

Audit Report of Police Scotland on the triage of Complaints about the Police

APRIL 2023



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Foreword

Police Scotland handle approximately 6,500 complaints each year¹. The way in which an organisation handles complaints is illustrative of how it values good customer service. Dealing with complaints timeously, effectively and empathetically can restore a complainer's confidence in the organisation.

The Dame Elish Angiolini Report² (DEA Report), published in November 2020, recommended regular audits of Police Scotland's complaint handling procedures as part of an armoury of system safeguards³.

In particular, it recommended that the Police Investigations and Review Commissioner (PIRC) should conduct an annual audit of the triage within Police Scotland's Professional Standards Department (PSD) of complaints against the police to ensure that matters that can be resolved by Front Line Resolution (FLR), or misconduct, or potential criminality are being properly identified and routed accordingly, and to provide assurance that Article 3 and Article 5 cases⁴ are correctly identified and reported to the Crown Office & Procurator Fiscal Service (COPFS)⁵.

PIRC⁶ and the Scottish Police Authority (SPA)⁷ have statutory responsibility for ensuring that Police Scotland has efficient, effective and suitable complaint handling procedures to deal with complaints from members of the public. It was, therefore, agreed that PIRC and the SPA, would carry out a joint audit⁸. This enabled both organisations to fulfil their statutory duty, whilst avoiding duplication of effort.

The triage of public complaints about Police Scotland is undertaken by the National Complaints Assessment and Resolution Unit (NCARU) that sits within PSD. It is responsible for receiving, recording and assessing complaints made by members of the public. Accordingly, this audit focuses on the triage and assessment of complaints by the NCARU.

Yours faithfully



Michelle Macleod
Commissioner

¹ 5-year average – Police Scotland Professional Standards Annual and Quarterly Performance Report Q4 April 2021-March 22

² Independent Review of Complaints Handling, Investigations and Misconduct Issues in relation to Policing, November 2020

³ Page 21.28, page 343 of the DEA Report

⁴ Article 3: Prohibition of torture, inhuman or degrading treatment or punishment and Article 5: Unlawful detention

⁵ Recommendation 42, Page 462

⁶ Section 40(A) of the Police, Public Order and Criminal Justice (Scotland) Act 2006

⁷ Section 60(3) of the Police and Fire Reform (Scotland) Act 2012

⁸ The audit was undertaken by PIRC in terms of Section 40(A) of the 2006 Act, assisted by the SPA in terms of Section 60(3) of the 2012 Act.

Introduction

National Complaints Assessment & Resolution Unit (NCARU)

The National Complaints Assessment & Resolution Unit (NCARU) is the central point within Police Scotland's PSD for receiving, recording and assessing complaints made by members of the public. Over the period of our audit (February to July 2021), NCARU comprised of 11 members of staff⁹ which increased to 13 in May 2021¹⁰. It acts as a triage for all complaint correspondence. Given the high volume of complaints received by Police Scotland, the triage process is a practical approach to ensure that the response is proportionate to the nature of the complaint.

The NCARU assessment represents a critical stage in the complaints process, as the initial decision determines the route for progression of each complaint. If a complaint is incorrectly assessed and not progressed in the appropriate manner, it can increase the level of dissatisfaction experienced by both members of the public, and those officers who are the subject of complaint. This, consequentially, can undermine confidence in Police Scotland's complaints system.

Aim

The purpose of this audit is to provide assurance that complaints are being correctly assessed, recorded and categorised; progressed and responded to appropriately; and to inform process developments to improve the service and increase public confidence in Police Scotland's complaint handling process. We aim to:

- identify any weaknesses within the NCARU's procedures and practices relative to complaint triage;
- highlight good practice; and
- make recommendations for improvement.

What is a complaint?

A complaint about the police is defined as:

*"A statement, (whether oral, written or electronic) expressing dissatisfaction about an act or omission by ... Police Scotland, or a person who, at the time of the act or omission, was a person serving with the police."*¹¹

A relevant complaint may relate to actions or omissions, or the standard of any service provided or not provided which occur on-duty and off-duty. A complaint does not include dissatisfaction by a person who is serving or has served with the police about their terms and conditions of service or any allegation of an act or omission that constitutes a crime.¹²

⁹ All members were Police Sergeants

¹⁰ 1 Police Inspector, 10 Police Sergeants and 2 Police Constables

¹¹ Section 34(2) of the 2006 Act

¹² Section 34(3) of the 2006 Act

A complaint can be made by any of the following:

- “(a) a member of the public who claims to be the person in relation to whom the act or omission took place.*
- (b) a member of the public who claims to have been adversely affected by the act or omission.*
- (c) a member of the public who claims to have witnessed the act or omission.*
- (d) a person acting on behalf of a person falling within any of the above.”¹³*

National Complaints Model

On 3 May 2021, Police Scotland PSD introduced a new National Complaints Handling Model (NCM) which required almost all relevant non-criminal complaints to be retained within PSD for investigation and resolution. Prior to that date, it was possible for complaints to be allocated to local policing divisions. Our audit considered complaint files from three months prior to and three months after the NCM was introduced. The purpose was to identify any differences between the previous system and the new model, to assess the effectiveness of the NCM and ensure that any recommendations would be current, meaningful and relevant.

Handling of Complaints

There are a number of ways in which a relevant complaint may be handled, depending on its seriousness and complexity. The ability to resolve relatively minor or straightforward complaints promptly is a key element of an efficient and effective police complaints system. Some complaints may be resolved by an explanation, assurance, or apology (either in person or over the telephone). This approach is known as Frontline Resolution (FLR). NCARU staff are empowered to resolve non-criminal, straightforward and relatively minor complaints that require minimal enquiry, by this early resolution. In this audit, where FLR was attempted, we assess whether it was appropriate to do so and also whether it was successful.

Complaints involving allegations of a complex or serious nature that are not suitable for FLR will typically fall to be dealt with by the six-stage complaint handling process. The six stages include:

- Stage 1 – Notification of Complaint
- Stage 2 – Recording and Initial Assessment
- Stage 3 – Allocation and Enquiry
- Stage 4 – Determination
- Stage 5 – Identifying Organisational and Individual Learning
- Stage 6 – Notification to the Complainer

Conduct matters received by NCARU are referred to PSD Investigations for assessment.

¹³ Section 34(6) of the 2006 Act

Criminal complaints received by NCARU are also referred to PSD Investigations for assessment. Where appropriate, PSD will report the allegation to the Crown Office and Procurator Fiscal Service (COPFS) Criminal Allegations against the Police Division (CAAP-D) or to PIRC for further assessment.

In addition to formal complaint handling processes, other well-established means of resolving complaints and conflicts - such as mediation, reconciliation or restorative justice - may be used with the complainer's consent¹⁴. The use of these options is not included within the scope of this audit.

Applicable Guidance

PIRC has issued Statutory Guidance setting standards for police complaint handling in Scotland and providing practical advice on how to handle complaints¹⁵. Police Scotland's Complaints About the Police Standard Operating Procedure (CAP SOP)¹⁶ outlines Police Scotland's procedures and approach to complaint handling. Together, these documents provide a complaint handling framework for PSD staff when processing complaints received by members of the public.

Scope of Audit

During the audit, we examined:

- 'CO Complaints' - All new complaints assessed as a 'relevant complaint' about the police are allocated a CO number and are dealt with by Front Line Resolution (FLR) or progressed to the formal 6 stage process.
- 'CO files' resolved by FLR - To provide assurance that the FLR process is being applied appropriately to resolve non-serious and non-complex complaints.
- 'MI' files – All Miscellaneous files are allocated an MI number. MI files represent correspondence that the NCARU did not consider to be relevant complaints. One category of complaints typically classified as a MI file are repeat complaints which have previously been recorded and responded to by Police Scotland. When a file is allocated an MI reference number, in most cases, it is closed and not subject to further investigation. Between 2020/21 and 2021/22, there was a 72% rise in the use of MI files.¹⁷ Including MI files within the scope of our audit enabled us to assess whether these complaints were correctly assessed and categorised as non-relevant, or repetitious in nature.
- Criminal & Conduct Allegations - Including these within the audit allowed us to assess whether potential conduct matters and criminal allegations were correctly identified and referred by NCARU to PSD Investigations for assessment.

¹⁴ Paragraph 41 of the PIRC Statutory Guidance

¹⁵ PIRC Statutory Guidance for handling complaints about police in Scotland - March 2021

¹⁶ Police Scotland CAP SOP, version 6

¹⁷ During 2020/21, Police Scotland raised 1,516 MI files. In 2021/22 Q1 there were 651 MI files recorded which gives an estimated figure of 2,604 MI Files for the year.

Methodology

We adopted a mixed-method approach which combined the following evidence gathering methods:

Document Review

We assessed compliance with relevant guidance including the Police Standard CAP SOP and the PIRC Statutory Guidance.

File Review

We examined a statistically significant sample of CO and MI files recorded by Police Scotland between February and July 2021¹⁸. We separated these into two periods: those received before the NCM (February to April 2021) and those after (May to July 2021). In total we examined 348 files: 91 CO files and 81 MI files in the first period and 91 CO files and 85 MI files in the second period. The files were assessed against an agreed question set, designed to fulfil the aforementioned objectives and aims. The evidence gathering stage was conducted by members of PIRC and the SPA on site at Police Scotland's PSD base.

Interviews

In accordance with the approach proposed in the DEA Report - to have dialogue with officers and staff and to observe how PSD handles calls from members of the public¹⁹ - PIRC staff conducted interviews with two NCARU staff responsible for triaging complaints from each of the three Police Scotland Command areas (East / North / West).

Observation

We observed NCARU staff from the West command area over a period of one-week. This allowed us to observe triaging first hand and map the processes adopted by NCARU staff.

Analysis

We evaluated the information and evidence collected during the audit. We assessed this against the current Police Scotland CAP SOP and the PIRC Statutory Guidance for dealing with complaints and best practice.

NCARU Review

During this audit, we were made aware of an internal Police Scotland review of NCARU that took place in March 2022. We were provided with a summary of the findings in December 2022. The review highlighted a number of issues which are reflected in this report.

¹⁸ Source: Police Scotland

¹⁹ Paragraph 21.34 of the DEA report.

Acknowledgement

We wish to thank all those who supported our visits and shared their knowledge and experiences with us. We met dedicated professionals who work hard to achieve positive outcomes for members of the public. Their input assisted in shaping our findings and recommendations.

Key Findings

- ❖ We found dedicated and committed staff within NCARU, who have had to adapt to a new complaints handling model within a short time scale and whose role has been challenging due to a lack of specific training and ambitious targets for making initial contact with complainers.
- ❖ Overall, 80% of complaints were resolved either through the use of FLR (54%) or abandoned or withdrawn (26%). While the successful use of FLR is encouraging, the high rate of attrition with complainers withdrawing or abandoning complaints is disappointing.
- ❖ Of the 64 complaint files that we determined were not suitable for FLR, Police Scotland attempted FLR in 38 of them.
- ❖ Incomplete records were identified as an issue throughout the audit. We have highlighted opportunities to simplify and streamline the recording process to provide more accurate and auditable records.
- ❖ There was an increase of 44% in MI files recorded in the three months after the introduction of the NCM being implemented²⁰.
- ❖ 59 MI files (36%) were incorrectly categorised and contained relevant complaints which should have been recorded and investigated as a complaint. This demonstrates a lack of understanding of what constitutes a relevant complaint. In 29% of these files, NCARU staff incorrectly assessed the complaints as not being competent as opposed to applying the statutory test of what is a relevant complaint.
- ❖ There is scope for more role specific training on various aspects of complaints handling, including what constitutes a relevant complaint.
- ❖ The information captured within the MI Assessment Sheet can be enhanced to make it more user friendly and provide an audit trail of the assessment and, in particular, the rationale for not recording the matter as a complaint.

²⁰ There were 502 MI Files recorded between February to April 2021 compared to 722 recorded between May to July 2021

Recommendations

Recommendation 1

Police Scotland should include a field within the Complaint About the Police (CAP) form to record whether the complainer has a protected characteristic; vulnerability; individual need(s) relevant to the complaint or the handling of the complaint; whether any reasonable adjustment was required; and, if so, what adjustment was made.

Recommendation 2

Police Scotland should review the timescales for acknowledging receipt of a complaint and making initial contact.

Recommendation 3

Police Scotland should standardise the training provided to NCARU staff.

Recommendation 4

Police Scotland should develop guidance on the classification of complaints with practical examples of distinct categories, including what constitutes excessive force as opposed to assault.

Recommendation 5

Police Scotland should provide guidance on appropriate timescales to issue a '14-day letter' and what constitutes "all reasonable efforts to secure a complainer's co-operation" within the CAP SOP.

Recommendation 6

PIRC, the SPA and NCARU should work together to review and revise the existing complaint handling form to make it more 'user friendly'.

Recommendation 7

Police Scotland, with input from PIRC and the SPA, should develop a training module that includes guidance on what constitutes a relevant complaint.

Recommendation 8

Police Scotland should review and revise the MI Assessment Sheet to ensure that it captures the necessary information to support the rationale for decision making.

Recorded Complaints About the Police

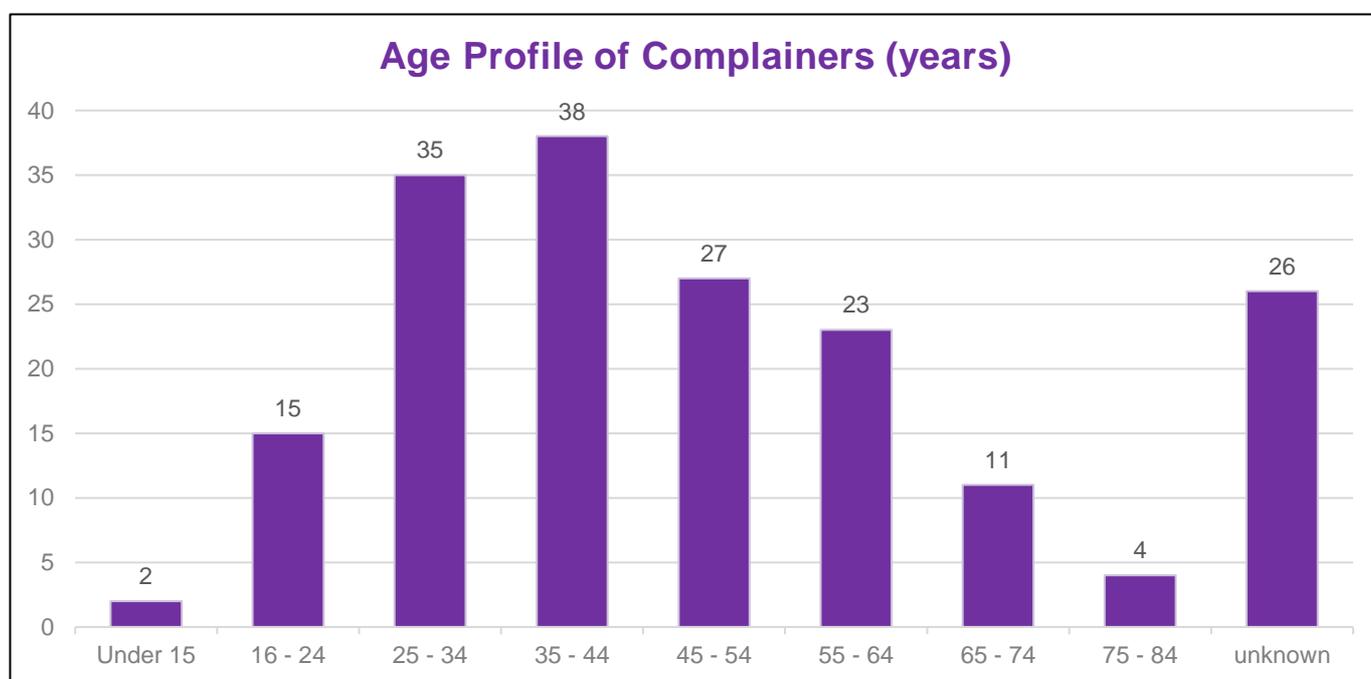
Background

1. We reviewed 182 CO files, 91 received before the NCM was introduced (February to April 2021) and 91 after its implementation (May to July 2021). One file was subsequently identified as a MI file and removed from the first cohort, resulting in a total case cohort of 181 files.

Age Profile and Gender

2. Of the 181 complaint files, 74 complainers were female or self-identified as female and 107 were male or self-identified as male.

Chart 1 depicts the age profile of the cohort



Protected Characteristics and Vulnerabilities

3. The DEA Report emphasised that complaining against the police is a serious act and if, members of the public wish to complain, they should be supported.

“Helping them to exercise their right to complain requires creating a complaints system that is accessible, receptive, comprehensible, speedy and fair...In short, it should be easy to complain, easy to get a response and easy to learn the lessons. The system should also take into account the broad spectrum of people who make complaints...”²¹.

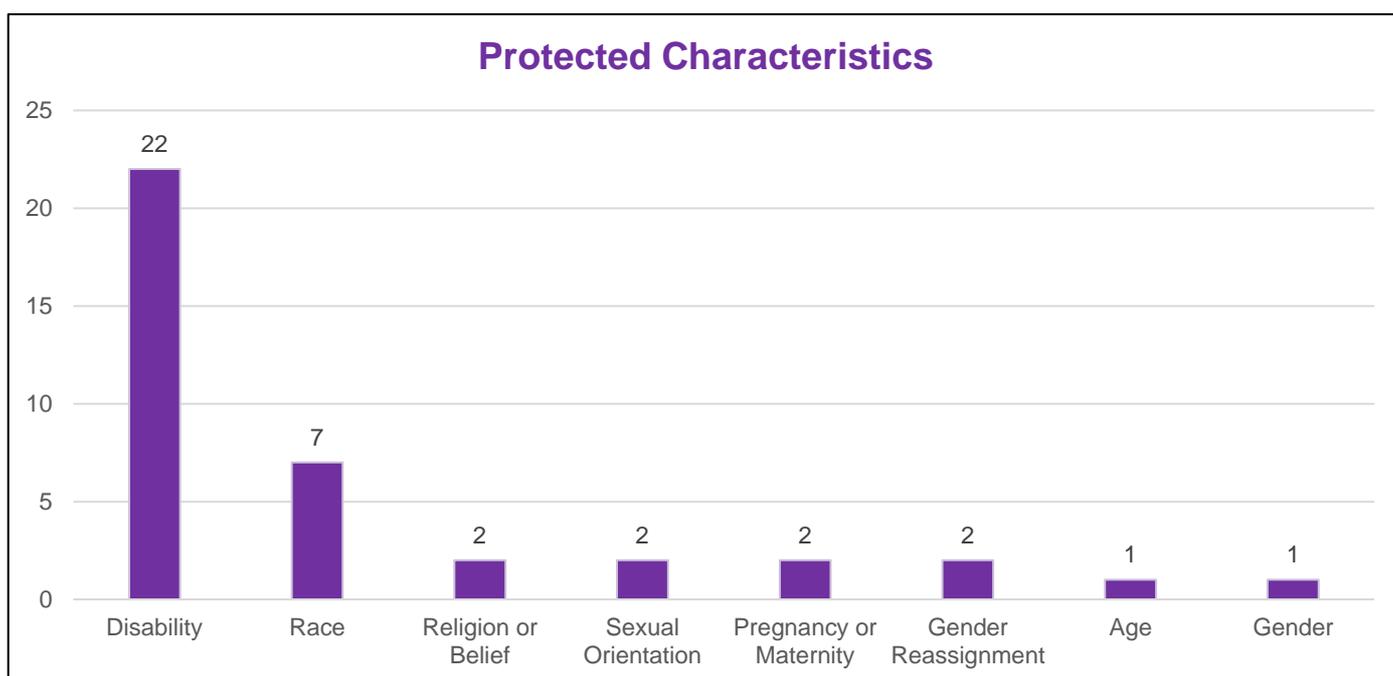
²¹ Paragraphs 18.1 and 18.2 of the DEA Report

- In that regard, it may be appropriate for Police Scotland to make arrangements for complainers with individual needs, or, for example, those who are vulnerable, or their first language is not English.

We Found

- 36 (20%) persons, within the cohort, had a protected characteristic²² that was relevant to their complaint or the handling of their complaint.

Chart 2 represents the range of protected characteristics.



- Of the 22 complainers who were documented as having a disability²³, eight advised that they had mental ill health. Three complainers disclosed having more than one relevant protected characteristic.
- We note that there is no specific field within the CAP form to record whether the complainer has a protected characteristic relevant to the complaint or the handling of the complaint. We have, therefore, recommended that the CAP form should have a field to record whether the complainer has a protected characteristic; vulnerability or individual needs relevant to the complaint or handling of the complaint; whether any reasonable adjustment was required; and, if so, what adjustment was made.
- Of the 36 files, where the complainer had a protected characteristic, we found seven examples where NCARU had made a reasonable adjustment to accommodate the needs of the complainer including complying with requests to contact the complainer by their

²² Section 4 of the Equality Act 2010

²³ In terms of Section 6 of the Equality Act 2010, a person has a disability if they have a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.

preferred specified method and, in some cases, accepting complaints made by a relative on behalf of a family member who was vulnerable or had individual needs.

Good Practice

The complainer and her son made complaints involving ongoing police harassment over a prolonged period. As her son has memory issues, the complainer asked that she was the main point of contact. This was accommodated by Police Scotland and correspondence was sent directly to the complainer.

Good Practice

Due to the complainer being of no fixed abode, the police agreed to meet at a location of his choosing to discuss his complaint.

9. There were, however, some cases where we would expect to see a reasonable adjustment but there was no record of any measures being put in place. For example, a complainer reported suffering with arthritis in her hands which limited her ability to write or use a keyboard. In the file, there was no information documented to say what, if any, adjustments were offered to the complainer.

Recommendation 1

Police Scotland should include a field within Complaint About the Police (CAP) form to record whether the complainer has a protected characteristic; vulnerability or individual needs relevant to the complaint or the handling of the complaint; whether any reasonable adjustment was required; and, if so, what adjustment was made.

Capturing Equalities Data

10. Police Scotland do not routinely capture equalities data in relation to complaints. To advance equality of opportunity, eliminate discrimination and foster good relations between persons who share a relevant protected characteristic and persons who do not share it, policing bodies should seek to capture and record equality evidence from complainers when they engage with the police complaints system.
11. Adequate and accurate equality evidence will enable policing bodies to better understand the effect of their policies and decisions, obtain a clearer understanding of the needs of their service users, inform more effective targeting of policy and resources, and identify whether further information is required.
12. We understand that Police Scotland is currently exploring how best to capture this data and that their intention is to collate it going forward.

Notification of the Complaint and Initial Contact

13. Confidence in the complaints system requires regular and effective communication with the complainer throughout the process. With this in mind, at the initial complaints triage, the complainer should be notified that their complaint has been received by the police and subsequently there should be direct contact with the complainer to discuss their complaint. This allows the assessing officer to develop a better understanding of the complainer's concerns and expectations and also helps to identify any vulnerabilities and/or accessibility issues and, in some instances, to resolve the complaint.
14. The Police Scotland CAP SOP provides that, wherever possible, contact should be made with the complainer within 3 days²⁴. Accordingly, the NCARU officer triaging a complaint will aim to call the complainer within three days following the receipt of the complaint. The purpose of the call is to discuss the complaint, ascertain the issues, explain the complaints process and manage the expectations of the complainer. In cases of minor, non-serious complaints, an attempt to resolve the complaint will also be made at this time. If early resolution is not possible, the complaint will be allocated for investigation.
15. Most complainers were contacted by NCARU by telephone which accords with the provisions of the CAP SOP. A telephone call will, in general, be the most effective and personable option but there are some circumstances when it may not be the most suitable or practical means of communication. In some cases, some form of reasonable adjustment may require to be considered. In that regard, there are opportunities to capture such information on the online complaint form used by Police Scotland by, for example, providing fields to seek the following type of information:
 - the complainer's preferred method of contact or communication during the complaint process (i.e., telephone, email, letter) and the best time to contact them;
 - whether any reasonable adjustments are required to allow them to fully engage with the complaint process; and
 - if they wish the contact from the police to be with them or via a third-party representative.
16. This may also go some way to mitigate the level of attrition for complaints discussed later in the report.

We Heard

17. During our interviews with NCARU staff, they recognised that the target to contact the complainer within three days was not being met and was, in the view of some, not achievable. They explained that the requirement to research and read each case prior to contacting the complainer and to record and save the contact details on their IT system

²⁴ Paragraph 6.3.4 of the CAP SOP – Version 6

(Centurion)²⁵ can take from one hour to most of the day. The time taken for each call can also vary as most complainers are keen to expand on their complaint, although, it was acknowledged that, in some cases, the time spent at this initial stage, can result in early resolution through providing assurance or an explanation. Some of the staff also advised that they were not resourced to deal with the high volume of complaints.

“Complainers can be annoyed that NCARU has taken two weeks to talk to them, or they will have cooled. Volume of incoming cases is making it longer before [we] can contact [the] complainer, [we] have a lot of volume and a lot of complaints coming in. [We] don’t deliberately not deal with complaints, it’s purely due to volume.”

“...perhaps the only target [we] have is 3 – 5-day acknowledgement. It would be helpful if this could be reviewed in line with current demand. Volume is the reason why [we] cannot achieve these targets”

“We know that there are set guidelines from the time someone submits a complaint to the police, to the point that they should be receiving a response, but I know that we are currently sitting beyond those timescales. We’re firefighting at the moment...”

18. The NCARU team also experience difficulties with some complainers who fail to respond or have provided incorrect information or have a preference to only be contacted at specific times. Some highlighted the challenging nature of some complainers and the abuse they receive. Overall, the pressure to contact complainers within the three-day timescale impacts on the morale of staff within NCARU.

We Found

19. We examined the period between the receipt of a complaint and the first attempt of a member of NCARU to make contact. Of the 181 files examined, we found there was a recorded attempt to contact the complainer within 3 days in only 41 (22%) of the complaint files. Of the remaining files there was an attempt to the contact the complainer:
 - In 55 complaints - between four to nine days
 - In 55 complaints - between ten to 15 days
 - In 19 complaints - between 16 to 23 days
 - In 11 complaints - 24 days or later
20. Police Scotland received 1800 complaints during the first quarter of 2021,²⁶ which averages 600 complaints per month. Given this volume of complaints and the size of the NCARU team, the target to contact all complainers within three days is extremely ambitious and places considerable pressure on the NCARU.

²⁵ Centurion is the IT software used by Police Scotland to record, manage and process police professional standards data including complaints about the police, misconduct, and other miscellaneous information.

²⁶ April – June 2021: PSD Quarterly Performance Report

21. Rather than focus on personal engagement within three days, it may be more beneficial to acknowledge receipt of the complaint within this timeframe with a commitment to make personal contact over a slightly longer time. This may provide greater opportunities for a more productive first engagement which, in turn, may enable more early resolution of complaints.

Recommendation 2

Police Scotland should review the timescales for acknowledging receipt of the complaint and making initial contact.

Categorisation of Complaints

22. When complaints are received by PSD, NCARU must determine the nature of the complaint being made and assess its seriousness and complexity. This allows a decision to be taken on how the complaint is to be progressed. A serious complaint that is categorised incorrectly can cause a serious allegation to be missed or not appropriately addressed. Similarly, a relatively minor complaint that is assigned a more serious category can have a negative impact upon the officer who is the subject of the complaint and inappropriately utilise resources that could be diverted to dealing with more serious complaints.
23. In accordance with the PIRC Statutory Guidance, if an allegation is capable of being upheld or not upheld independently of other allegations within the complaint submission, the allegation should be recorded as a separate 'head of complaint.' In short, NCARU must record each complaint individually and correctly categorise the complaint. If this is not applied, the risk of a complaint being missed or incorrectly progressed increases.

We Found

24. Of the 181 CO case files, we identified 52 (29%) that had been incorrectly recorded or categorised. This included cases that featured missed or combined complaints - allegations that were included within the complaint submission but not recorded separately during triage by NCARU - or incorrectly categorised complaints.

Incorrectly Categorised Complaints

25. The Police Scotland CAP form provides an extensive list of classifications of complaints, including excessive force, incivility, discriminatory behaviour and irregularity in procedure (which in itself contains 18 sub-categories). We accept that the categorisation of the type of complaint is to some extent subjective and so have only recorded a complaint as incorrectly categorised where there was a failure to accurately record a potential breach of the complainer's human rights.
26. We identified eight complaint files that contained allegations that were incorrectly categorised. These included failures to record allegations of excessive force, unlawful arrest and forced entry, allegations of criminality and discriminatory behaviour. For example, an allegation of forced entry was recorded as a quality of service complaint and an allegation

of sexual assault incorrectly recorded as irregularity of procedure - search procedures. These are significant as, if upheld, they would potentially constitute a breach of the complainer's human rights.

The complainer complained that, whilst being searched, he was sexually assaulted by an officer. He further stated that the officers refused to give their names or numbers despite being asked several times. Although the complaint was marked as potentially criminal, it was initially categorised as 'irregularity in procedure' and 'search procedures'. The CAP form also stated that it was suitable for FLR. The complainer subsequently disengaged from the complaints process.

The complainer, who informed the police officers that she was pregnant, complained that two police officers arrived at her address after a neighbour complained about COVID 19 regulations being breached and "physically barged" her out of the way. The NCARU officer categorised the complaint as 'oppressive conduct/harassment'. However, as physical force was alleged, it would have been more appropriately categorised as 'excessive force.' The complaint was subsequently resolved by use of FLR on the assurance that the subject officer was given corrective advice.

Missed and Combined Complaints

27. Of the 181 CO files, we identified 44 (24%) that contained missed or combined complaints. Of the 44 there were 37 that had missed complaints. Of these, most omitted between one and three complaints that could have been separately upheld or not upheld during triage by NCARU. There were two files with five missed complaints and one with seven. We also identified seven files where two or more complaints, which could have been upheld or not upheld independently of each other, were merged and recorded under a single head of complaint.
28. We appreciate that for complaints resolved through FLR, recording each allegation separately adds to administration burden. However, complaints are a valuable source of data / information to identify areas where standards of service could be improved. A lack of accurate recording impacts on the value of the data obtained and can result in under reporting of more serious allegations of breaches of complainers' human rights. Missed complaints can also serve to increase the level of dissatisfaction experienced by the complainer as the police will not have addressed all of their complaints.

We Heard

29. The categorisation of complaints is to some extent subjective. Further, if it is not possible to contact the complainer to discuss and clarify, many complaints are vague and ill-defined, requiring staff to make assumptions in order to record them. The number and breadth of the categories can also be an issue. We were told that the most straightforward complaints are those alleging incivility and the most problematic are those where there is an allegation of assault or excessive force.

The complainer made her complaint over the phone on 13 February 2021, regarding her nephew being forcibly pulled out of a van by an officer and slammed against the side of the van which resulted in his glasses coming off. It was also reported that the police officer said, “you’re lucky that’s all I’m doing.” This was categorised as ‘excessive force’ and recorded as suitable for FLR. However, the nature of the complaint would indicate that it should have been recorded as an assault.

30. The training available to staff within NCARU was inconsistent. Some staff received a one-week induction training programme, consisting of inputs from various agencies including PIRC, SPA and various parts of PSD. This was welcomed by those who participated.
31. For others, the training they received was more ‘on-the-job’. While there was recognition that policing experience can equip staff to deal with complaints, there is still a requirement for training on the appropriate administrative procedures and use of role specific IT systems.
32. During the pandemic, there was, understandably, reliance on the use of virtual training via Microsoft Teams and collaborative peer-to-peer learning. In terms of further training, the staff indicated that they would appreciate more customer service focussed training, more inputs from PIRC and peer-to-peer training.
33. From the feedback received, there is scope for Police Scotland to standardise the training provided to NCARU staff. In this regard, it should be reinforced that complaints which can be upheld or not upheld independently of each other should be recorded as separate complaints during triage. To assist with more accurate categorisation, the guidance should provide examples of distinct categories of complaints, including what constitutes excessive force as opposed to assault.

Recommendation 3

Police Scotland should standardise the training provided to NCARU staff.

Recommendation 4

Police Scotland should develop guidance on the classification of complaints with practical examples of distinct categories, including what constitutes excessive force as opposed to assault.

Engagement with Complainers

34. The PIRC Statutory Guidance²⁷ outlines the importance of effective communication in relation to complaint handling. It emphasises that confidence in the complaints system requires regular and effective communication with the complainer throughout their complaint journey. This is supported by Police Scotland's CAP SOP which states:

*“Communication is a key element of any complaint handling system. From the outset there should be communication with the complainer.”*²⁸

35. As NCARU staff triage all complaints made to Police Scotland and engage with complainers at the beginning of their complaint journey, they are in a unique position to set the tone for the engagement that follows. Poor communication may have a detrimental effect on the complainer's experience. It is, therefore, essential that NCARU staff have the guidance, resources and skills to effectively communicate with complainers.

The complainer submitted an online complaint form to Police Scotland with five complaints. Two concerned allegations of an officer's discriminative treatment of him, as a trans man. He then submitted another online complaint form, outlining a further three complaints following a call with Police Scotland's Service Centre. The NCARU officer contacted the complainer 13 days after his first complaint, but the complainer did not answer, and a message was left. The NCARU officer contacted the complainer again 8 days later, following the complainer requesting a call back. There was a detailed note of the contact, but the focus was on the conduct of the complainer rather than his complaints. His complaints were not addressed or recorded in any detail.

On being contacted and asked if he wished for the matter to be progressed through the complaints process, the complainer advised that he did not wish for the matter to be progressed until he had spoken to a lawyer. He also expressed a lack of faith in the complaints process.

The complainer submitted his complaint by telephoning the Service Centre on 24 February 2021. Due to an IT issue, the complainer was not contacted by NCARU until 21 March 2021. The complaint record does not reflect whether the complainer was advised of the IT issue and offered an apology for the length of time taken to deal with his complaint. The record also indicates that the complainer did not understand policing procedure, and as such, it would have been appropriate for the phone call to have been followed up by a letter outlining the telephone discussion.

36. The CAP SOP provides that all contact and attempts to contact a complainer should be recorded within the complaint file, and that officers will make all reasonable efforts to secure a complainer's co-operation.²⁹

²⁷ Paragraph 102 of the PIRC Statutory Guidance

²⁸ Paragraph 6.14.1 of the CAP SOP

²⁹ Paragraph 6.12.6 of the CAP SOP

We Found

37. 14 (8%) complaint files did not provide sufficient information on the contact with the complainer.

On 10 May 2021, the complainer submitted a complaint to Police Scotland, using the online complaints form. She provided a telephone number, address and email address. The case was allocated to the NCARU officer on 23 May 2021, 13 days after it had been received by PSD. The NCARU officer attempted to contact the complainer twice over a period of one day, the date of which has not been recorded.

Following these attempts the officer wrote: “No answer, no option to leave a message. Letter required.”

A 14-day letter³⁰ was sent on 26 May 2021. On 6 January 2022, the complaint was closed as abandoned.

The complaint file lacked key information in relation to the contact with the complainer, the date of attempted contact, and why other methods of contact, such as email, was not attempted. There is also no explanation for the 7 month delay in closing the complaint or any records to indicate if there were further attempts to contact the complainer in the interim.

Non – Engagement by Complainers

38. In cases where officers are satisfied that the complaint cannot progress without the co-operation of the complainer and it is unobtainable, it is possible for PSD to record complaints as ‘abandoned’. When a complaint is abandoned, it must be communicated to the complainer in writing.
39. During the audit we found evidence of complainers not providing correct contact information or failing to respond to repeated attempts from NCARU staff to contact them. We recognise that having open complaints where the complainer fails to engage, or has provided incorrect information, impacts on the time and resources within NCARU. We are, therefore, supportive of a transparent and robust process that effectively deals with complaints that cannot be progressed.
40. Prior to the complaint being closed by NCARU, the complainer should be contacted via letter or email, advising that if they wish the complaint to be progressed that they should make contact within 14 days³¹. This is known as the ‘14-day letter’, and effectively encourages the complainer to contact NCARU for their complaint to be progressed. It advises that, should the complainer fail to make contact within 14 days, the complaint will be deemed abandoned. The 14-day letter is a useful and pragmatic process, ensuring that complainers are provided with every reasonable opportunity to progress their complaint, before it is closed by PSD and recorded as ‘abandoned’.

³⁰ See paragraph 40 below

³¹ Paragraph 5.4.2 of the CAP SOP

41. What is not included in the CAP SOP is guidance on what constitutes a reasonable period that should be given prior to the 14-day letter being sent. During the audit, we found that the number of failed contact attempts and the length of time that elapsed prior to the 14-day letter being sent varied greatly. This introduces an element of inconsistency and results in a variable application of the procedure.

We Found

42. We identified 31 (17%) complaint files, where a 14-day letter was sent to the complainer. The number of attempts to contact the complainer varied across the 31 files. In three complaint files, a 14-day letter was sent to the complainer on the same day as the first attempted contact. In another three complaint files, the letter was sent the following day after receipt of the complaint and in seven complaint files, the letter was sent two or three days after the first attempted contact. In five complaint files the letter was sent between four and six days after the first attempted contact.
43. For some complainers, we consider that the 14-day letter was sent prematurely, and the complainer should have been afforded more time to respond. This is particularly pertinent for nine of the 12 complainers who had waited a week or more before the first attempted contact. It is inequitable that some complainers are expected to wait a significant amount of time for NCARU to make contact, yet if they do not respond within a relatively short period of time, they receive a '14-day letter'.

The complainer submitted a complaint to Police Scotland, via the Service Centre, on 2 May 2021. The circumstances indicated that the complainer was vulnerable. He provided a telephone number and an address. The date the complaint was received for assessment has not been recorded within the complaint file. The NCARU officer first attempted to contact the complainer on 16 May 2021, which represents a 14 day wait for the complainer. The note in the contact log states:

“Telephoned complainer. Went straight to voicemail. Left message requesting call back. If no response 14-day letter will be sent.”

On 18 May 2021, the NCARU officer sent the 14-day letter to the complainer. The complainer did not respond, and the complaint was recorded as abandoned on 27 August 2021.

As the complainer was vulnerable, more effort should have been made to make contact, prior to sending the 14-day letter. We also consider that as the complainer waited 14 days for the first contact, it was premature to send the letter within such a short timescale.

On 10 February 2021, the complainer submitted her complaint, using the online complaint form. She provided an address, a home and mobile telephone number and an email address. Within the complaint form, the date the complaint was received was incorrectly recorded as 25 February 2021. The NCARU officer attempted to call the complainer 15 days after the complainer submitted their online complaint. A note within the complaint file reads:

Called complainer, no reply on mobile, message not left as person by different name on answerphone. Land line does not connect, 14-day letter”

The 14-day letter was sent 11 days later. The complainer did not respond, and the complaint was abandoned on 30 March 2021. While acknowledging the difficulties in contacting the complainer by phone, there was the option to try the email address before sending a 14-day letter.

44. We also found some complaint files where a significant period of time had elapsed, after the receipt of complaint, prior to sending the '14-day letter'. In six cases, between 11 and 14 days had elapsed before the letter was sent and in one file, the letter was sent 28 days after receipt of the complaint. Overall, there was a lack of consistency of approach regarding the timescales for issuing of the '14-day letter'.
45. On reviewing the files, it was not always evident how the case was concluded, particularly if the complaints were abandoned or withdrawn.

The complainer made his complaint via Police Scotland's Service Centre on 7 March 2021. The nature of the complaint was indicative of someone in crisis. On 25 March 2021, the NCARU officer, recorded that they had attempted to contact the complainer multiple times throughout that day and had received no response. It was then recorded that a 14-day letter was sent. There was no copy of the letter contained within the file, nor was there a note to explain the gap in contacting the complainer after he made his complaint. Finally, there is no record that allows us to understand if the complainer did make contact. The inference is that the complainer failed to contact the police after receiving the 14-day letter and that the complaint was abandoned but it is not clear from the file.

The complainer was a vulnerable female with learning difficulties and dyslexia who complained that her allegation of being followed was not being taken seriously by the police. The complaint related to an incident that occurred almost 12 months previously. There were two attempts to contact her via mobile phone but there was no reply. A letter was sent advising that she may be contacted by someone to discuss the complaint. Thereafter, it is unclear what action if any was taken as no outcome is recorded.

We Heard

46. NCARU officers from one area advised that they often send a '14-day letter' as they view it as a means to assure contact, where other attempts and methods have failed. We noted that there were difficulties contacting complainers due to:
 - Wrong telephone numbers being provided;
 - Incomplete, or no contact details being provided; and
 - The NCARU officer being unable to verify that the number dialled belonged to the complainer.
47. While recognising that the '14-day letter' is a mechanism to avoid files being open for an extended period of time when complainers have chosen to disengage, we consider that more clarity on the applicability of the '14-day letter' would address some of the inconsistencies.

Recommendation 5

Police Scotland should provide guidance on appropriate timescales to issue a '14-day letter' and what constitutes "all reasonable efforts to secure a complainer's co-operation" within the CAP SOP.

Front Line Resolution

48. In appropriate circumstances, FLR enables a relevant complaint to be resolved quickly by simple explanation, assurance or apology. FLR is only suitable with the complainer's agreement and where complaints are:
- Non-complex.
 - Non-criminal.
 - Not serious in nature (i.e., minor or trivial); and
 - Can be resolved without investigation other than familiarisation with the circumstances of the incident³².
49. The PIRC Statutory Guidance³³ advises that complaints involving allegations of a complex or serious nature are not suitable for FLR. This includes allegations that an individual's human rights have been interfered with, allegations of excessive force and unlawful or unnecessary arrest or detention.
50. The PIRC Statutory Guidance also provides that, in determining whether FLR is appropriate, the primary consideration is the nature of the complaint rather than the incident from which it has arisen. For example, a complaint raising multiple complex legal issues is unlikely to be suitable for FLR, irrespective of the subject matter of the complaint. For the same reason, even though it may have arisen from the investigation of a serious crime, a complaint that an officer was rude or late for an appointment is likely to be suitable for FLR.

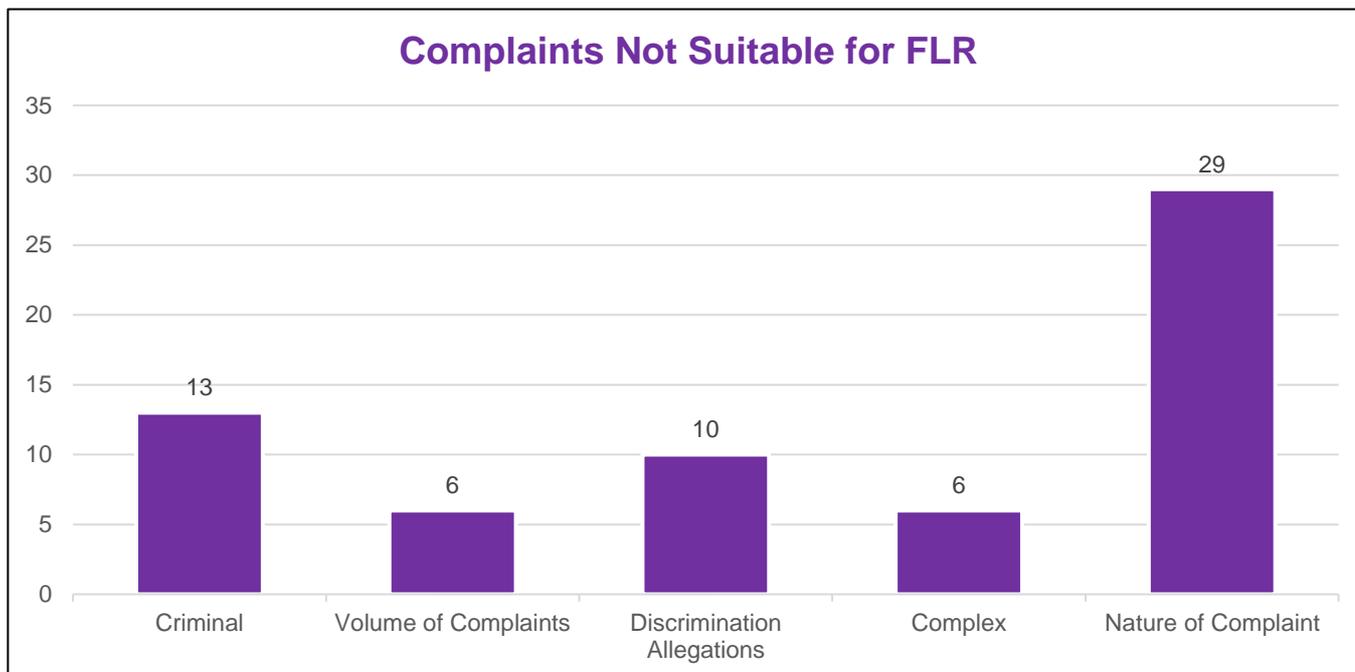
We Found

51. Of the 181 cases reviewed, there were 98 (54%) case files where FLR was successfully achieved. Within this number, 48 cases related to the three months prior to the introduction of the NCM and 50 cases after its implementation. We identified 64 (35%) of the 181 complaints files which we adjudged were not suitable for FLR.

³² Paragraph 33 of the PIRC Statutory Guidance

³³ Paragraph 33 of the PIRC Statutory Guidance

Chart 3 indicates the factors that mitigated against using FLR in these files.



52. Of the 64 complaint files, that we determined were not suitable for FLR, Police Scotland attempted FLR in 38 of them. Of the 38, 18 were successfully resolved.

A medical professional caring for a woman, who was in custody and admitted to the RESUS unit in hospital, submitted a complaint against Police Scotland. He complained that:

- Two officers sat in the RESUS unit, opposite the patient who was in custody, and next to another patient, without appropriate PPE.
- When he asked the two officers to leave, they refused, advising him that their Sergeant had advised them to stay with the custody patient.
- One officer displayed “belligerent bordering on aggressive” behaviour.
- The same officer later accessed the RESUS unit against hospital procedure.
- The same officer then asked for the medical professional’s details, taking up the valuable time of another medical professional.

He expanded that, in his view, treating staff and patients with this level of respect and professionalism was unacceptable and a disruption of the critical care of other patients.

In relation to the first three complaints, NCARU combined them into one head of complaint and recorded it as incivility. In taking this approach the complaints relating to oppressive conduct and irregularity in procedure have been omitted. Further, the fifth complaint was not recorded.

By approaching the complaint in this way, it oversimplifies the issues raised by the complainer. Due to the nature and volume of complaints, this complaint was not appropriate for FLR. However, it is an example of effective communication by NCARU who engaged with the complainer and managed to resolve the complaints. They assured the complainer that the officers would be reminded that PPE and masks require to be worn in hospital settings and of the vital importance of following medical instruction/advice, particularly in RESUS settings. There was also a commitment to cascade individual and organisational learning.

The complainer was satisfied that his complaint had been listened to and dealt with appropriately.

53. We acknowledge that, in some circumstances, FLR may be utilised successfully when dealing with complaints that, in terms of the guidance, are deemed not suitable for FLR. This can occur where the complainer has had time to reflect and concedes that they may have embellished the circumstances, over-reacted or been under the influence of alcohol or other substances.

The complainer alleged that officers who attended at his home were dismissive and abusive because he was gay. Due to the nature of the allegation, in terms of the guidance, it is not deemed suitable for FLR. However, on being contacted, the complainer advised that he had limited recollection due to having consumed alcohol but confirmed that no homophobic comments had been made by any of the officers and apologised to them for his behaviour. The complainer subsequently withdrew his complaint.

54. In many cases, where FLR is successful, NCARU staff are required to contact the subject officer's line manager to inform them of the complaint and ask for the circumstances to be shared with the subject officer. Best practice is for the line manager to confirm that this has been done.
55. We found 11 (6%) files where there was no record to show that the subject officers had been notified.
56. Further, for complaints resolved by FLR, the complainer should be advised that they can re- contact Police Scotland if they decide to change their mind. We found 24 (13%) files where it was not clear that complainers were notified that they had this option.

Recording of Complaints

57. An issue highlighted throughout the audit was incomplete records. Accurate record-keeping is an essential part of effective complaint handling. Maintaining full and accurate records provides transparency and presents Police Scotland with an accurate source of data on the nature of complaints it receives.

We Heard

58. Some NCARU staff reported that the current complaint handling form is unwieldy and repetitive in nature, frequently requiring the user to enter the same information multiple times. We are aware that NCARU is seeking to review the current complaint handling form and explore options to streamline the form through the use of drop-down boxes and automatic information transfer. We agree there is scope to simplify the form to improve the accuracy of record keeping. We would recommend the inclusion of fields that can be checked if completed including:

- Confirmation that the complainer who was dealt with by FLR was advised that they could change their mind and seek an investigation;
- Confirmation that the agreed action has been completed; and
- The final disposal such as FLR, letter of determination, withdrawn, failure to engage, or referred to PSD for an investigation into criminal or conduct allegations.

Recommendation 6

PIRC, the SPA and NCARU should work together to review and revise the existing complaint handling form to make it more user friendly.

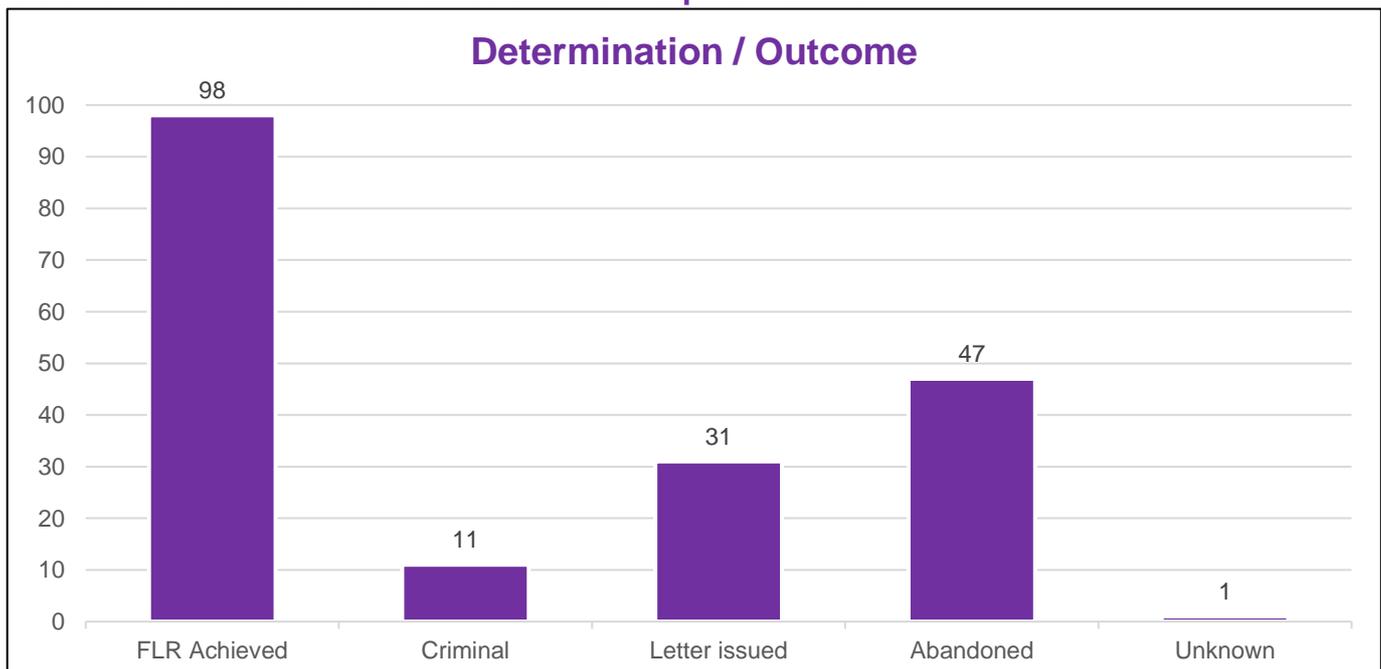
Criminal and Conduct Allegations

59. There were no complaint files in our cohort that were referred for consideration of conduct procedures. There were 11 (6%) complaints alleging criminal conduct. Of the 11, eight were categorised by PSD as a criminal allegation from the outset. A detailed and thorough report was sent to the Criminal Allegations Against the Police Division (CAAP-D) in four cases and the allegations were withdrawn in the other four cases.

60. Of the remaining three files, the nature of the allegations should have resulted in them being categorised as criminal allegations. Two of the complainers subsequently disengaged from the process. In the other complaint, the complainer admitted that the allegation was false at an early stage.

Determination/Outcome

Chart 4 illustrates the outcome of the 181 complaint files³⁴.



³⁴ There were 7 complaints that were assessed as Criminal Allegations that were subsequently abandoned. They have been included in both criminal and abandoned outcomes, resulting in a total of 188 complaint files.

We Found

61. Overall, 80% of complaints were either resolved through the use of FLR (98) or abandoned or withdrawn (47). While the successful use of FLR is encouraging, the high rate of attrition with complainers withdrawing or abandoning (26%) complaints is disappointing. Providing more consistency and clarity on the use of the '14-day letter' may assist in this regard.
62. We have highlighted issues with a lack of accurate recording of complaints and identified opportunities to simplify and streamline the recording process to provide more accurate and auditable records.
63. The provision of training on specific aspects of complaint handling that we have identified should address some of the issues raised by NCARU staff.

Miscellaneous (MI) Files

Background

64. As the central processing unit for all complaints and other miscellaneous correspondence from members of the public, NCARU receives communications from which no discernible complaint about the police can be identified. All correspondence and allegations that are not considered to be relevant complaints are allocated a MI file number.
65. Whilst the PIRC Statutory Guidance and the Police Scotland CAP SOP are silent on how MI Files should be utilised, we were advised that MI Files are used to record correspondence from members of the public that:
 - a) is not assessed to be a relevant complaint about the police;
 - b) is assessed to be repetitive in nature, with the issue(s) raised already having been recorded and addressed/investigated; or
 - c) is from an individual that is currently subject of restrictions in accordance with Police Scotland's Unacceptable, Persistent, and Unreasonable Actions by Complainers SOP.
66. Correspondence recorded by Police Scotland as a MI file will, in general, not be subject to any form of investigation, and in many cases the complainer will not receive a formal outcome/response to the issues that they have raised.
67. As highlighted, during the first quarter (Q1) of 2021/22, there was a significant increase in the use of MI files. During 2020/21, Police Scotland recorded 1,516 MI files whereas within the first quarter of 2021/22 there had already been 651 MI files recorded. It is notable that that there was an increase of 44% MI files in the three months after the introduction of the NCM being implemented³⁵.

³⁵ There were 502 MI Files recorded between February to April 2021 compared to 722 recorded between May to July 2021

68. In line with the increase of MI files, PIRC received an increase in requests to review the decision of Police Scotland not to treat the complainer's correspondence as a relevant complaint. Auditing MI files enables PIRC to ascertain if there are similarities with the trends identified by PIRC through conducting Complaint Handling Reviews (CHRs).³⁶

Case Review

69. As part of our audit, we reviewed 166 MI Files, 81 received before the NCM was introduced (February to April 2021) and 85 after its implementation (May to July 2021). One case that was initially recorded as a MI file was subsequently re-classified as a complaint and removed from the sample resulting in a total cohort of 165 files. Furthermore, taking account of the NCARU regional structure, we reviewed a proportionate number of files generated across the three Police Scotland command areas i.e., PSD North, PSD West, and PSD East.

Why was a MI file raised?

70. The initial focus was to examine the rationale for the decision to record the correspondence as a MI file rather than a complaint.

We Found

71. Of the 165 MI files:

- 109 (66%) were assessed as not a relevant complaint.
- 21 (13%) were assessed as containing repeat/repetitive complaints.
- 2 (1%) were recorded as correspondence from an unreasonable complainer.
- 33 (20%) were recorded for 'other' reasons: nine were abandoned/withdrawn; nine were categorised as no complaint; three were recorded as misuse of online complaint form; one was identified as conduct/internal grievance; one as legal advice and the reason for the remaining ten was unclear due to a lack of information recorded on the MI assessment sheet.

72. Of the 165 MI files, we assessed that 106 (64%) had been correctly recorded as a MI file. However, there were 59 (36%) that we adjudged had been incorrectly categorised and contained relevant complaints which should have been recorded and investigated as a complaint. The reasons for the mis-categorisation are explored below. Of the 59, some were deemed not to be relevant for more than one reason. In that regard, we identified the primary reason that the allegation was not recorded as a complaint.

Relevancy – v – Competency Test

73. What constitutes a relevant complaint is discussed earlier in the report.³⁷ The legislation stipulates that a complaint only has to be 'relevant' to fall within the scope of the police

³⁶ During 2020/21, the PIRC carried out 233 Complaint Handling Reviews (CHRs), which amounts to approximately 3.2% of all Police Scotland complaints

³⁷ See page 4

complaints procedures i.e. one that is made by a member of the public about the service that they have received from the police, whether it relates to the police as an organisation or individual officers. It does not refer to “competent complaints.” During our audit, we came across files where NCARU staff applied a competency test which appears to be linked to the assessment as to whether the complaint allegation is substantiated or supported by the available evidence.

We Found

74. We identified 17 (10%) MI files that were incorrectly assessed due to the erroneous application of a competency test as opposed to the statutory relevancy test. There was a marked increase in the use of the competency test after the introduction of the NCM in May 2021 with 12 (70%) of the 17 files originating from this period. In addition, our analysis identified regional variances, with a higher proportion being recorded by PSD North (9) and 4 each in PSD East and West.

Following the complainer’s front door being damaged during the execution of a search warrant relating to the complainer’s son, who resided with the complainer, the complainer made a complaint about the damage to her door and queried who was liable to pay for the repairs.

The MI assessment sheet records that this was not a complaint because, in terms of the warrant, the officers had the power to force entry to the complainer’s property and, consequentially any damage would be for the complainer to deal with. The MI file also records that this was explained to the complainer by PSD and, as such, no further action would be taken in relation to her complaint.

However, as the complaint is about damage to the complainer’s property following the execution of the warrant, which may constitute a potential breach of Article 8 of the European Convention on Human Rights (ECHR), it should have been recorded as a relevant complaint. This would have allowed a determination to be made whether to uphold or not uphold the complaint and for the complainer to be advised of her right of recourse to the PIRC. In assessing the complaint, the focus was placed on whether the actions of the officers were lawful or not, rather than whether the complaint fell within the statutory definition of a relevant complaint.

Following the complainer’s partner being arrested and charged in relation to an incident - where the complainer was a witness - the complainer explained in his online submission that he attended at the police station to trace the whereabouts of his partner as he was concerned about her due to her having previously expressed suicidal tendencies. He advised that he had spoken to a named officer at the police station, told him that he was a witness to the incident involving his partner, and wished to provide the officer with his version of events. The complainer alleged that the named officer told him he did not believe him and had given him attitude. As the complaint related to the attitude and conduct of an officer, it fell within the definition of a relevant complaint.

However, on the MI Assessment sheet it was noted that the complainer was unhappy that, when he called to speak to an officer about the incident involving his partner, the officer was not available to speak with him.

It is, therefore, unclear if at the point of being contacted by NCARU, the substance/focus of the complaint had changed, or if the MI Assessment form has not accurately captured all of the issues raised by the complainer. The MI Assessment sheet also recorded that *“there is no competent complaint regards this correspondence”* indicating that the test applied was competency as opposed to relevance. As part of an explanation for the determination reached, the MI Assessment form recorded that the complainer accepted it was unrealistic to expect the investigating officer to have been available at the time of his call. Regardless of whether it was a realistic expectation or otherwise, it does not negate the fact that relevant complaints were made by the complainer, with no adequate rationale contained within the MI file to explain why the complaints were not recorded, proportionately investigated, and why the complaints were considered ‘not competent’.

We Heard

75. During our interviews with NCARU staff, it was highlighted that assessing a complaint can be challenging and difficult. Based on the feedback we received, it is evident that the decision on whether to record correspondence as a complaint about the police (CO file) was, in many cases, based on consideration of the competency of a complaint (i.e., whether it had any substance) as opposed to whether the complaint was relevant.

“[I] make an assessment as to whether a complaint is actually competent in nature or not and providing justification of any determination of a complaint not being competent”.

“Is it a complaint or is it someone who is unhappy with something? If a person is charged, they might be unhappy about it, but that doesn’t mean that what Police Scotland [have done] is wrong. A complainer might write to say that they’re not happy with how [Police Scotland] dealt with something, but if Police Scotland have a sufficiency of evidence, they are duty bound to charge that person and report the circumstances to the Crown Office. If the person is, then not happy that they have been charged...are they actually complaining about PS... [is it] a competent complaint?”

76. This may, in part, be explained by a view, among some NCARU staff, that the term ‘dissatisfaction,’ which gives rise to a complaint, is a very broad term.

“[We] struggle with the word ‘dissatisfaction,’ because there are very few people who say they are satisfied with the Police. Just because someone says they are ‘dissatisfied’ – does that mean it’s a complaint?”

77. Consequently, concerns were raised by NCARU staff about what they perceive as unnecessary criticism from PIRC regarding how a complaint has been assessed.

“...there may be some things that PIRC consider to be a complaint that [we] do not. For example, if someone has been charged and then complained”

“There has been some disparity with PIRC concerning...‘dissatisfaction’ with something that should not have been done. However, the matter [the complainer] has expressed dissatisfaction about, could not have happened....NCARU have MI’d the complaint, but the PIRC have come back and said that it was a ‘dissatisfaction’ and that it should have been recorded as a complaint...PIRC have a different view on ‘dissatisfaction’...if it is something that cannot be done, how can it be dissatisfaction with the service?”

“[I] have had a few cases that have come back from PIRC, mostly concerning MI complaints. [I do not] consider the complaints to be competent in nature, but PIRC have come back and the focus is on the word ‘dissatisfied’. For example, [a complainer] had wanted his statement to be noted by the Chief Constable. It wasn’t appropriate for the Chief Constable to do that. [I] MI’d [the complaint] as it wasn’t a competent complaint. PIRC came back and said it was a competent complaint because the ‘complainer remains dissatisfied’. PIRC challenged [my] decision and [my] rationale, [I] stand by [my] decision. [I] struggle to alter [my] determination in that scenario”.

78. In relation to the last comment, there is no question that it would be inappropriate for the Chief Constable to note the complainer’s statement but that does not necessarily mean that it is not a relevant complaint. The nature of the complaint makes it suitable for FLR and it is, therefore, appropriate for NCARU to contact the complainer and provide an explanation why it is not appropriate for the Chief Constable to take a statement. If the complainer did not accept the explanation provided, and wished for the matter to be further investigated, it is not always necessary or proportionate to do so in line with the non-investigation provisions outlined in the PIRC Statutory Guidance³⁸.

We Found

79. NCARU staff would benefit from training on applying the appropriate test when assessing complaints and the role of PIRC in determining relevant complaints. Unless this is addressed, it may potentially impact on the positive working relationship that PIRC and PSD have developed.
80. The findings of our audit were echoed by the findings of the internal Police Scotland review of NCARU and the NCM in March 2022. It found that NCARU staff were incorrectly applying the legislation and assessing complaints as ‘not competent’ rather than using the appropriate test. It identified that this was due to a lack of training, and / or learning from peers, who had failed to understand how to apply the legislation.³⁹

³⁸ Paragraph 38 of the PIRC Statutory Guidance

³⁹ Paragraph 5.3 of Police Scotland’s summary of the outcome of their internal review

81. To address this, NCARU Inspectors have delivered some in-house training and implemented a process where the closure of any correspondence as 'not relevant' and not recorded as a complaint requires approval by an officer of Inspector rank or above. This supervisory oversight has already resulted in a monthly reduction in the number of new MI Files opened⁴⁰. While these measures are welcome, we believe there is still scope for more joined up training between Police Scotland, PIRC and the SPA.

Recommendation 7

Police Scotland, with input from PIRC and the SPA, should develop a training module that includes guidance on what constitutes a relevant complaint.

Affected Complainers

82. A complaint about the police can be made by a member of the public who claims to be:
- The person in relation to whom the act or omission took place;
 - A person adversely affected by the act or omission;
 - A person who has witnessed the act or omission; or,
 - A person acting on behalf of a person falling within any of the above⁴¹.
83. The PIRC Statutory Guidance stipulates that complaints brought by a representative or a third party should be accepted if it is established that the representative has obtained the appropriate consent / permission of the service user. This will ensure that the policing body is compliant with the relevant data protection legislation⁴².

We Found

84. We identified 10 (6%) MI files that contained a relevant complaint about the police but had been recorded as a MI file because the person making the complaint was not considered to be a 'competent' complainer i.e., a third party not considered to have been affected by the incident giving rise to the complaint. Of note, 9 (90%) of the files relate to the period after the introduction of the NCM in May 2021, 6 of which were recorded by PSD East.
85. Of those considered not to be a relevant complaint because the complainer was a third party:
- 7 attempted to make a complaint about an incident involving a close family member (parent or child) or spouse;
 - 1 attempted to complain about an incident involving a friend, whom the complainer advised police was vulnerable; and
 - 2 attempted to complain about incidents they had witnessed involving other people, although they were not personally involved.

⁴⁰ Police Scotland's summary of the outcome of their internal review internal review found there had been a reduction from an average 215 MI files recorded per month in 2021 to an average of 146 recorded per month in 2022.

⁴¹ Section 34 (6) of the 2006 Act

⁴² Paragraph 47 of the PIRC Statutory Guidance

86. None of the ten MI files contained sufficient information to enable us to understand why the complainer was not considered to be affected. Despite NCARU having contacted five of the complainers to advise them that their complaint would not be progressed as it was 'not competent', there was no evidence in any of the files that the third-party complainer was advised that they could act as a representative with the appropriate consent. In the other five MI files, there was no evidence of any contact with the complainer prior to the file being closed. Had NCARU staff spoken with the complainers, it may have enabled them to come to an informed view on whether the circumstances as described by the complainer amounted to a relevant complaint.

The complainer used Police Scotland's online complaint form to raise three complaints: that her son's mobile phone was taken from him three weeks ago and had not been returned; her son was being harassed by the police on a daily basis; and that she has attended at a local police station, where she was told she could collect her son's phone, only for the phone not to be there.

The complaint was recorded as a MI File because the phone belonged to the complainer's son, and the complainer was not the subject of police attention. NCARU staff contacted the complainer by telephone (voicemail) advising that her son would be required to make the complaint himself for it to be progressed and the MI file was subsequently closed.

The MI Assessment Sheet does not record whether consideration was given to whether the complainer pays the bill for the phone, in which case the fact that it is being retained by the police would adversely affect the complainer and amount to a relevant complaint. Notwithstanding, the complainer expressed dissatisfaction about having attended a police station to collect the phone after she was advised that it would be there for collection, only to find it was not. This is a relevant complaint, which appears to have been missed by NCARU when it was assessed.

87. We recommend more consideration of complying with the provisions of the PIRC Statutory Guidance in terms of making the complaints system accessible to third party complainers.

Vulnerable Complainers

88. The police are increasingly being called upon to deal with situations involving people who are vulnerable and often have a wide range of complex issues and needs. Identifying such complainers is an important aspect of an effective complaints system.
89. It may not be immediately obvious that a complainer is vulnerable. These vulnerabilities may arise due to, among other factors, physical, mental, neurological condition or the complainer's personal circumstances. To assist, the Scottish Government Guidance on Inclusive Communication provides examples of how this may manifest itself. For example, a vulnerable complainer may ask repeated questions or give irrelevant, unclear or rambling

responses to questions⁴³. Policing bodies require to be mindful that the types and levels of vulnerability can vary from person to person – there is no ‘one-size fits all’ approach.

90. It is, therefore, important for all policing organisations to have an accessible police complaints process which is supportive of those with individual needs. This is recognised within the PIRC Statutory Guidance, which specifies that, when necessary, police should give assistance to people who wish to complain (particularly vulnerable individuals) to enable them to access and use the complaints system. If the complainer has a disability, policing bodies must consider whether reasonable adjustments are required⁴⁴.

We Found

91. We found eight (5%) MI files that contained a relevant complaint made by a complainer we considered vulnerable due to mental and / or physical health issues or whose circumstances could mean they were possibly at risk. The number of MI files raised for this reason was consistent pre-NCM and post-NCM.
92. Of the eight files, four alluded to the complaint not being progressed due to the complainer’s mental health and, therefore, the allegation was deemed not to constitute a ‘competent complaint’ about the police.

The complainer, who had been diagnosed as bipolar, contacted Police Scotland to express dissatisfaction with the action the police had taken in response to an alleged fraud that she had reported. The officers identified that the allegedly fraudulent purchases had been made by the complainer, during a manic episode, and there was no crime to investigate. Instead, concerned for the complainer’s welfare, the officers contacted the complainer’s daughter and asked her to attend.

The complainer used Police Scotland’s online form to complain that: the attending officers did not allow her to express her concerns regarding her report; involved the complainer’s daughter in the incident; and were too inexperienced to investigate the matter. She also complained that she was dissatisfied with the outcome of the police enquiry (i.e., no crime); and, that a named officer made a scene on her street while looking for her.

The MI Assessment Sheet records that this is “*not a competent complaint*” and alludes to the complainer’s poor mental health. It states, that while the complainer expressed dissatisfaction that the officers were not experienced to investigate the fraud, the attending officers investigating the incident identified that no fraud had been committed. Instead, recognising the complainer was having a mental health episode, they contacted the complainer’s daughter from a welfare perspective. The assessing officer within NCARU indicated that, having considered the actions of the officers on the day, “[it was] *an entirely acceptable course of action*”, and formed the conclusion that the complaint was not competent. However, as previously outlined,

⁴³ Principles of Inclusive Communication: An Information and self-assessment tool for public authorities – Scottish Government, September 2011 (<https://www.gov.scot/publications/principles-inclusive-communication-information-self-assessment-tool-public-authorities/pages/6/>)

⁴⁴ Paragraph 16 of the PIRC Statutory Guidance

the appropriate test is whether the complaints are relevant. While acknowledging the good intentions of the police to involve her daughter, mental health concerns should not preclude an individual from making complaints. In making her report to the police, the complainer genuinely believed that she had been the victim of fraud. In the circumstances, it was open to the police to use FLR to provide the complainer with an explanation or assurance.

93. We also found examples of good practice.

Good Practice

A member of the public, diagnosed with persistent delusional disorder and well known to the police, made a complaint via Police Scotland's online complaint form and in person at her local police station, that she had previously reported incidents of rape and assault, none of which, when investigated by the police, resulted in criminal proceedings. The complainer was dissatisfied about what she perceived as a lack of police action. Similar concerns had previously been made by the complainer, which had been recorded as a relevant complaint, investigated and a formal letter of response having been provided. However, the complainer refused to accept the outcome and continued to submit complaints expressing her dissatisfaction. In these circumstances, we concur with the decision to record the complaint as a MI File. It is noteworthy that, owing to prior contact with the police, NCARU staff were aware that the complainer was vulnerable and to bring some form of closure, a letter was sent that addressed the concerns raised as well as providing an explanation why the police would not be further investigating the complaint. We consider this to be good practice.

We also observe that, in response to the complainer having attended at the local police station in relation to her complaint, an entry was recorded on iVPD⁴⁵ which is appropriate and good practice.

Good Practice

The complainer, who openly described herself as being vulnerable due to her age and mental health, expressed dissatisfaction about the officers in her local area and, in particular, alleged that: she had been the victim of a crime but did not report it to the police because she believed she would be treated unfairly; had been called a lunatic by local officers on two occasions; was told by two officers to leave the area and return to her home town; was mocked by an officer for having previously had suicidal tendencies; and that when she attempted to report an incident, she was told by officers that she was 'disturbing their tea break'. These are all relevant complaints.

Initially NCARU took account of advice from her Community Mental Health Team not to contact the complainer or progress the complaints as it would be to the detriment of the complainer's mental health. However, considering the complainers' continued correspondence with Police Scotland seeking an update on the progress of her complaint, it was determined to be in the

⁴⁵ Interim Vulnerable Person's Database - a Police Scotland database which records information about individuals who are, or are perceived to be experiencing adverse circumstances or situational vulnerabilities which may impact on their current or future wellbeing

complainer's best interest, to provide a formal response to her complaint. The MI file was therefore progressed to a complaint file, with the complaints being subject of a proportionate level of enquiry, and a formal letter of response being sent to the complainer advising her of the outcome.

We Heard

94. During our interviews, NCARU highlighted the challenges they face when dealing with vulnerable complainers, and, in particular, those with mental health problems.

"Mental health, and how to engage with people who present with [mental health issues] is challenging..."

"...anyone with a mental health challenge...presents a difficulty. Sometimes this is undeclared"

95. They also identified a gap in their training on dealing, engaging with, and responding to complaints made by complainers that are vulnerable – particularly if the vulnerability relates to their mental health.

"There doesn't seem to be training [in] working with complainers who present with mental health challenges"

We Found

96. The need for training to deal with the prevalence of mental health issues was highlighted in the DEA report.⁴⁶ It recommended that Police Scotland officers should receive regular training inputs on how to deal effectively with individuals who display mental ill-health symptoms or related behaviours.⁴⁷ In response to this recommendation, Police Scotland has delivered training to Sergeants who, as supervisors, take the key decisions on dealing with incidents where mental health may feature.
97. There is inconsistency in how NCARU deal with complaints from vulnerable complainers and a lack of confidence on the part of some NCARU staff on how to deal with complainers with such needs. In that regard, consideration may be given to developing and delivering training on dealing with vulnerable complainers to NCARU staff.

Repetitive Complaints and Unreasonable Behaviour

98. People can act out of character in times of distress or anxiety, which can result in them acting in an unacceptable manner. Examples include persistently refusing to accept a decision or an explanation and continuing to pursue a complaint without any new added information.

⁴⁶ Paragraph 22.29 of the DEA Report

⁴⁷ Recommendation 22.78 of the DEA Report, page 367

99. The 2006 Act provides for a policing body to request a complaint handling review if satisfied that the policing body has taken reasonable steps to deal with the complaint.⁴⁸ One scenario where the policing body may consider invoking this provision is where a complainer repeatedly raises the same complaint, despite the policing body advising that there is nothing further they can do⁴⁹. PIRC recognises that dealing with repeat and repetitive complaints and complainers who are unreasonable can place an unnecessary administrative burden on policing bodies.
100. However, there can be different underlying factors for what may be perceived as unreasonable persistence. For example, the complainer may be vulnerable due to their mental health or some other neurological condition, or they may simply be vexatious. Consequently, it is important for NCARU to communicate with the complainer to understand the reason for their continued dissatisfaction, which will allow an appropriate course of action to be progressed.

We Found

101. We found six (4%) MI files that contained a relevant complaint but were recorded as a MI file as it was assessed to be a repeat / repetitive complaint. Of the six MI Files, we identified one that made specific reference to the behaviour of the complainer being deemed to be vexatious. However, it was not clear whether, at the time, the complainer was subject to restrictions in accordance with Police Scotland's Unacceptable, Persistent and Unreasonable Actions by Complainers SOP, and if so, what restrictions were in place.
102. Of the six MI files, only two contained sufficient information to enable us to understand why the complaint was considered repeat / repetitive and recorded as a MI File. The type of information that we would expect to see within the MI file includes details of the complainer's complaint history; copies of previous response(s); and any evidence of previous PIRC independent oversight. In three files, the complainer was contacted by NCARU and advised of the reason why their complaint would not be recorded and investigated as a relevant complaint which is good practice.

Good Practice

The complainer expressed dissatisfaction about her arrest for having made a racist remark and her time in police custody.

The MI Assessment Sheet records that the complaints have already been investigated and responded to by Police Scotland and that this concluded Police Scotland's involvement with the complainer's recourse being to contact PIRC.

A letter was sent to the complainer explaining that the matter had been investigated, that it would not be further investigated, and signposted her to PIRC for a complaint handling review.

⁴⁸ Section 35(1)(b) of the 2006 Act

⁴⁹ Paragraph 148 of the PIRC Statutory Guidance

This is good practice. Whilst we consider the MI file would have been enhanced had it contained a copy of the previous response letter (which would have provided detail of the complaints previously investigated), we are nonetheless satisfied that the available information supported the decision to record the complaint as a MI file.

103. The absence of sufficient information in four of the MI files on why the complaints were deemed repetitive in nature is problematic. We acknowledge that the lack of information within the MI files on whether a complainer is unacceptable and / or subject of restrictions may be due to the limitations of the Police Scotland Centurion IT System which does not allow users to readily record information about unreasonable complainers. In the absence of an appropriate software solution, there is an over reliance on NCARU / PSD's prior knowledge of a particular complainer and whether they are currently subject of restrictions. With regular personnel changes this presents challenges.
104. To assist we recommend that the MI Assessment Sheet is revised to ensure that it captures the necessary information to support decision making. Having sufficient records to support that a person is refusing to accept a complaint outcome and / or is being unreasonably persistent will also provide the necessary evidence to take the appropriate steps to restrict contact in line with Police Scotland's Unacceptable, Persistent, and Unreasonable Actions by Complainers SOP.
105. We also identified that communication with repeat / repetitive complainers was inconsistent and frequently lacking. A lack of communication with a repeat complainer may be counter-productive, and potentially lead to more complaints being generated. In that regard, we note that the revised Police Scotland CAP SOP⁵⁰, which is currently with PIRC for consultation, stipulates that:
- “Where a complaint is assessed as not being a relevant CAP, this should be recorded accordingly and notification sent to the complainer, advising they can contact the PIRC within three months should they disagree with Police Scotland's assessment.”*
106. Police Scotland has advised that this approach will be put into practice immediately. This is a positive step and should significantly reduce the number of complainers contacting PIRC because they have not had a response to their complaint.
107. There is a fine line between repetitive complainers and those whose behaviour becomes unreasonable. Unreasonable conduct by a complainer can hinder efforts to deal with the complaint efficiently and effectively. However, to address the complaint objectively and impartially, it is necessary to separate the allegation from the complainer's behaviour. Simply because a complainer behaves unreasonably during the complaints process does not, in itself, affect the validity of their complaint.
108. Police Scotland's Unacceptable, Persistent, and Unreasonable Actions by Complainers SOP enables staff to deal with unreasonable conduct in appropriate circumstances. If the

⁵⁰ Version 9, Page 7

behaviour of the complainer is deemed unacceptable and / or the complainer refuses to accept a decision or explanation, Police Scotland should record the reasons for their decision and if it is decided not to engage with the complainer further, they should be notified of that decision. It is crucial that the police maintain auditable records of why a complainer has been deemed unreasonable and detail the specifics of any restrictions put in place to manage future contact and communication with the complainer. This information is necessary should the complainer approach PIRC regarding the restrictions that have been imposed. In this regard, PIRC's role is to ensure that, by being deemed unacceptable, the complainer is not prevented from making new and relevant complaints.

The complainer, who was well known to police for his tendency to make repetitious complaints about matters that have previously been dealt with by the police, was assessed by NCARU as 'vexatious.' The MI file recorded the previous CO reference numbers in support of that assessment, which is good practice, but given the description of the complainer being vexatious, in line with the Police Scotland's Unacceptable, Persistent, and Unreasonable Actions by Complainers SOP, we would expect some reference as to whether the complainer was designated as an unacceptable complainer and the details of any restrictions that may have been in place. The MI File would be enhanced had this information been provided in conjunction with a copy of any correspondence sent to the complainer regarding his status as an unacceptable complainer.

109. There were, however, some examples of MI files providing a clear audit trail explaining the actions taken by Police Scotland.

Good Practice

Since 2005, the complainer had continually complained about the way officers dealt with historic fraud / theft incidents. An analysis of the complainer's history by NCARU identified three previous CO reference numbers documenting the complainers' concerns since 2013. The CO files confirmed that the complaints had previously been investigated, responded to, and subject to independent oversight by PIRC. The complainer's continued correspondence with Police Scotland demonstrated an unwillingness to accept the outcome of the previous complaint investigations.

NCARU staff opted to send a letter to the complainer, which contained a summary of the previous complaints that he had made, along with the outcome of the earlier complaint enquiry. The letter provided a clear explanation as to why Police Scotland would not re-investigate his complaints, as well as advising him that his contact with the police may be restricted should he continue to submit repetitious complaints to the police.

Good Practice

The complainer was a repeat complainer. The crux of the complaints related to dissatisfaction about the police response to a number of issues. However, whenever NCARU attempted to contact the complainer to better understand her complaint and potentially resolve the issue(s), the complainer failed to engage and continued to submit correspondence that was unclear and from which no relevant complaints could be identified and progressed.

The complainer's behaviour, coupled with her confusing and incoherent complaint submissions, may have inferred that the complainer was vulnerable and required support to make her complaint. However, we acknowledge that the lack of engagement by the complainer hindered NCARU's ability to assess and understand if the complainer needed support and, if so, what reasonable adjustments may have been required. Accordingly, in the circumstances, it was appropriate for NCARU to record the complainer's correspondence as a MI file.

The MI file contained a record of the repeated attempts made by NCARU to engage with the complainer and that she was warned that she may have her ability to make complaints restricted in line with Police Scotland's Unacceptable, Persistent, and Unreasonable Actions by Complainers SOP should her persistent contact continue. This was an example of good practice as complainers should be given an opportunity to change their behaviour before contact is restricted.

We Heard

110. NCARU staff highlighted the challenges they faced when trying to determine whether someone is a repeat or unreasonable complainer.

"Centurion is...not best for us either, because there's no resume of previous complaints if someone is a repeat [complainer]. There's no one click that tells me if this is a repeat complaint, or a complaint we've already dealt with. That one click resume that would bring up a list. Like iVPD, each time an entry is made on that, there's one line that you can bring up which lists previous reports. That's a huge thing for us, not being able to get a one-page resume".

"[I] once had a complaint from a man, and it wasn't clear on Centurion that he was an Unacceptable Complainer. It should be easier to go on to Centurion to see if someone is a [Unacceptable Complainer]. We need to go on to SharePoint for that."

111. The deficiencies of the Police Scotland IT system may explain why many MI files for repeat / repetitive complaints and unreasonable complainers are lacking sufficient detail. The inability of Centurion to link associated records is undoubtedly a weakness. We are aware that Police Scotland is in the process of upgrading their Centurion System which may provide an opportunity to improve the identification of any complainers deemed unacceptable and any restrictions that are in place.

We Found

112. The majority of MI Files concerning repeat / repetitive complaints did not contain sufficient information to enable us to comprehend how they had been identified as repetitive. For audit and good record keeping purposes, the MI Assessment Sheet should be revised to ensure that it provides sufficient information to enable the rationale for decisions to be understood. This will also assist with providing the evidence to support decisions to restrict contact in line with Police Scotland's Unacceptable, Persistent, and Unreasonable Actions by Complainers SOP.
113. We consider that there is scope for PSD to make better use of their Unacceptable, Persistent, and Unreasonable Actions by Complainers SOP. In that regard, we note that the internal review undertaken by Police Scotland has identified a training need in utilising the SOP to apply necessary restrictions to complainers who, due to the nature and volume of their contact or behaviour, are deemed to be unreasonable.⁵¹

Recommendation 8

Police Scotland should review and revise the MI Assessment Sheet to ensure that it captures the necessary information to support decision making.

Abandoned / Withdrawn / Anonymous Complaints

114. Where a complainer is contacted by NCARU / PSD staff in relation to their complaint and does not engage i.e., they fail to return or answer telephone calls and/or respond to letters/emails, the complaint is treated as abandoned.
115. Where, having made a complaint, the complainer subsequently decides that they no longer wish to proceed with their complaint, it is treated as withdrawn. In such cases, the CAP SOP states that complaint handlers are required to obtain a statement from the complainer confirming that they wish to withdraw the complaint and the reasons for doing so. The rationale provided by the complainer for withdrawing the complaint should be considered by PSD to enable an informed decision to be made about whether it is still appropriate and necessary to proceed with the complaint investigation despite it having been withdrawn.

We found

116. We identified 10 (6%) MI Files that contained a relevant complaint but had been recorded as a MI File because the complaint was considered abandoned, withdrawn, or had been made anonymously.
117. Of those, we identified that:
- 8 had been withdrawn;
 - 1 was abandoned; and
 - 1 had been made anonymously

⁵¹ Paragraph 9.6 of Police Scotland's summary of the outcomes of their internal review

118. Nine of the MI Files that were recorded as abandoned, withdrawn, or anonymous complaints related to the period pre-NCM. Six of those did not contain sufficient information to enable us to understand the rationale for not recording the complaint as a relevant complaint.

The complainer alleged that officers threatened to forcibly enter her home if she did not open the door. She stated that she does not open the door to anyone because of her anxiety and advised that once she had opened the door to the officers, they entered her home, placing her in a state of fear.

She made her complaint on 13 February 2021 but did not receive any contact from NCARU until 20 March 2021, a period of 35 days. On contacting the complainer, she alluded to the fact that she has a support worker, indicating that she may be vulnerable, and that she did not wish to proceed with the complaint. However, contrary to the provisions of the CAP SOP, the MI Assessment Sheet did not record the reason why the complainer wished to withdraw her complaint or contain the relevant incident report. Given a potential breach of Article 8 of the ECHR, the inclusion of the incident report would have enabled us to understand why the officers were required to attend the complainer's address and if there was a lawful purpose for doing so.

It appears that this complaint was categorised as an MI file because the complainer withdrew the complaint. However, a withdrawn complaint does not mean that the complaint was not a relevant complaint. Accordingly, it should still have been recorded as a relevant complaint about the police.

119. The CAP SOP recognises that even where a complaint has been withdrawn or abandoned does not necessarily prevent the complaint from being progressed through the complaint handling process.

120. It provides:

“Where a complainer wishes to withdraw their complaint, a full enquiry is still required in certain circumstances, including if a complainer states that their reason for withdrawing the complaint is that they have no faith in the complaints procedure; that sufficient evidence exists to support the complainers allegation if the complaint is criminal in nature; if the complaint arises from a matter that is particularly sensitive, serious, or high profile or the subject officer has a concerning complaint history – especially if there are a number of analogous complaints against the subject officer”⁵²

“In some cases, complainers fail to cooperate with the complaint process and can include

- *Refusal to meet with the investigating officer without good reason;*
- *Failure or refusal to answer or return telephone calls without good reason;*
- *Failure to reply to written correspondence without good reason;*

⁵² Paragraph 6.12.2 of the CAP SOP

or

- *behaving in an abusive or offensive manner.*

All contact and attempts to engage the complainer should be recorded, and all reasonable attempts should be made by PSD to engage the complainer. If PSD are satisfied that the complaint enquiry cannot proceed without the complainer's cooperation, consideration may be given to abandoning the complaint. The decision to abandon a complaint should be communicated to the complainer in writing and, if there is sufficient information available, consideration should be given to providing the complainer with a formal response letter"⁵³.

The complainer, who is a social worker, was advised by someone under her care that his house had been searched by police executing a search warrant looking for controlled drugs. She alleged that her client advised her that the police were acting on intelligence that he was involved in the supply of controlled drugs, and that they specifically named the complainer as being one of the sources of this intelligence. The complainer used Police Scotland's Online Complaint Form to query whether she was named as a source of the intelligence and to express dissatisfaction, if this was indeed the case. She provided her name, work address, work email address, work telephone number and a mobile telephone number.

The MI assessment sheet records that NCARU staff attempted to contact the complainer on her mobile phone 12 days after the complaint was made but it went straight to voicemail and no message was left. On the same date, NCARU also attempted to contact the complainer on her work telephone number, but she was not available. Within the file there is an email from a service advisor to NCARU advising that a colleague of the complainer had called and advised that the complainer was off sick and a note that NCARU staff spoke with the complainer's line manager'. The MI Assessment Sheet further recorded that the assessing officer left her details with the complainer's place of employment with a view to her re-contacting the police upon her return to work if she wished to pursue the complaint. The MI File was subsequently closed.

There are a number of issues regarding the handling of this complaint. In the first instance, the allegation constitutes a relevant complaint and should not have been recorded as a MI file. There were also other communication avenues that could have been explored i.e., a voicemail could have been left, and / or an email could have been sent to the complainer at her work email address and a 14-day letter was not sent to the complainer. Overall, the complaint was closed prematurely with minimal effort to contact the complainer.

Anonymous Complaints

121. The PIRC Statutory Guidance acknowledges that anonymous complaints present a number of challenges for policing bodies. In absence of any contact details, it is reasonable for the police to consider whether it is a relevant complaint. However, maintaining anonymity during the process does not necessarily preclude the complaint being dealt with.

⁵³ Paragraph 6.12.5, 6.12.6 and 6.12.7 of the CAP SOP

An anonymous complaint was made online alleging that police officers were using an NHS form to access the covid vaccine, with many having received the vaccine under false pretences. It alluded to fact that the Police Federation was aware of what was going on but were doing nothing to stop it. It is not clear why this was not recorded as a relevant complaint as it could be made by a member of the public albeit the reference to the Police Federation may have inferred that complainer was a serving police officer.

Despite not being recorded as a complaint, the MI assessment sheet recorded that NCARU referred the matter to PSD Gateway for their consideration.

We Found

122. The provisions outlined within the CAP SOP are not always being adhered to when it comes to recording complaints that have been withdrawn, abandoned, or have been made by an anonymous complainer. Regardless of whether a complaint has been withdrawn, abandoned, or made by an anonymous complainer, if a complaint meets the statutory definition of a relevant complaint, it must be properly recorded as a complaint about the police, and progressed according to the established procedures for dealing with relevant complaints, rather than being recorded as a MI file.

Front Line Resolution

We Found

123. Within our review we identified eight (5%) MI Files containing a relevant complaint where, despite being recorded as a MI file, FLR was successfully attempted. Specifically, these files show an element of enquiry having been carried out prior to the complainer being contacted by telephone and provided with an explanation. It appears that the decision to attempt FLR but not record the complaint allegation as a relevant complaint is linked to the application of a competency test rather than relevancy test.

The complainer had ongoing issues with local youths engaging in anti-social behaviour on his property. He reported his concerns to the police but was dissatisfied with the action taken and the advice he was given by the police.

NCARU staff contacted the complainer by telephone. The complainer raised the issues that he was having with the local youths and advised that a local Inspector had been dealing with the issue, however, the Inspector had moved on. The complainer agreed for his concerns to be brought to the attention of the local policing division.

The MI assessment sheet records that the complainer's concerns were brought to the attention of local community sergeant, who made contact with the complainer and provided an explanation regarding the police response and advised of a plan that had been agreed with local officers to tackle the issue moving forward.

It is not clear why this was not assessed to be relevant complaint. The complaint was effectively resolved by FLR – through the provision of an explanation and assurance – with action being taken in response to the complaints made. Had this been recorded as a relevant complaint, it would have been considered an example of a successful FLR.

124. By failing to record such complaints as relevant complaints rather than MI files, there is no record of whether the applicant accepted the advice / explanation they are given and they are being denied of their right of recourse should they remain unhappy. It also means that Police Scotland are not getting credit for the work carried out by NCARU within MI Files.

Recording of MI Files

125. The PIRC Statutory Guidance stipulates that, as part of the complaint handling process, it is important that complaint handlers create and maintain reliable and auditable records (including file notes or call recordings) as evidence of their actions in respect of: recording the nature and detail of the complaint; all interaction and attempted contact with the complainer; any enquiries undertaken and the rationale for all decisions including any decision not to progress the complaint through the complaint process i.e. FLR and/or the 6-stage process⁵⁴.

We Found

126. Our analysis identified 80 (48%) MI Files that contained some deficiencies in the information provided.
127. We acknowledge that the MI Assessment Sheet was updated post-NCM to improve the amount of information captured. The form encourages the assessing officer to record information about the complainer, the outcome of any Centurion checks, details of the subject officer (including name, rank, division, PSI number), any miscellaneous details, any progress and action taken in response to the complaint and details of the outcome.
128. Despite these improvements, the assessment sheet continues to lack sufficient information to provide an audit trail of the assessment, rationale, interactions and outcomes. Whilst not advocating the implementation of an overly bureaucratic and onerous process, similar to our findings regarding the complaint form, we consider there is scope to enhance the information captured within the MI Assessment Sheet to make it easier to complete and navigate i.e. involving the use of prompts, including tick boxes, pro-forma and/or pre-determined drop-down menus.

⁵⁴ Paragraph 39 of the PIRC Statutory Guidance

Accessibility and Communication

We Found

129. Of the 165 MI files assessed, 108 (65%) complainers received an acknowledgement that their complaint had been received. A substantial number of those complainers used Police Scotland's online complaint form or the online ContactUs form which provides an automated acknowledgement confirming receipt. However, 43 (40%) of these complainers were not subsequently informed that their complaint would not progress or the reason for this decision.
130. In 33 (20%) of the files, it was not clear whether the complainer received an acknowledgement of their complaint. These tended to relate to complaints that were made by letter or by email – particularly if the email was routed from another department within Police Scotland. In 25 (78%) of the 33 files, there was no evidence that the complainers were informed that their complaint would not be progressed and/or the reason for this decision.
131. It is evident that there are occasions where a MI File is recorded and closed by NCARU with minimal, or in some cases, no communication with the complainer. This has the potential to adversely affect public confidence in the police complaint process. Unless the complainer falls into the unacceptable category, we advocate that the complainer should be contacted and advised whether their complaint is going to be progressed or not. We raised this concern with Police Scotland and are pleased to advise that Police Scotland has provided a commitment to advise all complainers of any decision to record the complaint as a MI file and any decision not to progress the complaint.

Timescales

132. Resolving complaints as soon as possible is best for both the complainer and those complained about. An efficient and effective complaint handling procedure will deal with complaints promptly, avoiding unnecessary delay.

We Found

133. Within the MI Files we found that the NCARU were assessing complaints within three days or less in 37% of the files and the average time to assess a complaint was 6.8 days. We also identified 17 MI files whereby NCARU took more than 14 days to assess the complaint, four of which took more than 30 days. The average time taken to assess a complaint prior to the introduction of the NCM was 8.3 days, in comparison to an average of 5.6 days post-NCM.
134. The findings and interviews with NCARU staff confirmed that timescales for acknowledging a complaint and potentially resolving it via FLR are not being met; complainers are waiting an average of approximately seven days before their complaint is assessed. Although the

move to the new NCM appears to have had a positive effect on reducing the amount of time taken to assess a complaint, the feedback from NCARU is that despite the dedicated resources allocated to the NCM, staff are under pressure and struggling to meet current timescales.

135. This accords with our earlier findings relating to the audit of complaint files and the review of the NCM carried out by Police Scotland that identified that NCARU had insufficient resources to manage the demand.
136. As detailed above, one option to reduce pressure, is to revise the current timescales for acknowledging a complaint and contacting the complainer. Alternatively, Police Scotland may wish to differentiate between serious and non-serious complaints when they set out their timescales for dealing with complaints. This may serve to take the pressure off staff within NCARU as well as allowing for complainers' expectations to be properly managed from the outset.

We Found

137. Overall, the primary issue arising from our examination of the MI files is a lack of understanding of what constitutes a relevant complaint. This has increased since the introduction of the NCM. This issue was identified by Police Scotland's internal review, and we are advised addressed through in-house training and the introduction of supervisory oversight prior to any correspondence being closed as 'not relevant' and not recorded as a complaint.
138. Similar to the audit of complaint files, there are issues with the information recorded on the MI files. There is scope to improve the information captured within the MI Assessment Sheet to make it more user friendly and provide an audit trail of the assessment and, in particular, the rationale for not recording the matter as a complaint.

Appendix 1 – Relevant Legislation and Guidance

- Police, Public Order and Criminal Justice (Scotland) Act 2006 as amended
- Police and Fire Reform (Scotland) Act 2012
- Equality Act 2010
- PIRC Statutory Guidance for handling complaints about the police in Scotland (March 2021)

Appendix 2 – Key Terms

CAAP-D	Criminal Allegations Against Police Division (part of COPFS)
CAP SOP	Complaints About the Police Standard Operating Procedure
Centurion	Police Scotland's complaints and conduct database
CHR	Complaint Handling Review
COPFS	Crown Office and Procurator Fiscal Service
DEA Report	The Dame Elish Angiolini Report
ECHR	European Convention on Human Rights
FLR / Front Line Resolution	Early discussion of a complaint with the complainer
iVPD	Interim Vulnerable Persons Database
NCARU	National Complaints Assessment and Resolution Unit
NCM	National Complaints Handling Model
PIRC	Police Investigations and Review Commissioner
PSD	Professional Standards Department
PSoS	Police Service of Scotland (known as Police Scotland)
Relevant complaint	A complaint against the police, as defined in the Police, Public Order and Criminal Justice (Scotland) Act 2006, as amended
SOP	Standard Operating Procedure
SPA	The Scottish Police Authority