack of impartiality in handling enquiries.

Furthermore, the increase in Other – Criminal allegations is primarily driven by Operational Support Division (OSD) (+8) and Lanarkshire Division (+7). Of those linked to OSD, 5 are attached to one individual complaint and relate to alleged breaches of data protection. As a consequence, this influences the extent of the increase identified. No further commonalities were identified in relation to Lanarkshire. In terms of the criminal sub categories involved, the following influence this increase:

- Breach of Data Protection Act (+6 allegations, 11 in total YTD).
- Theft not elsewhere classified (+5 allegations, 13 in total YTD).
- Offences involving Motor Vehicles (+5 allegations, 14 in total YTD). The majority of these are linked to Dangerous & Careless Driving, plus Mobile telephone offences.
- Indecent Assault (+4 allegations, 8 in total YTD).

The increase in Quality of Service – Service Delivery allegations is primarily driven by North East (+49 allegations), plus Highlands and Islands (+25 allegations). To a lesser degree, this increase is influenced by Lanarkshire (+10 allegations). These increases are mitigated to a large degree by decreases registered across ten other divisions.

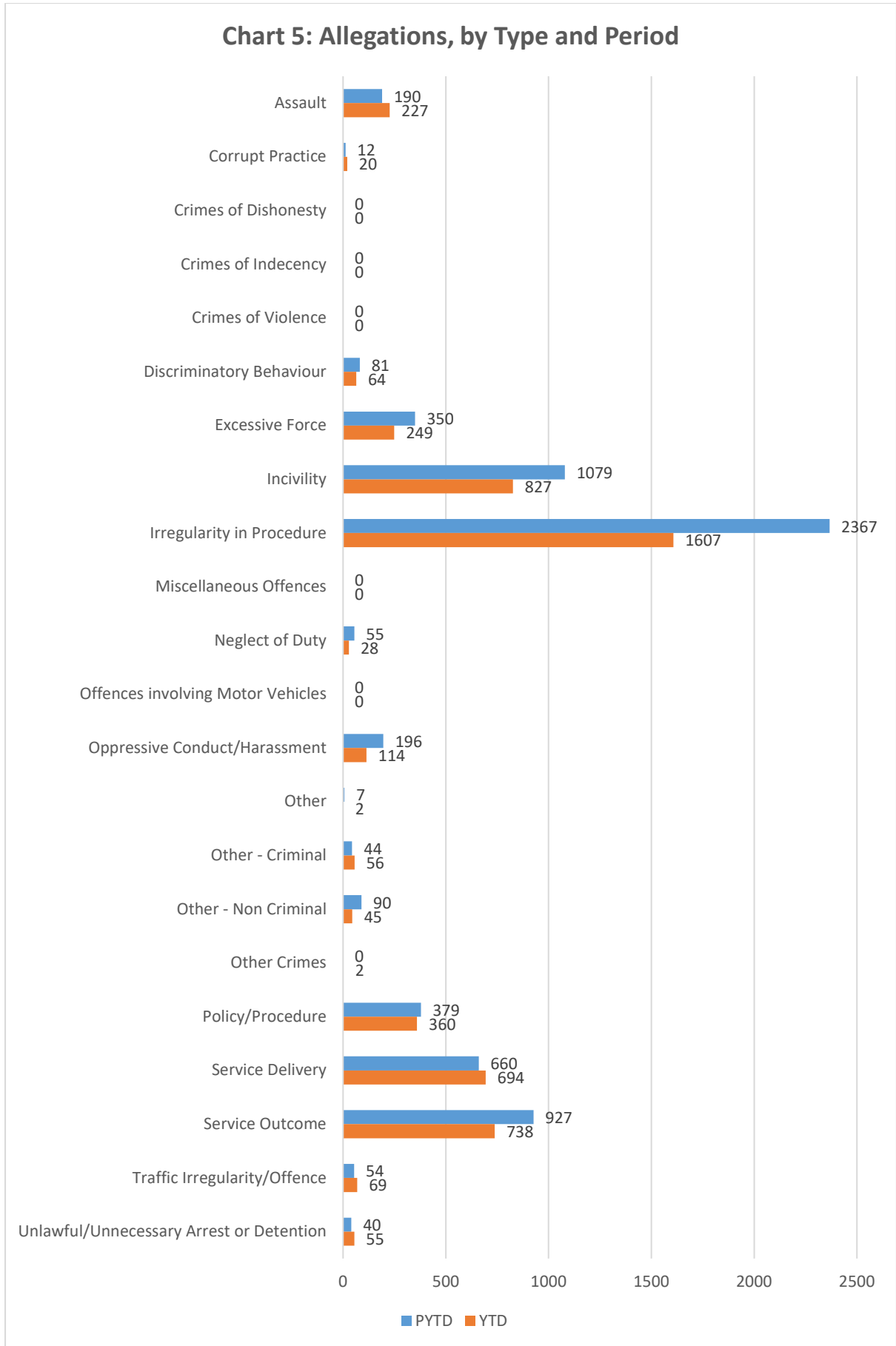
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No clear geographical variance was identified in relation to the increase in Traffic Irregularity/Offence, with low volume increases across 9 divisions. The highest volume divisions here continue to be Lothians and Borders (**13**) and North East (**11**). Together these account for **24** of the **69** such allegations received nationally (**34.8%**).

As regards Unlawful/Unnecessary Arrest or Detention, the overall increase is primarily driven by low volume uptick within North East (**+6**) and Edinburgh (**+5**). No specific themes were identified in relation to these allegations, outwith a general perception from the attached 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 **738** such allegations were received YTD, accounting for a **20.4%** decrease from the PYTD (**189** less allegations) and a **2.1%** increase against the five year average (**15** 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.



## Allegation Results

During the YTD period, a total of **5,253** allegations were closed. Of those, **6.6%** were upheld. This represents a decrease from the PYTD rate of **7.9%** and the five year average of **9.0%**.

During Q2 of 2022/23 alone, **2,361** allegations were closed. Of those, **6.4%** were upheld. This represents a decrease of **2.5%** from Q2 in 2021/22 (**8.8%**).

## 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 Q2 2022/23, there were **99** 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 99 live complaints via PSD monthly meetings.

During the YTD period, **2,092** non-criminal and Frontline Resolved (FLR) complaints were closed, with **1,402 (67.0%)** closed within the 56 day timescale. The average closure time was **78** days.

These comparative timescales for non-criminal and FLR complaints represent a **0.4%** increase on the PYTD, where **66.6%** were closed within 56 days and the average closure time was **67** days.

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 Q2 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<sup>th</sup> 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.*

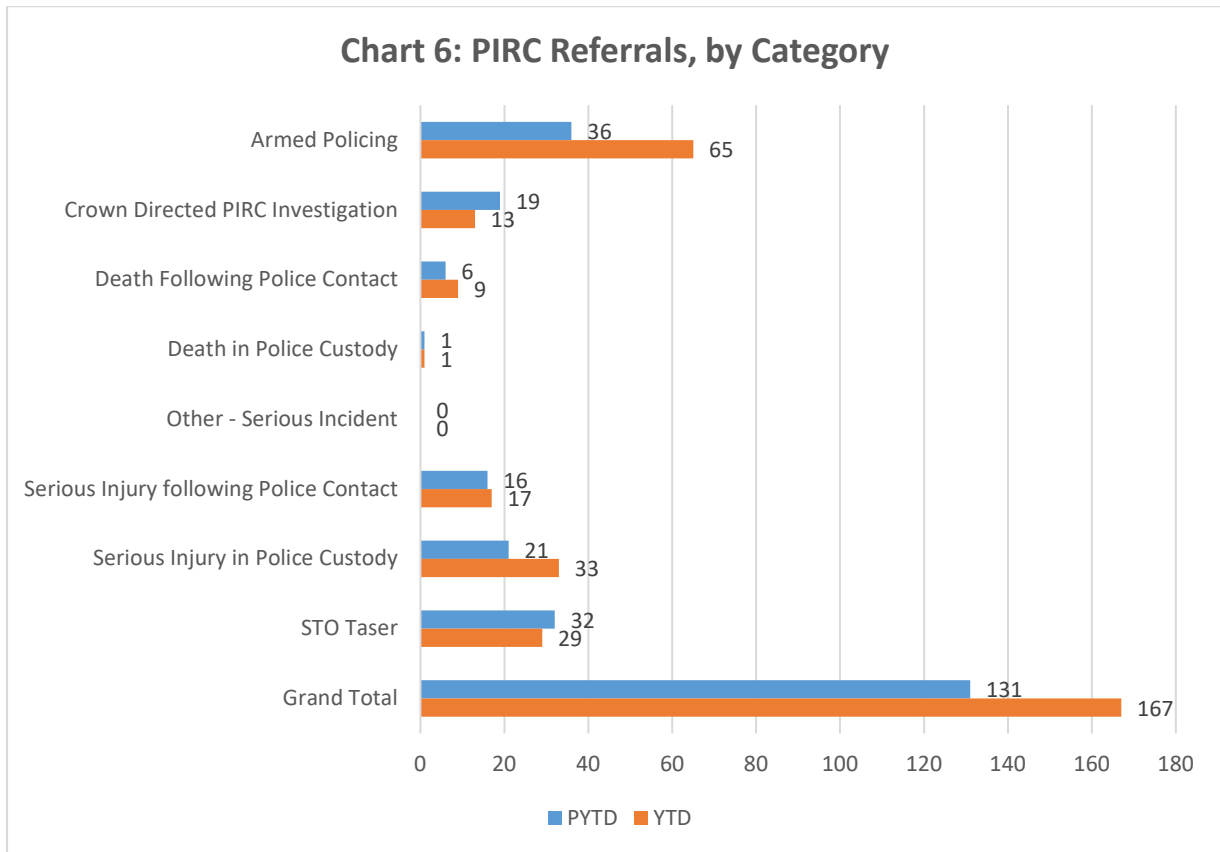
A total of **332** referrals were made to the PIRC during the YTD period. It should be noted, as referenced above, that this total now includes referrals related to alleged breaches of Articles 3 and 5 of ECHR.

Given the change in process, this total is not directly comparable to referrals made in the periods prior to 4<sup>th</sup> October 2021. To ensure comparability, these referrals have been separated out and presented separately within the sections below – DSI 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 **167** statutory referrals were made to PIRC during the YTD, a **27.5%** increase on the PYTD.



During Q2 of 2022/23 alone, **99** statutory referrals were made to PIRC. This represents a **43.5%** increase from the **69** referrals made during Q2 of 2021/22.

The key drivers in the YTD increase in statutory referrals overall are those pertaining to Armed Policing (**+29** from PYTD) and Serious Injury in Police Custody (**+12** 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 **11** 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.

Key themes of note amongst these Armed Policing referrals include:

- The majority relate to the East (**55.4%**, **36** in total). The remainder are split between the North (**24.6%**, **16** in total) and the West (**20.0%**, **13** in total).
- Most involve response to spontaneous incidents (**78.5%**, **51** in total), in contrast to planned operations.
- Subjects with a mental health concern and in possession of an offensive weapon account for **63.1%** of the total (almost half of which refer to individuals presenting as suicidal).

- Subjects in possession of bladed weapons alone feature in **46.2% (30)** of all referrals YTD, with reported firearms possession featuring in **23.1% (15)**. A further **10.8% (7)** referrals involved both bladed weapons and reported firearms possession.
- Almost all referrals relate to the presentation of firearms (**89.2%, 58** in total). The remaining **7** referrals involved the discharge of firearms, **4** of which were Taser discharges by armed officers in response to non-compliant subjects threatening officers with bladed weapons. The remaining **3** relate to accidental discharges in the police training/armoury environment and the humane dispatch of an animal.

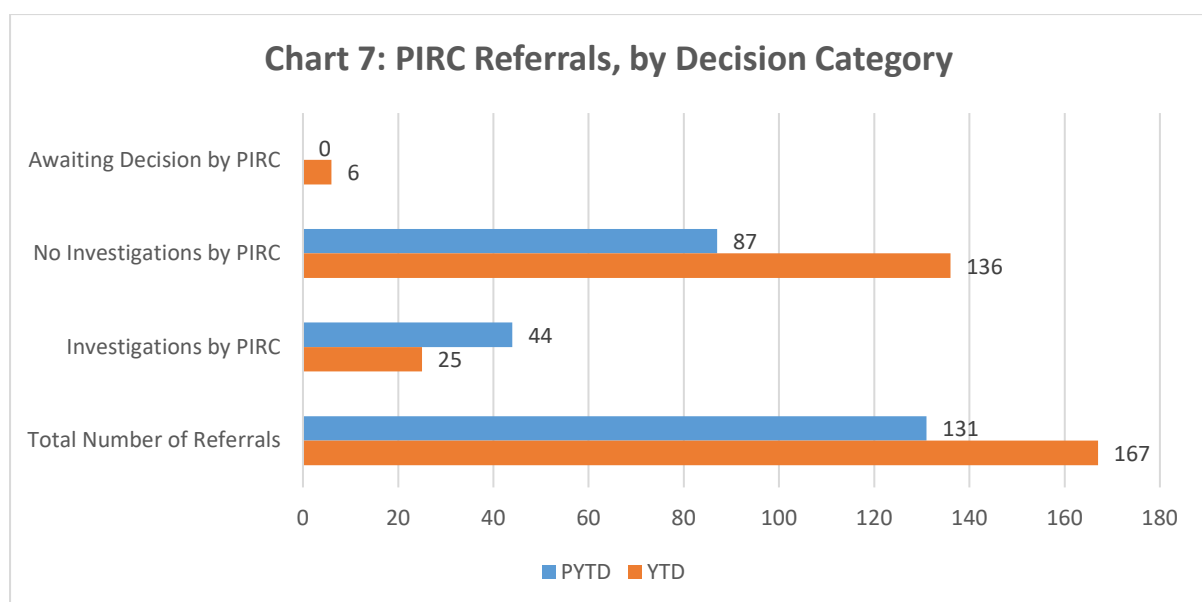
Of these **65** Armed Policing related referrals YTD, **1** is subject to PIRC investigation with a further **4** awaiting PIRC decision. This provides further independent assurance that the use of Armed Policing resources in response to these events, broadly, have been proportionate and justified.

Moreover, the comparative volume of Serious Injury in Police Custody referrals is influenced by no such referrals made during June of 2021. The average number of those referrals during 2021/22 overall was **4** per month, with the YTD (April – September 2022) having a monthly average of **6**. This continues to be assessed as a relatively low volume increase and is not yet indicative of a broader rise within this referral category.

However, these increases are partly mitigated by decreases in Crown Directed Criminality (**-31.6%, 6** less referrals) and STO Taser referrals (**-9.4%, 3** less referrals).

### PIRC Investigations

The majority of DSI referrals (**81.4%**) within the YTD were marked as no investigation required by PIRC, accounting for **136** of the **167** referrals.



During Q2 of 2022/23 alone, **82** of the **99** statutory referrals (**82.8%**) were marked as no investigation required by PIRC, with **11.1%** subject to a PIRC investigation (-**17.9%** from Q2 of 2021/22). A further **6** are awaiting decision by PIRC.

The percentage of the **167** statutory referrals YTD which led to a PIRC investigation has decreased (-**18.6%**) compared to the PYTD, with **15.0%** 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 Crown Directed Criminality (-**7**).

### **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 by Lady Elish Angiolini in relation to alleged breaches of Article 3 of the European Convention of Human Rights (ECHR).

During the 2022/23 YTD, **165** relevant cases have been referred to PIRC, **32** of which are subject to PIRC investigation (**19.4%**). A further **64** cases have been marked as no investigation by PIRC with the majority classed as ‘no criminality established’ or ‘abandoned’. The remaining **69** referrals are awaiting decision from PIRC. These figures are summarised in Table 2 below. Status is correct as at 20 October 2022.

Within Q2 of 2022/23 alone, **81** such referrals were made to the PIRC. Of those, **11** (**13.6%**) are subject to investigation and a further **8** (**9.9%**) were marked as no investigation by PIRC. However, the vast majority of those are awaiting decision from PIRC (**76.5%**, **62** in total).

**Table 2: Cases involving Allegations of Assault (01/04/22 – 30/09/22), by Status**

<b>Status</b>	<b>Number of Cases</b>
<b>Referred to PIRC</b>	<b>165</b>
Investigation by PIRC	32
No Investigation by PIRC	64
At PIRC - Awaiting Decision	69

### **Live PIRC Investigations**

Overall, **162** PIRC investigations remain live as at 20<sup>th</sup> of October 2022, 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.

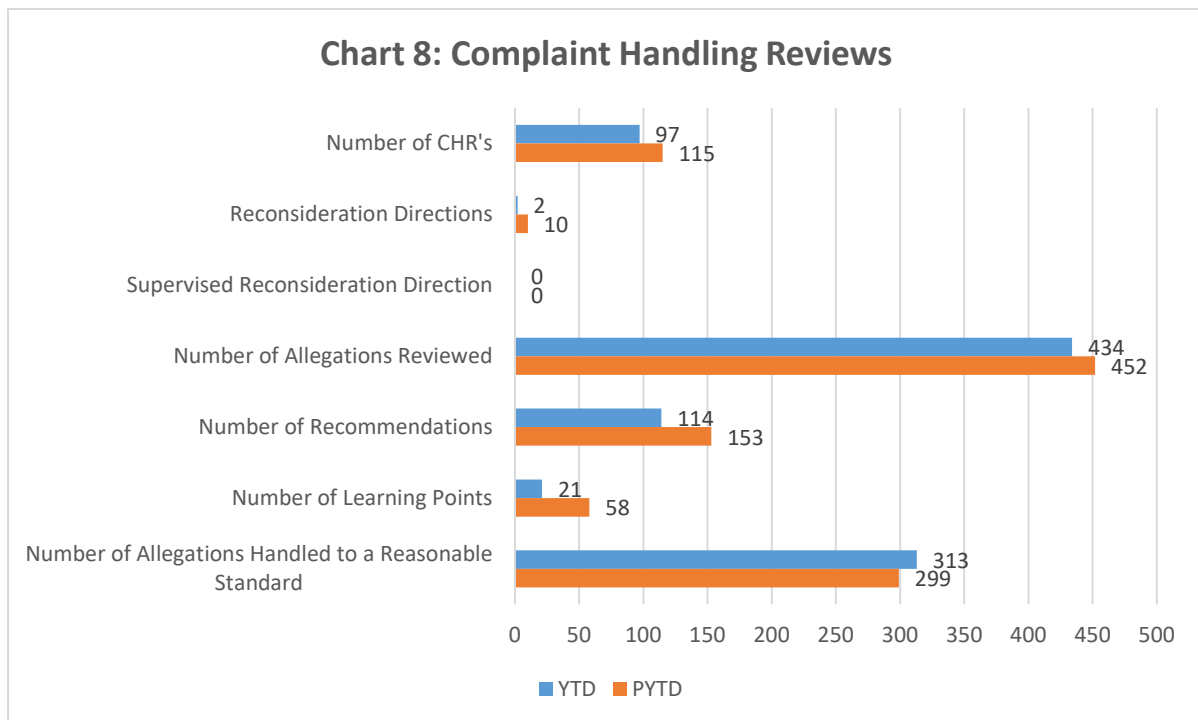
**Table 3: Ongoing PIRC Investigations, by Command Area (as at 20<sup>th</sup> October 2022)**

Command Area	Number Ongoing
East	37
North	40
West	85
<b>Grand Total</b>	<b>162</b>

**PIRC Complaint Handling Reviews (CHR)**

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

A total of **97** Complaint Handling Reviews (CHR) were received during the YTD, a **15.7%** decrease on the PYTD, equating to a decrease of **18** CHR.



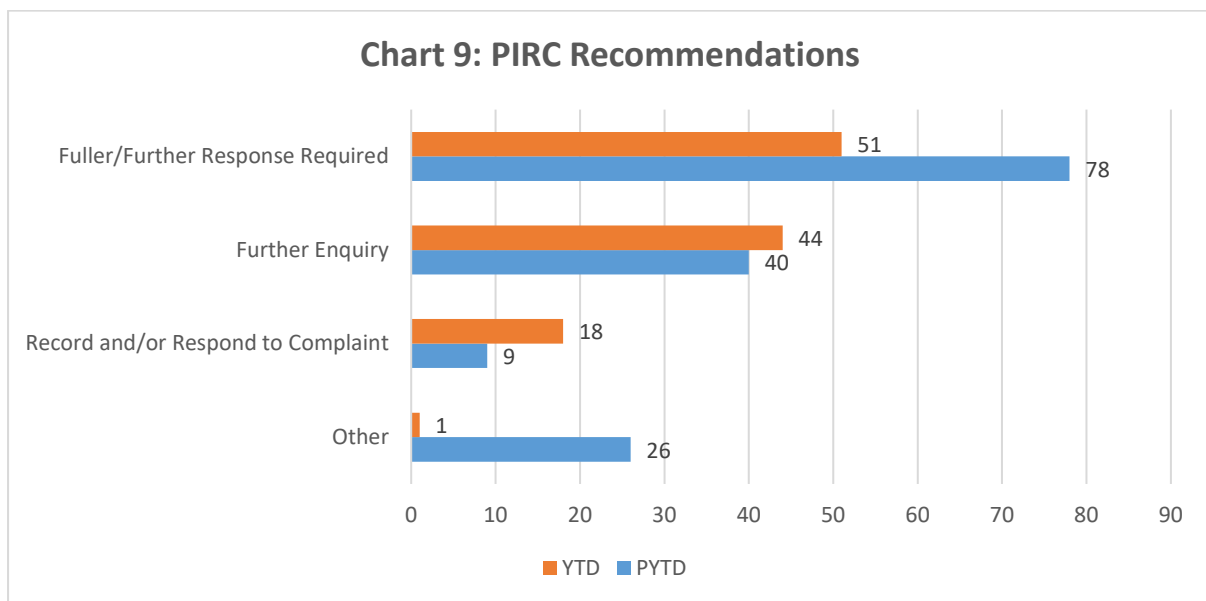
Within Q2 of 2022/23 alone, **51** CHRs were received. This represents a **4.1%** increase on the **49** CHRs received during Q2 of 2021/22.

Of the **97** CHRs received YTD, **434** allegations were reviewed and **72.1%** were handled to a reasonable standard during the YTD. This represents a **6.0%** increase on the comparable rate during the PYTD.

Of note, the YTD rate is based on a lower volume sample, which influences the comparable rates of how many allegations were handled to a reasonable standard. Although this continues to be an evolving picture, indications are that the improvement noted YTD has been sustained over multiple months, despite a dip during July 2022 (62.1%). This 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 Q2 of 2022/23 alone, 237 allegations were reviewed and 68.4% were handled to a reasonable standard. This represents a 1.0% increase on Q2 of 2021/22.

Based on the statistics of CHRs 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 114 PIRC CHR recommendations received during the YTD were in the 'further enquiry' or the 'fuller/further response required' category (83.3%) when combined.

Of note is the YTD decrease within the 'fuller/further response required' category (-34.6%), which was previously reported as having increased significantly within 2021/22 financial year. However, the YTD decrease in this category is influenced by the corresponding decrease in recommendations overall (-25.5%) and the broader decrease in the number of CHR received during the YTD period as described above. As it continues to be the highest volume recommendation category, this remains subject to close monitoring by PSD Senior Management Team (SMT).

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

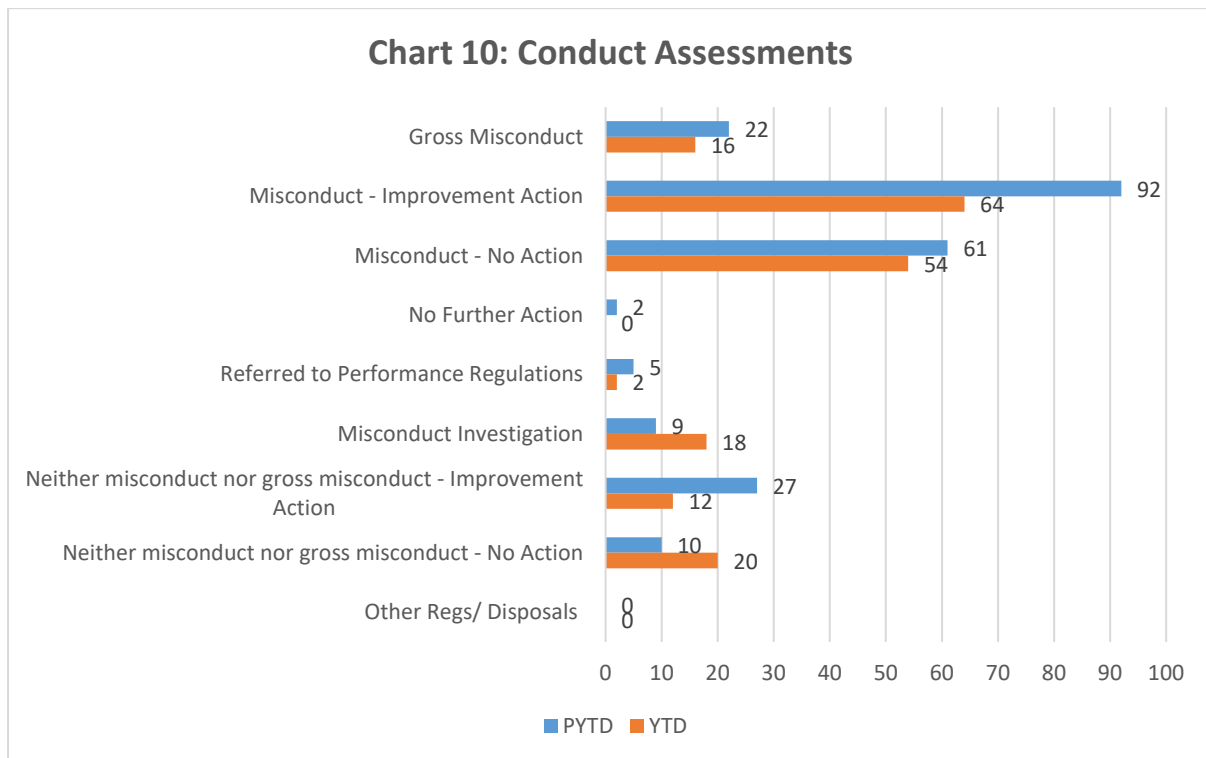
# Conduct Unit

## 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 **186** preliminary conduct assessments were undertaken by the Professional Standards Department during the YTD, an **18.4%** decrease on the **228** assessments undertaken PYTD. In respect of those **186** assessments, **3** officers retired or resigned prior to a conduct meeting or hearing taking place.

During this period, the majority of assessments (**63.4%**) were resulted as ‘Misconduct – Improvement Action’ or ‘Misconduct – No Action’.

Within Q2 of 2022/23 alone, **113** preliminary conduct assessments were undertaken, which represents an **8.1%** decrease on the **123** assessments undertaken during Q2 of 2021/22. In respect of those **113** assessments, **1** officer retired or resigned prior to a conduct meeting or hearing taking place.

Due to the overall decrease in conduct assessments YTD, decreases are visible across most assessment categories. Despite this, it is of note that misconduct investigations has increased compared to the PYTD, doubling from **9** investigations PYTD to **18** YTD. The volume increase is influenced by **6** linked investigations relating to potential breaches of Equality and Diversity plus Authority, Respect and Courtesy standards. Moreover, assessments of 'Neither Misconduct nor Misconduct – No Action' also doubled from **10** PYTD to **20** YTD. Although the nature of allegations subject to those assessments vary widely, road traffic matters were the most common.

During the YTD, **3** misconduct meetings and **16** misconduct hearings were scheduled.

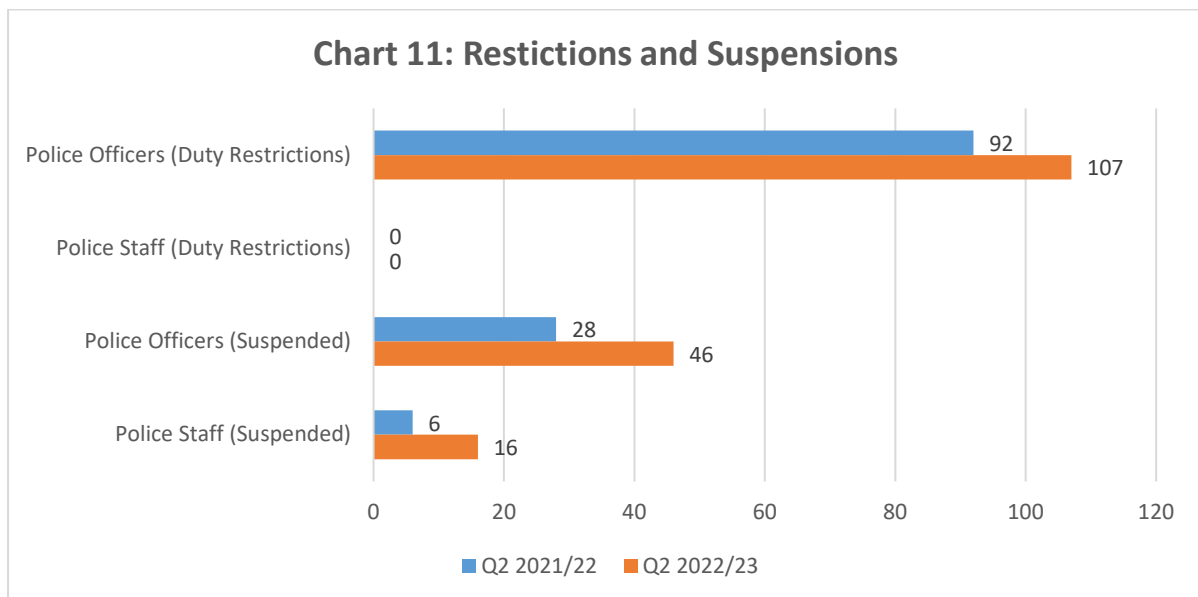
As a result of the misconduct hearings, **4** dismissals, **1** demotion in rank, **4** final written warnings and **5** written warnings were issued. A further **9** allegations were concluded with resignation prior to a hearing, with a further **1** resulted as not misconduct.

As a result of the misconduct meetings, **5** written warnings and **1** improvement action were issued.

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

### Restrictions and Suspensions

Chart 11 details the actual number of officers and staff suspended and restricted at the end of Q2 2022/23 compared with Q2 in 2021/22. Furthermore, **7** suspended officers and **7** restricted officers resigned/retired during the YTD.



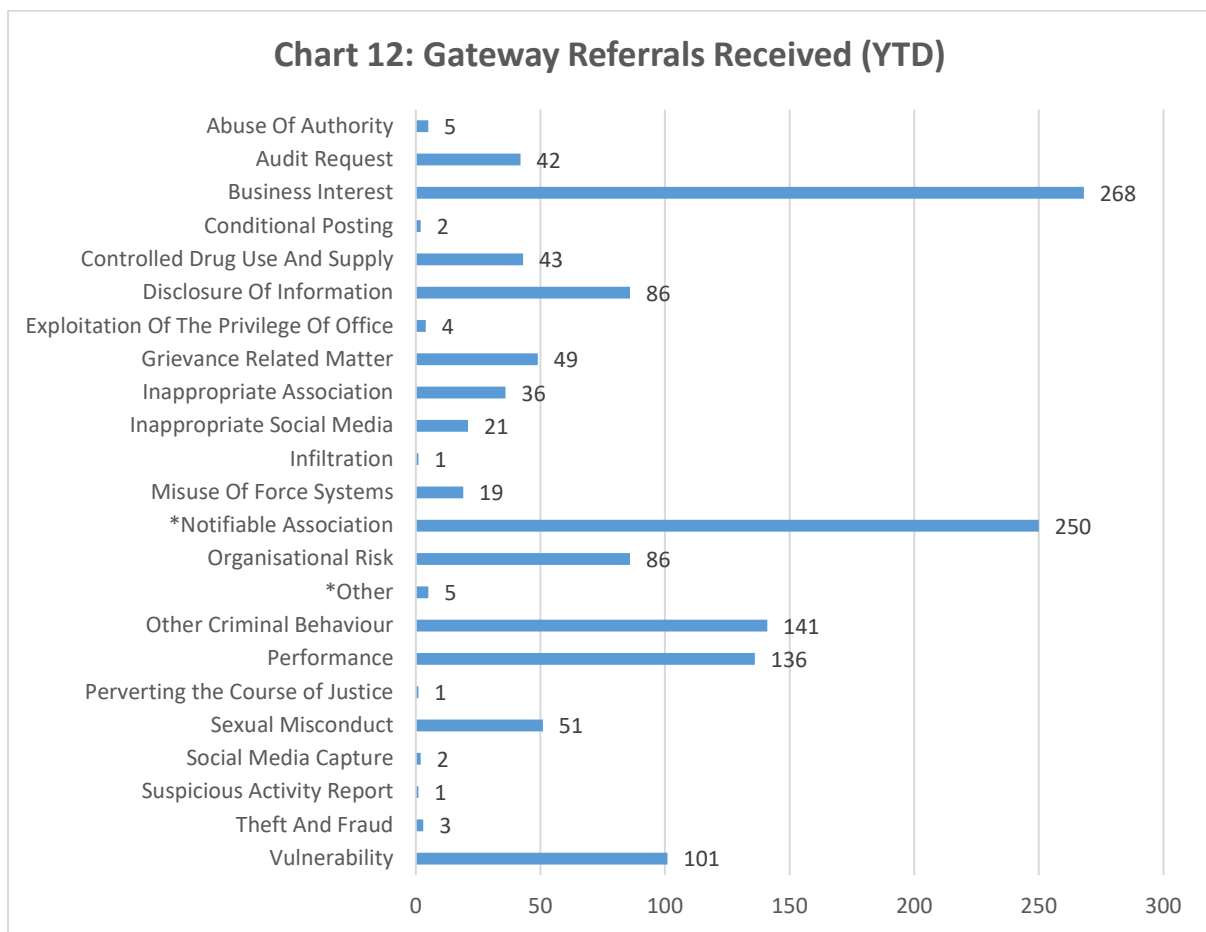


# National Gateway Assessment Unit

## National Gateway Assessment Unit

The Gateway Assessment Unit (GWU) has assessed **1,353** referrals during the YTD, which represents a **2.1%** decrease against the PYTD total of **1,382** referrals.

During Q2 of 2022/23 alone, **634** referrals were assessed. This represents a **16.5%** increase on 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:

- Sexual Misconduct (**51** referrals YTD, an increase of **39** referrals).
- Organisational Risk (**86** referrals YTD, an increase of **37** referrals).
- Grievance Related Matter (**49** referrals YTD, an increase of **25** referrals).

- Disclosure of Information (**86** referrals YTD, an increase of **22** referrals).
- Controlled Drug Use and Supply (**43** referrals YTD, an increase of **15** referrals).

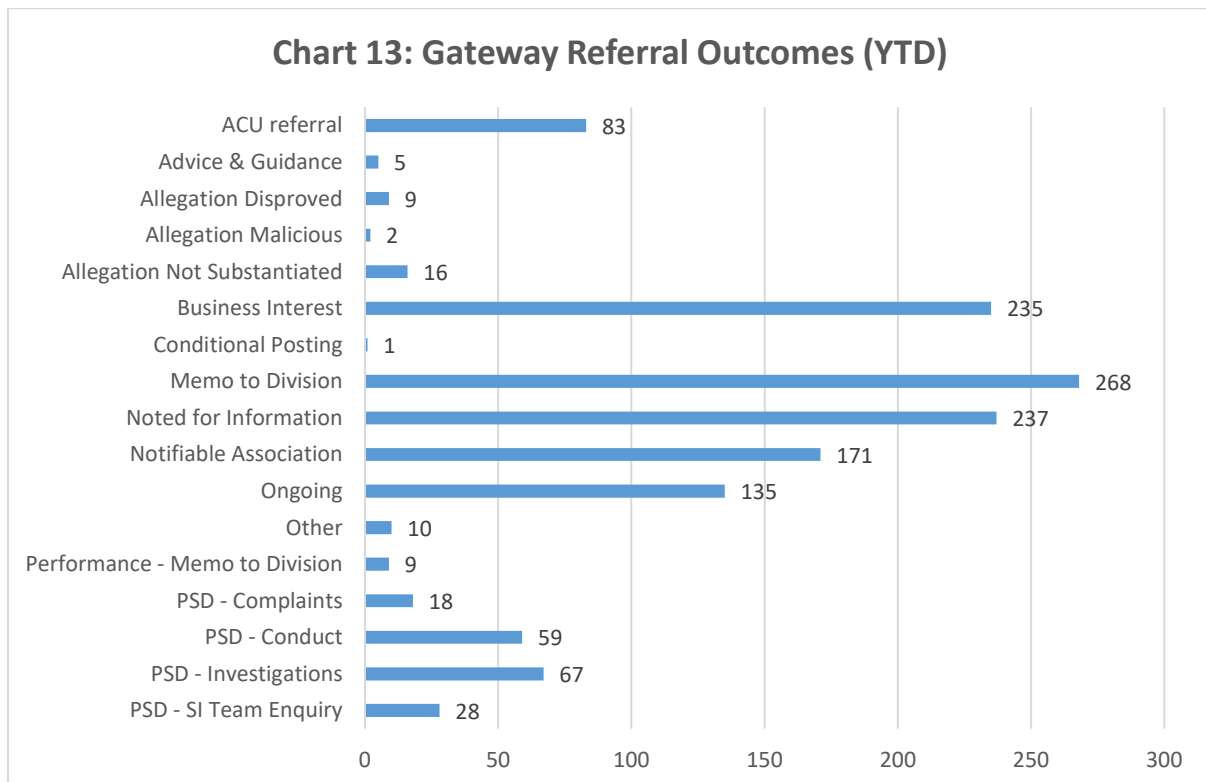
The increase in Sexual Misconduct referrals continues a trend identified within Q3 and Q4 of 2021/22, following increased media reporting in this area and internal promotion of our Standards of Professional Behaviour. The organisation has improved its recording mechanisms and actively encourages its 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.

No clear contributory factors have been identified in relation to the other categories listed above as having shown increase during the YTD period.

A reduction in Misuse of Force Systems referrals (from **148** PYTD to **19** YTD) primarily influences the overall decrease in referrals, mitigating the multiple increases of note noted above. Those account for **129** 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 **38.3%** of all referrals received YTD.



Of the **1,353** referrals received during the YTD, **18.8%** 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, **6** 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 **66** enquiries between 1 April 2022 and 30 September 2022, compared to **55** over the same period last year. The figures show an increase of **20.0%**.

During Q2 of 2022/23, a total of **34** enquiries were instigated by the ACU, compared to **27** during Q2 of 2021/22 (**+25.9%**).

The most common allegations reported to the ACU during the YTD period relate to Inappropriate Association, accounting for **27.3%** of enquiries instigated.

A rise in enquiries YTD is linked to low volume increases in Vulnerability and 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.

YTD comparison does not show any great 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 Q2 of 2022/23 are presented below:

Reinforce to all staff the importance of thorough searches of persons considered to be high risk prisoners with the use of Ampel Probe / metal detecting equipment.

- Two bespoke briefings issued since June 2022

Ensure the National Custody System records are updated to reflect warning signs aligned to the PNC and any notable incidents from previous occasions in police custody are recorded.

Implementation of Audit and Compliance Sergeants to –

- drive improvement and increase governance

## OFFICIAL

- Address shortcomings
- Provide feedback and learning

Divisional officers and appropriate managers reminded of crime scene management protocols and, in particular, the principals in respect of establishing safe cordons when supporting AFOs deployed to a declared Firearms Incident.

- Review underway and in progress

Provide briefing to divisional officers and managers on the command protocols during a declared Firearms Incident, particularly with regards to entry within the firearms cordon by unarmed officers.

- Review underway and in progress

Consider providing force-wide briefings to raise the awareness of all Police Scotland officers and staff on Post Incident Procedures (PIP) to ensure they are aware of procedures to be followed when PIP is implemented.

- Revised PIP Guidance published
- Force-wide communications to promote guidance, including intranet articles and line managers' briefings
- Inclusion in monthly Divisional Commanders' report
- Inclusion in monthly divisional meetings with PSD SMT

Consider introducing a policy or risk assessment tool to assist officers to assess the appropriateness of conveying persons home who have come to the attention of the police for minor crimes.

- Review underway and in progress

Review the Direct Measures SOP and clarify the requirements regarding the identification of the offender and their address.

- Review underway and in progress

### Complaint Handling Reviews

Examples identified during Q2 of 2022/23 are presented below:

In line with PIRC statutory guidance, officers should be named in any response letters or their badge numbers referred to unless there is a specific officer safety reason for not doing so.

Officers are reminded of the definition of a 'missing person' as set out in the Missing Person SOP: - 'Anyone whose whereabouts is unknown and: Where the circumstances are out of character, or; The context suggest the person may be subject to crime, or; The person is at risk of harm to themselves or another'.

## OFFICIAL

As per section 6.7.5 of Complaints About the Police Standard Operating Procedure (CAP SOP), officers should establish clear understanding between the police and the complainer regarding the complaints that are to be investigated. This will help to ensure that the complaint investigation is sufficient and that the subsequent response is comprehensive.

The importance of completing the heads of complaint form and also obtaining a statement of complaint from the complainer as per the CAP SOP has been emphasised, taking account of the applicant's needs or circumstances.

Officers must ensure that Standard Prosecution Reports (SPR) contain valid and factual information that accurately reflects events and the evidence gathered during an investigation.

Statements must be based on an officer's own words and not merely a copy and paste from the original SPR.

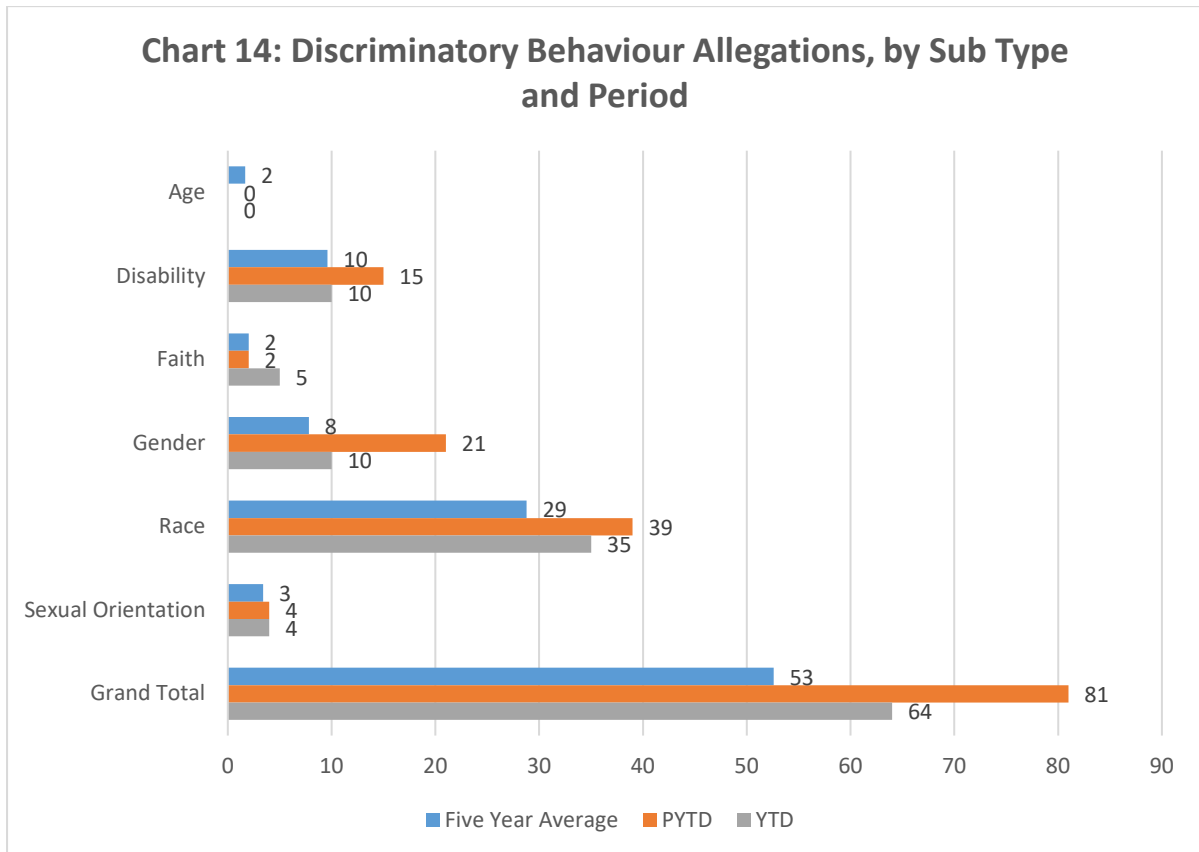
Complaints records should be updated timeously and not retrospectively. This will help to ensure that the complaints and their outcomes are recorded correctly, including the dating of letters.

Where the complaint investigation took longer than the 56-day timescale, as per the provisions of the CAP SOP, the final response letter should acknowledge the delay and provide the applicant with an apology.

As per Section 6.9.4 of the CAP SOP, auditable records should be kept in respect of all complaints detailing enquiries undertaken and significant steps taken during the complaint enquiry.

## Appendix A – Allegations of Discriminatory Behaviour

### Appendix 'A'



A total of **64** allegations of Discriminatory Behaviour were received during the YTD. This represents a **21.0%** decrease on the PYTD and a **21.7%** increase against the five year average.

During Q2 of 2022/23 alone, **35** allegations of Discriminatory Behaviour were received, which represented a **22.2%** increase from Q2 in 2021/22.

The key driver of this YTD increase is the Race sub-type, with **35** allegations received YTD. This accounts for a decrease of **4** allegations against the PYTD and an increase of **6** allegations against the five year average, therefore represent variances which are relatively low in volume.

The remaining categories appear relatively stable when compared to the PYTD and the five year average, with most notably the decrease of **11** allegations in the Gender sub type accounting 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. Findings will soon be disseminated as appropriate, with a view to addressing factors assessed to have influenced an increase of Discriminatory Behaviour allegations during this period.

## 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.

### Corrupt Practice

- There is no authoritative single legal definition of the word “corruption”; however, included under this allegation should be any allegation that a police officer or member of police staff has abused their position as a member of the police service for personal gain or for gain for others. The motive for gain is irrelevant and need not be for financial advantage. Any allegation that an officer or a member of staff has acted in contravention of the Bribery Act 2010 should also be recorded under this allegation category.

### 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



## **OFFICIAL**

- 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**