



Meeting	SPA Complaints & Conduct Committee
Date	1 March 2023
Location	MS Teams
Title of Paper	Revised SPA Complaint Handling Procedures
Presented By	Darren Paterson, Head of Workforce Governance
Recommendation to Members	For Approval
Appendix Attached	Yes – Appendix A – Revised SPA Complaints Handling Procedures

PURPOSE

The purpose of this report is to invite Members to approve the revised SPA Complaints Handling Procedures.

The paper is presented in line with:

- *Scottish Police Authority Committee Terms of Reference*

The paper is submitted:

- *For Approval*

1 BACKGROUND

- 1.1. The SPA Complaints Handling Procedures underpin the overarching [SPA Complaints Policy](#), both of which serve to ensure that, on receipt of complaints within its remit, the Authority will address concerns at an appropriate level, take proportionate action, and identify opportunities for individual and organisational learning. The procedures also highlight what actions will be taken by the SPA on receipt of complaints outwith its remit, or where complainers demonstrate actions considered by the Authority to be unacceptable, persistent or unreasonable.
- 1.2. The current procedures were approved by the Committee at its meeting of 19 August 2021 and Members were advised that they would be subject to regular review by the SPA Complaints Team in respect of any changes in best practice, working with partner organisations and being alert to any key learning that arose from the SPA handling of complaints.

2 FURTHER DETAIL ON THE REPORT TOPIC

2.1. Review Process

- 2.1.1. The SPA must have regard to the 'PIRC Statutory Guidance on the handling of complaints about the police in Scotland' when dealing with relevant complaints or developing its own internal complaints procedures. In publishing revised statutory guidance in June and October 2022, the PIRC stated that many of the revisions were introduced following its engagement with the Equality and Human Rights Commission and closely aligned to the recommendations set out by Dame Elish Angiolini in her report 'Independent Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing' published in November 2020.
- 2.1.2. Given the revised statutory guidance, the SPA undertook a review of its own procedures to ensure compliance with the revised guidance.
- 2.1.3. The revised procedures introduce a change to the decision making process for complaints about SPA staff below Director-level. The change reflects previous Committee discussion on the SPA Corporate Governance Framework review which noted that any key change would first require an amendment to the relevant procedure or policy. It is recognised that this change will require an amendment to the Committee Terms of Reference.

2.1.4. At its meeting of 18 August 2022, the Committee approved draft updates to the procedures for formal consultation.

2.2. Consultation

2.2.1. The draft procedures were shared for consultation purposes with partners including recognised trade unions, the PIRC, the Scottish Chief Police Officers Staff Association (SCPOSA) and Police Scotland with further amendments being made thereafter to incorporate feedback received.

2.2.2. No changes were proposed to the current version of the overarching SPA Complaints Policy.

2.2.3. The revised procedures are attached as Appendix A to this paper.

2.3. Key Changes

Complaints about SPA Staff

2.3.1. The Authority's Corporate Governance Framework provides the Terms of Reference for the Complaints and Conduct Committee which states that meetings will be used to (ii) "Consider and determine complaints against the Authority, its staff and senior officers of Police Scotland in accordance with the provisions of the Police Public Order and Criminal Justice (Scotland) Act 2006 and the statutory guidance produced by the Police Investigations and Review Commissioner (PIRC)"

2.3.2. Accordingly, complaints about SPA staff are currently determined by the Committee.

2.3.3. The revised procedures introduce a change to the decision making process for complaints about SPA staff below Director-level whereby complaints will be determined by the SPA Chief Executive (for complaints about SPA Corporate Staff) or the Director of Forensic Services (for complaints about Forensic Services staff).

2.3.4. Complaints about SPA Corporate and Forensic Services staff at Director-level and above will continue to be determined by the Committee.

2.3.5. This change follows standard practice in other organisations, and aligns with the existing approach within Police Scotland, whereby it handles all complaints with the exception of those about senior officers.

2.3.6. The change introduces a separation of responsibilities in terms of the role of the Committee in decision-making and oversight of complaints about SPA staff.

Other Changes

2.3.7. The revised procedures also introduce the following changes.

- Clarification on the three broad categories of complaint: On-duty; Off-duty and Quality of Service;
- Updated text in relation to complaints about former officers and staff;
- Updated text to reflect approval of the revised SPA Code of Conduct for Members;
- Clarification that the SPA is the appropriate authority for dealing with relevant complaints about senior officers in circumstances where the alleged act or omission that gave rise to the complaint occurred before the subject officer was promoted to a senior officer rank;
- Clarification that the SPA is also the appropriate authority for dealing with relevant complaints about officers whilst temporarily promoted to senior officer rank;
- Clarification on the processes for handling criminal allegations against senior officers and those against SPA staff members;
- Reworded section on Withdrawn or Abandoned complaints to align with the updated PIRC Statutory Guidance;
- Clarification that relevant complaints which are straightforward, relatively minor in nature and require minimal enquiry may be determined by the Complaints Team;
- Inclusion of alternative resolution proposals to resolve complaints;
- Inclusion of sections on support for vulnerable complainers, capturing equality evidence, and complaints made by children and young people; and
- Revised structure and format of document to avoid duplication and provide greater clarity around the procedures.

3 FINANCIAL IMPLICATIONS

3.1. There are no financial implications in this report.

4 PERSONNEL IMPLICATIONS

4.1. There are no personnel implications in this report.

5 LEGAL IMPLICATIONS

5.1. There are no legal implications in this report.

6 REPUTATIONAL IMPLICATIONS

6.1. There are reputational implications associated with this paper. The SPA Complaints Handling Procedures underpin the overarching SPA Complaints Policy, serving to ensure transparency, equality of treatment, common understanding and public accountability in the handling of relevant complaints within the remit of the Authority.

7 SOCIAL IMPLICATIONS

7.1. There are no social implications in this report.

8 COMMUNITY IMPACT

8.1. There are no community implications in this report.

9 EQUALITIES IMPLICATIONS

9.1. There are equalities implications in this report. An Equality and Human Rights Impact Assessment (EqHRIA) has been undertaken to ensure that the potential impact on equality and human rights has been proactively considered in the SPA Complaints Handling Procedures. In general terms, this guidance is anticipated to provide a positive impact by ensuring the complaints process is more accessible. The mitigating actions within the EqHRIA are focused on ensuring the processes in place to support accessibility are as effective as possible and that consideration is given to further improvements as part of the development of the SPA external website. The EqHRIA will be published, along with the revised procedures, on the SPA website.

10 ENVIRONMENT IMPLICATIONS

10.1. There are no environmental implications in this report.

RECOMMENDATIONS

Members are invited to approve the revised SPA Complaints Handling Procedures.





SCOTTISH POLICE
AUTHORITY
ÙGHDARRAS POILIS NA H-ALBA

Complaints Handling Procedures

Version 8.02
February 2023

Version Control

Document Owner	Version Number	Date Issued	Comments
SPA Complaints Team	8.00	August 2021	Version 8.0 contains changes so significant from that published as version 7.0 that it should be regarded as having been completely revised. Approved by SPA Complaints and Conduct Committee
SPA Complaints Team	8.01 (draft for consultation)	August 2022	Amended to take account of the revised PIRC Statutory Guidance; requirements of the Public Sector Equality Duty; support for vulnerable complainers; and changes to the decision making process for complaints about SPA staff below Director level.
SPA Complaints Team	8.02 (draft for Committee approval)	February 2023	Amended to take account of comments following consultation with partner agencies. To be presented to SPA Complaints and Conduct Committee for approval at its meeting on 1 March 2023.

Contents

Contents	3
Introduction	5
Guiding Principles	6
Support for vulnerable complainers	6
Capturing equality evidence	7
Complaints made by children and young people	7
Handling of complaints	7
Early Stage Resolution (ESR).....	7
Alternative Resolution	8
Two-step decision process.....	8
What complaints can the SPA deal with?	8
Relevant complaints outwith SPA remit	9
PIRC Statutory Guidance	9
Stage 1 - Notification of Complaint.....	9
Stage 2 - Recording and Initial Assessment	10
Recording a complaint.....	10
Initial assessment.....	11
Officers/Staff no longer serving	12
Anonymous complaints.....	12
Withdrawn and abandoned complaints.....	13
Stage 3 - Allocation and Enquiry	14
Heads of Complaint.....	14
Gathering Evidence	14
Managing complainers' expectations.....	15
Communication with the person subject of the complaint.....	15
Unacceptable, persistent or unreasonable actions.....	16
Stage 4 - Determination	16
Committee Determination	16
Complaints Team Determination	17
Complaints about SPA Staff.....	17
Stage 5 - Identify Organisational and Individual Learning	18
Stage 6 - Notification	18
Notification to complainer	19
Notification to the person subject of the complaint	20
Notification about the PIRC review function	20

Complaint Handling Reviews.....	20
Other types of complaint	21
Grievance	21
Whistleblowing concern	21
Criminal allegation	22
Misconduct allegation	22
Complaint about an SPA Board Member	22
Appendix 1 SPA Complaints Process	24
Appendix 2 SPA Indicative Timescales	25
Appendix 3 Relevant Legislation/Guidance.....	26

Introduction

These complaints handling procedures have been written for a number of audiences:

- Complainers- will act as a guide on how to make a complaint, and what can and cannot be considered
- Individuals being complained about- will allow individuals to understand what process is being undertaken and what outcomes are possible
- SPA Complaints Team- will allow for consistent treatment of all complaints received, and give templates for all stages of work
- SPA Complaints and Conduct Committee (Committee)- will ensure consistent information and knowledge of different disposal routes available for complaints
- Police Investigations and Review Commissioner (PIRC)- will allow for a clear audit trail of process and decision making
- Wider public and stakeholders- will ensure common and transparent understanding of the SPA complaints process

The purpose of having one set of procedures and making them available to all interested parties is to ensure transparency, equality of treatment, common understanding and public accountability.

As this document constitutes actual working procedures, they do cover a significant amount of detail. However it is hoped that by sharing the 'how' and the 'what' of its complaint handling, this will allow the SPA to focus its efforts on dealing effectively with all complaints. It also highlights what the SPA will do if there are complaints which do not fall within our remit, or if people abuse the process.

These procedures refer to legislation, regulations, statutory guidance, and internal SPA/Police Scotland Standard Operating Procedures (SOPs). They do not introduce anything new, but instead provide greater clarity on how each element is used.

The procedures provide detail on how the SPA handles relevant complaints. Grievances, whistleblowing concerns, criminal allegations and misconduct allegations are subject to their own processes and are not covered in any detail in this document.

It is important to highlight that when wrongdoing or omissions are alleged, the SPA will seek to address all concerns as quickly as possible. However, complaints about senior officers of Police Scotland will be prioritised.

Guiding Principles

All complaints received by the SPA are assessed upon receipt and will be considered in terms of the SPA complaints handling procedures, which are aligned with the following Guiding Principles of effective and responsive complaints systems as set out in PIRC statutory guidance:

- Visible and accessible- a process that is open, transparent and available to everyone
- Independent- a system that incorporates an appropriate degree of independence
- Objective, impartial and fair- complaints must be dealt with objectively, impartially and fairly, with outcomes firmly based on evidence
- Quick and simple- a process that is efficient and can deliver effective results as quickly as possible
- User-focussed and accountable- a process which takes into account the needs of the individual and is open to scrutiny
- Values complaints and continuous improvement- complaints provide an opportunity to measure performance, improve service delivery and share lessons learned

Support for vulnerable complainers

In addition to legislation and guidance which govern police complaint handling in Scotland, the SPA will have regard to the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010¹. Public authorities are required to take positive steps to eliminate discrimination, advance equality of opportunity, foster good relations and have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic² and persons who do not share it.

It is essential to public confidence that the SPA complaints system is visible, clear and accessible. Members of the public need to know how to make a complaint and how it will be dealt with. Where necessary, assistance will be

¹ In addition to general public sector duty, some policing bodies will also be subject to specific duties. The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 as amended sets out a list of the relevant public authorities.

² Includes age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation - Section 4 of the Equality Act 2010

given to enable people with different needs and different protected characteristics or any vulnerabilities to access and use the complaints system.

The SPA will ensure that all communication is tailored to the individual needs of the complainer and anticipate what type of reasonable adjustments may be required to meet the needs of the individual complainer, including those who have visual, hearing or mobility impairments. All information will be accessible in clear plain English, and, on request, will be made available in other languages or in alternative formats.

Capturing equality evidence

In order to advance equality of opportunity and eliminate discrimination, the SPA will seek to capture and record equality evidence from complainers when they engage with the SPA complaints system. Adequate and accurate equality evidence is at the root of compliance with the general equality duty. Equality evidence, alongside complaints data, will enable the SPA to better understand the effect of its policies and decisions, obtain a clearer understanding of the needs of service users, inform more effective targeting of policy and resources and identify whether further information is required.

Complaints made by children and young people

The United Nations Convention on the Rights of the Child (UNCRC) articulates the right for every child and young person to express their views, feelings and wishes in all matters affecting them and supports these views being heard and taken seriously. As a primary consideration, where the SPA receives a complaint from, or on behalf of, a child or young person, it will ensure that their best interests are paramount in all decisions and actions that affect them.

Handling of complaints

There are a number of ways in which a complaint may be dealt with, depending on its content, seriousness and complexity.

Early Stage Resolution (ESR)

The ability to resolve complaints promptly and simply is a key element of an efficient and effective police complaints system. To this end, Early Stage Resolution (ESR) allows complaints to be resolved by the SPA Complaints Team

at an early stage by way of explanation, assurance or apology. ESR is intended to be a pragmatic and proportionate approach that benefits all parties involved in a complaint. Complaints involving allegations of a criminal, complex or serious nature are not suitable for ESR.

Alternative Resolution

In addition to more formal complaint handling processes the SPA, with the agreement of the complainer, may consider other means of resolving complaints such as mediation, reconciliation or restorative justice.

Two-step decision process

When complaints are not suitable for ESR, they will go through a two-step decision process by the SPA:

1. Initial assessment to agree the appropriate complaint type
2. Final assessment to determine the outcome of the complaint

What complaints can the SPA deal with?

[The Police Public Order and Criminal Justice \(Scotland\) Act 2006](#) (as amended) defines a “relevant complaint” and also provides that the SPA is the “appropriate authority” in relation to relevant complaints about:

- The Authority itself, including Forensic Services;
- A staff member of the Authority, including Forensic Services staff; or
- A senior police officer of Police Scotland, of Assistant Chief Constable rank or above

A relevant complaint is, essentially, a non-criminal complaint made by a member of the public about the SPA, a member of SPA staff or a senior officer. The complaint may relate to any action taken or failed to be taken, or service provided or failed to be provided.

The SPA is also the appropriate authority for dealing with relevant complaints about senior officers in circumstances where the alleged act or omission that gave rise to the complaint occurred before the subject officer was promoted to a senior officer rank. The SPA is similarly the appropriate authority for dealing with relevant complaints about officers whilst temporarily promoted to senior officer rank.

Relevant complaints outwith SPA remit

The SPA is not responsible for the following:

Relevant Complaint about	Dealt with by
<ul style="list-style-type: none">• A police officer of Police Scotland, of Chief Superintendent rank or below• Police staff working within Police Scotland, of all grades up to, and including, Director level• Quality of service provided by Police Scotland	Police Scotland
<ul style="list-style-type: none">• British Transport Police• British Transport Police Authority• Civil Nuclear Constabulary• Civil Nuclear Police Authority• Ministry of Defence Police• National Crime Agency• UK Border Agency	Complaints about these bodies are managed by the respective organisation directly

Where complaints are received by the Authority which do not fall within its remit, the complainer will be advised of the reason why, and where to re-direct the complaint. In such cases, the complaint will be logged, acknowledged within 3 working days, the rationale for the assessment recorded, and the case closed.

PIRC Statutory Guidance

The handling of relevant complaints is subject to the oversight of the PIRC and all policing bodies operating in Scotland must have regard to its [statutory guidance](#) which provides a six-stage process for handling such complaints. Flowcharts outlining the SPA complaints process, and indicative timescales, are provided at [Appendices 1 and 2](#).

Stage 1 - Notification of Complaint

Complaints may be received by the SPA in writing, verbally, or by any means of electronic communication. Complaints may be made by a complainer or by a third party acting on behalf of a complainer with their consent.

The complainer will be informed of the next steps of the complaint process and directed to the Complaints section of the SPA's website. The individual needs of the complainer will be considered by the person notified of the complaint.

Complaints will be taken at face value and, in the absence of strong evidence to the contrary, will be assumed to have been made in good faith.

In order to progress a complaint, the SPA Complaints Team will contact the complainer to discuss the details of the complaint, to obtain further information or in some cases to resolve the complaint. This may be done by telephone, email, letter or, in some instances, a face to face meeting if this is deemed appropriate.

Stage 2 - Recording and Initial Assessment

Recording a complaint

Accurate and consistent recording is a fundamental part of effective complaint handling. It is vital that this information is retained, analysed and used to improve service delivery. All complaints received will be recorded in a secure and confidential database.

There are three broad categories of complaint:

On-duty complaints

Complaints where there is an allegation about an act or omission by a senior officer or SPA staff member in the course of their duty, employment or appointment. These may be criminal or non-criminal in nature.

A senior officer is considered to be on-duty in circumstances when they are off-duty and identify themselves as an officer verbally or by producing their warrant card **and** uses, or attempts to use, police powers to deal with a situation where it may be inferred they would be in neglect of duty had they not acted. In essence, by their actions, they return to an on-duty capacity.

Off-Duty complaints

Complaints about the acts or omissions of a senior officer or SPA staff member who was off-duty at the time of the incident giving rise to the complaint. Such complaints can allege criminal conduct or non-criminal conduct.

In determining whether an off-duty allegation will be dealt with as a complaint, consideration will be given as to whether a link exists between the subject matter of the complaint and the person's role as a senior officer or member of SPA staff. The matter will be treated as a complaint **only** if the conduct (if established) would have a bearing upon the person's role. Where no such link can reasonably be established, the matter will not be recorded as a complaint.

Quality of Service complaints

Quality of service complaints concern the provision of a service rather than the conduct of an individual senior officer or SPA staff member. Complaints of this kind are categorised in the following way:

- Policy/Procedure - this concerns policies, practices or procedures rather than their implementation by an individual senior officer or SPA staff member
- Service Delivery - this relates to the response to an incident or other matter, such as the time taken to respond or the type of response provided
- Service Outcome - this concerns the outcome of involvement in a matter, such as a failure to take action or dissatisfaction with the action taken

Initial assessment

On receipt of a complaint, the Authority will complete an initial assessment to determine who the complaint is about and if it is within its remit.

Sometimes it is not clear at the outset whether the complaint is about the actions or behaviour of an individual, about the quality of service received, or merely a request for an explanation or information about a particular incident. The primary task at this stage is to consider the content of the complaint ensuring that it is dealt with in the most appropriate manner and in line with relevant legislation and procedures.

The initial assessment is in accordance with the Authority's two-step decision process to agree the appropriate complaint type, i.e.

- Relevant complaint
- Grievance
- Whistleblowing concern
- Criminal allegation
- Misconduct allegation
- Complaint about an SPA Board Member
- Complaint does not fall into one of the above types

Only relevant complaints within SPA remit are handled in line with these procedures. Other types of complaint are progressed according to the respective policies/procedures which apply (as outlined later in these procedures). If a complaint is not to be dealt with by these procedures, the complainer will be advised accordingly. It is important that complaints are appropriately categorised following receipt (although it may be possible for complaints to be re-categorised if evidence comes to light which justifies this).

Any conduct implications arising from relevant complaints or grievances will generally be considered by the SPA only after the processes for dealing with those types of complaint are concluded. However, some relevant complaints may

also be serious conduct matters and, in extreme circumstances, it may be more appropriate to deal with the matter firstly as a misconduct allegation rather than follow the complaints process.

The Complaints Team will make the initial assessment decision on occasions where the appropriate complaint type is apparent. However, if there is some ambiguity about the complaint type, such a decision will be made by the Committee. In any case, the Committee will be advised of all serious and complex complaints received by the Authority.

Officers/Staff no longer serving

If a complaint is made about a senior officer or SPA staff member who is no longer serving with Police Scotland or the SPA, the complaint will be recorded and progressed as any other complaint. In order to constitute a relevant complaint, the act or omission must have occurred at a time when the individual was serving. Each complaint will be considered by the Authority as there may be organisational learning and improvement that can be gleaned from the complaint.

Anonymous complaints

Anonymous complaints may come in through written correspondence to the SPA, or may be identified through the 'Integrity Matters' system or through a report from an agency such as 'Crimestoppers'.

- 'Integrity Matters' is an internal, confidential reporting mechanism. Police Scotland officers and staff can report, both anonymously and confidentially, any criminal, conduct or integrity concern using this service.
- 'Crimestoppers' is an independent agency that allows people to anonymously report information about crime.

Anonymous complaints will be treated with caution. Complaints may be made anonymously for a variety of reasons. Anonymity may be sought by a complainer in order to make malicious allegations. On the other hand, anonymous complaints may be entirely legitimate and the complainer may seek anonymity, for example due to fear of reprisal. Anonymous complaints will therefore be approached with an open mind.

There may be instances whereby a complainer wishes to remain anonymous whilst still willing to engage in the complaints process. In such cases, the complainer may provide contact details which will allow the SPA to communicate with them to obtain any additional information and also to provide a final response letter.

In deciding how to deal with an anonymous complaint, the SPA will take the following into account:

- The nature, circumstances and seriousness of the alleged act or omission, including the apparent credibility or reliability of the allegation
- Based on the level of detail contained in the complaint (e.g. date, time, location of any incident) whether it is likely that evidence could be gathered during an investigation (i.e. whether there are obvious, reasonable and proportionate lines of enquiry that could be undertaken)

Where the SPA is unable to obtain additional information to assist with the initial assessment of the complaint or the complaint enquiry, and it is not possible to issue the final response to the complainer, the SPA will consider whether the anonymous complaint is a relevant complaint capable of being made by a member of the public. If so, the complaint will be progressed through the complaint handling process. Alternatively, the SPA will consider whether other routes, such as whistleblowing, are more appropriate to deal with anonymous allegations.

Withdrawn and abandoned complaints

Where a complainer intimates that they wish to withdraw their complaint in full, written confirmation will be obtained if possible, including the complainer's reason for withdrawing the complaint. Consideration will also be given to retaining any available evidence in the event that the complainer decides to re-engage with the complaints process.

In certain circumstances, despite the complainer wishing to withdraw their complaint, a full complaint enquiry may still be required if:

- The complainer states that their reason for withdrawing the complaint is their lack of faith in the complaints process and/or that the SPA will not investigate the matter properly;
- The complaint arises from a matter that is particularly sensitive, serious or high profile; or
- The person subject of the complaint has a concerning complaint history

In cases where the complainer fails without good reason to engage with the SPA, consideration may be given to abandoning the complaint enquiry, although the individual circumstances of each complaint will be considered. The SPA will make all reasonable efforts to secure the complainer's co-operation and engagement, and keep an accurate record of all attempts to contact them. However, the process will not be abandoned without first advising the complainer and providing them with an opportunity to respond within 10 working days before the complaint is closed.

In some cases, further engagement with the complainer may not be necessary in order for the complaint enquiry to proceed to a conclusion.

Stage 3 - Allocation and Enquiry

The SPA Complaints Team carry out investigations into relevant complaints. It is important to note that an investigation into a complaint is not a misconduct investigation. Rather, it is an investigation into the circumstances that led to the dissatisfaction being expressed by the complainer.

Heads of Complaint

The Complaints Team and the complainer will formally agree a list of complaints to be progressed (i.e. Heads of Complaint). The agreed list will be a definitive record of those complaints which the complainer wishes to pursue. Individual allegations, or expressions of dissatisfaction, that can be upheld or not upheld on their own, will not be grouped together as one complaint, but recorded separately.

If the complainer makes additional allegations during the complaint enquiry **after** Heads of Complaint have been agreed, it will be for the Complaints Team to decide whether the new allegations will be added to the ongoing enquiry, or be recorded separately.

Gathering Evidence

Gathering supporting evidence and information relating to a complaint is crucial to establishing the facts upon which a decision will be based. Evidence is the information on which to base proof or to establish a truth or falsehood. Evidence gathering relates to the identification, capture and recording of data relevant to the complaint being investigated.

Should further information or documentation be required, contact will be made with the complainer to request additional information. In most cases, a request for further information will provide a deadline of 5 working days for receipt.

Consideration will be given in all cases to the most effective method of gathering information including through written requests, telephone interviews or face to face interviews and any preference or requirements indicated by the complainer will be taken into account. In deciding the most effective method, consideration will be given to the type of evidence sought and the requirement to meet any specific accessibility needs of the complainer.

Where a complainer has not responded by the required date, the SPA Complaints Team will make contact with the complainer to advise of an extension of 5 working days in which to respond and advise that if a response has not been received by that date, a decision may be taken to progress the complaint for determination and potential closure based on the evidence available.

Extensions on the period of time provided for response will be considered on a case-by-case basis.

The SPA will undertake relevant internal checks to see if they hold any relevant information regarding the complaint, as well as request further information from third parties, including Police Scotland, to ascertain if any pertinent information is available regarding the complaint allegation(s).

Managing complainers' expectations

The SPA complaints process seeks to ensure that if the service provided or not provided, or the conduct of a person subject of a complaint falls below the standard that a reasonable person would expect, then the service, act or omission complained about will be addressed appropriately.

We cannot accept complaints by individuals to express dissatisfaction with situations for which there is an existing route for dealing with concerns, for example, a response to a Freedom of Information request or how Police Scotland handles complaints.

The SPA has set its own good practice timescales based on those set out in the statutory guidance. We aim to acknowledge complaints within 3 working days of receipt and conclude within 40 working days. This may take longer, however, depending on the complexity of the complaint. If a complaint takes longer than 40 working days to conclude, the complainer will be advised and thereafter updated on a monthly basis, or such other period as may be agreed with the complainer, until the complaint is determined.

Communication with the person subject of the complaint

Where a relevant complaint is made about a senior officer or member of SPA staff, they will be made aware at the earliest practicable point, provided that such early disclosure would not prejudice any investigation of a complaint. In addition, the individual will be asked to address or respond to the complaint allegation or provide evidence.

The person subject of the complaint is not obliged to provide any response. However they will be made aware that, if they do not, the complaint may be upheld based on the information available, particularly where there is no other

evidence to the contrary and the complainer has provided an apparently credible and reliable account.

Throughout the handling of the complaint, it is necessary to communicate regularly with the person subject of the complaint in order that they are aware that matters are still ongoing and when they may expect to be notified of the findings.

Unacceptable, persistent or unreasonable actions

There are relatively few complainers whose actions the SPA consider unacceptable. How we aim to manage these actions depends on their nature and extent. If they adversely affect the ability of the SPA to do its work and provide a service to others, we may need to restrict complainer contact in order to manage the unacceptable action.

A copy of our [Unacceptable, Persistent or Unreasonable Actions by Complainers Policy](#) is available on the SPA website.

Stage 4 - Determination

In order to determine the outcome of a relevant complaint, an objective analysis of all evidence will be completed, and a determination made on whether or not to uphold each complaint allegation by application of the Balance of Probabilities test. The SPA Complaints database will be updated with decisions for audit and statistical reporting purposes.

The determination of a complaint is in accordance with the Authority's two-step decision process.

Committee Determination

To assist the Committee in its decision making, the Complaints Team provide a Final Assessment report which includes the following:

- A summary of the complaint
- Background to complaint
- Details of investigation undertaken
- Assessment of complaint
- Details of legislation and/or SOPs used in assessment of complaint
- Copy of all documents/evidence relevant to the complaint
- Recommendation(s) for the Committee
- Confirmation of the decision(s) required to be made by Committee

Although the Complaints Team may make recommendations, the Committee makes the Final Decision. In reaching a determination, the following points will be considered:

- The act or omission that prompted the complaint
- Whether or not the facts established support or contradict the complainer's position
- If the evidence is supportive of the complainer's position, what action should be taken and what can be done to prevent a recurrence
- Where the material facts are in dispute, the balance of probabilities test will be used to determine which version of events is more probable
- Where material facts are not in dispute, the Committee will use its professional judgement to determine whether the conduct complained about, or the standard of service provided, fell below the standard that a reasonable person could expect.
- Whether an apology is appropriate
- What can be learned from the complaint

For complaints which are upheld, the Committee will then consider what further action may be appropriate. This may include:

- Provision of an explanation
- Provision of an apology
- Provision of assurances that this will not happen again
- Identification of lessons learned or improvement action to be taken
- Identification of management advice or training needs
- Potential for performance management, or disciplinary, or misconduct process to be instigated
- In the most serious cases, relating to misconduct allegations about senior officers, consideration will be given to conduct regulations, and if appropriate, preliminary misconduct assessment will be carried out, and if deemed appropriate, referred to PIRC for investigation

Complaints Team Determination

Relevant complaints which are not suitable for ESR but are, nevertheless, straightforward, relatively minor in nature and require minimal enquiry may be determined by the Complaints Team without the requirement to be brought to the Committee. In such circumstances, the Complaints Team will determine whether or not to uphold the complaint allegations.

Complaints about SPA Staff

- Complaints about SPA Corporate and Forensic Services staff at Director level and above are determined by the Committee.

- Complaints about staff below the level of Director are determined by the SPA Chief Executive or Director of Forensic Services.

In either case, the Complaints Team will undertake the standard process outlined above in dealing with a relevant complaint, regardless of the grade of the person subject of the complaint. The complaint will be progressed in line with the PIRC's six-stage process and a Final Assessment report produced by the Complaints Team for determination.

For complaints about staff at Director level and above, the report will be provided to the Committee for determination and for staff below Director level, the report will be provided to the SPA Chief Executive or Director of Forensic Services.

Stage 5 - Identify Organisational and Individual Learning

Continuous improvement is an important outcome of the complaints process. Complaints provide an opportunity to improve service delivery by identifying organisational and individual learning.

Opportunities may present during complaints investigations to improve service delivery and prevent repetition of complaints. Learning can include changes to current practices and policies or can involve direct development input for an individual or a group of individuals. It is equally important that good practice is identified in order that all parts of the organisation may benefit from lessons learned.

Significant issues identified during the investigation of a complaint will be addressed without waiting on the conclusion of the complaint to prevent any recurrence. Any organisational or individual learning points will be shared with the appropriate department or personnel to ensure lessons learned are taken forward and considered for future action.

The SPA Complaints Team will ensure that, where appropriate, line managers are made aware of the outcome of Committee decisions, and the expectations that they will oversee any follow up action. Line managers will be required to confirm to the SPA Complaints Team what action was undertaken.

Stage 6 - Notification

The SPA aims to notify the complainer, and the person subject of the complaint, within 5 working days of the complaint determination, dependent on the complexity of the complaint.

Notification to complainer

The SPA Complaints Team will send a final response letter to the complainer. Consideration will be given in appropriate cases to explaining the outcome of the complaint personally to the complainer, prior to the issuing of the final response. This may be most appropriate in relation to serious, sensitive or complex complaints, but may also be advisable, regardless of the nature of the complaint, where the complainer is known to have difficulties understanding written communication or different needs arising from different protected characteristics.

No other correspondence will be required with the complainer unless a misconduct hearing has arisen out of a complaint made by a member of the public. As required in the legislation, in those circumstances the Authority must notify that member of the public in writing of the determination of the proceedings.

The final letter of response will:

- Be clear and easy to understand, and free of technical language or jargon;
- Be tailored to the individual needs of the complainer, which may require consideration of alternative formats;
- Address all of the complaints that were agreed at the outset of the process;
- Be firmly based on the facts and evidence established during the enquiry and avoid the use of unfounded judgements or assumptions;
- Contain details of the enquiries carried out in respect of each complaint;
- Be adequately reasoned and explain clearly how the facts and evidence support the conclusions reached, including any conclusion that the complainer's account is no more probable than a competing account;
- Contain details of any relevant policy, procedure or legal provision that supports the conclusions;
- State clearly whether each complaint is upheld or not upheld on the balance of probabilities;
- Communicate clearly any service or conduct failings identified;
- Contain details of any action taken to avoid a recurrence of the situation which gave rise to the complaint, including any learning or improvement action;
- Where misconduct proceedings have been taken, advise of the determination made at those proceedings and any disciplinary action ordered, if permitted by the applicable legislation;
- Include, where appropriate, an apology;
- Provide the names of those involved in the complaint, unless there is an assessment of an identified risk to them, in which case unique identification numbers will suffice; and
- Include the standard passage advising the complainer of their right to seek a review by the PIRC if they are dissatisfied

The letter will reassure the complainer that the complaints have been dealt with fairly and, where necessary, that action will be taken to ensure there is no recurrence of the issue in question.

An apology will be given where things have gone wrong, either verbally or in writing. Any apology will be unambiguous and sincere.

There will be times when everything has been done to deal with the complaint but the complainer does not accept the outcome. It will be explained clearly to the complainer what can or cannot be achieved from the complaint.

Notification to the person subject of the complaint

The senior officer or SPA staff member subject of the complaint, while not provided with a copy of the final response issued to the complainer, will be issued with a response advising of the determination of the complaint, what follow up action is being taken, and in what timescales. They will also be advised that should the complainer be dissatisfied with the manner in which the SPA has dealt with their complaint, they have the right to seek a review by the PIRC. Review.

Notification about the PIRC review function

When issuing final responses to relevant complaints, the SPA will notify the complainer of their entitlement to seek a review by the PIRC if they are dissatisfied with the handling of their complaint. The following passage will appear as the final paragraph of the letter of response:

If you are not satisfied with the way in which your complaint has been handled, you may request a review by the Police Investigations and Review Commissioner (PIRC). If you decide to contact the PIRC, you must submit an application form to them within 3 months of the date of this letter (or e-mail), otherwise they may not be able to deal with your complaint. The contact details for the PIRC are outlined below.

Telephone: 01698 542900

E-mail: enquiries@pirc.gov.scot

Online: pirc.scot

Post: PIRC, 2nd Floor, Hamilton House, Caird Park, Hamilton, ML3 0QA

Complaint Handling Reviews

The PIRC may, at the request of the complainer, review the way in which the complaint has been dealt with, known as a Complaint Handling Review (CHR).

After completing the CHR, the PIRC may make recommendations requesting that further action is taken. The PIRC may also give a Reconsideration Direction, instructing the SPA to reconsider the complaint. In line with statutory guidance, any reconsideration will be dealt with by an individual who was not previously involved in the consideration of the complaint, and any proposed further response will not be provided to the complainer until having first been approved by the PIRC.

Other types of complaint

The following types of complaints are not handled in line with these procedures. Where any role for Authority members is required, this will be outlined in the respective policies/procedures which apply.

Grievance

The SPA/Police Scotland grievance procedure is used to try and resolve any issues in the workplace. Some common reasons for grievances are; terms and conditions of employment; health and safety; staff relationships with other people in the workplace; bullying and harassment; working practices and environment; discrimination; and incorrect interpretation or application of policies or procedures.

The procedure is applicable to all police officers (including senior officers), special constables, police staff and Authority staff.

Whistleblowing concern

Whistleblowing is a term used when an employee passes on information concerning wrongdoing. This is commonly referred to as “making a disclosure” or “blowing the whistle”. The wrongdoing will typically (although not necessarily) be something they have witnessed at work.

In respect of raising concerns, Police Scotland has guidance which applies to all police officers (including senior officers), special constables, police staff, contractors and agency staff. Similarly, the SPA has guidance which applies to all Authority staff as well as secondees, contractors and agency staff working within SPA Corporate and Forensic Services.

Criminal allegation

Where the SPA considers that it can reasonably be inferred that a senior officer may have committed a criminal offence, it must refer the matter to the Crown Office & Procurator Fiscal Service (COPFS) and specifically, in relation to police officer criminal complaints, the Criminal Allegations Against the Police Division (CAAPD).

Criminal allegations made about Authority staff will be referred to Police Scotland in the same manner as any other non-police officer criminal activity.

A complaint may be received which contains both criminal and non-criminal allegations. In such circumstances, where a criminal allegation has been referred to the COPFS or the police, guidance will be sought on how to proceed with any non-criminal aspects of the complaint.

It may be that the SPA is required to suspend its complaints process until criminal investigations have been completed.

Misconduct allegation

The Police Service of Scotland (Senior Officers) (Conduct) Regulations 2013 set out processes for determining allegations of misconduct by senior police officers. A "misconduct allegation" is defined as "any report, allegation or complaint from which it can reasonably be inferred that any conduct of the senior officer may amount to misconduct or gross misconduct".

Where such an allegation comes to the attention of the SPA, it will carry out a preliminary assessment of the allegation in terms of the regulations. In general, such assessments will be made only after the complaint has been considered by other, less formal processes. For example, a complaint about a senior officer by a member of the public may first be dealt with as a relevant complaint. Likewise, a complaint about a senior officer by a colleague in the employment context may be dealt with first as a grievance.

With regards to Authority/police staff, the SPA and Police Scotland have clear standards of behaviour that all staff must maintain. The SPA/Police Scotland disciplinary procedure sets out processes for dealing with misconduct and is applicable to all Authority/police staff.

Complaint about an SPA Board Member

A revised Model Code of Conduct for Members of public bodies was approved by the Scottish Parliament and came into effect in December 2021. The SPA Code of Conduct for Members was subsequently approved by Members and published

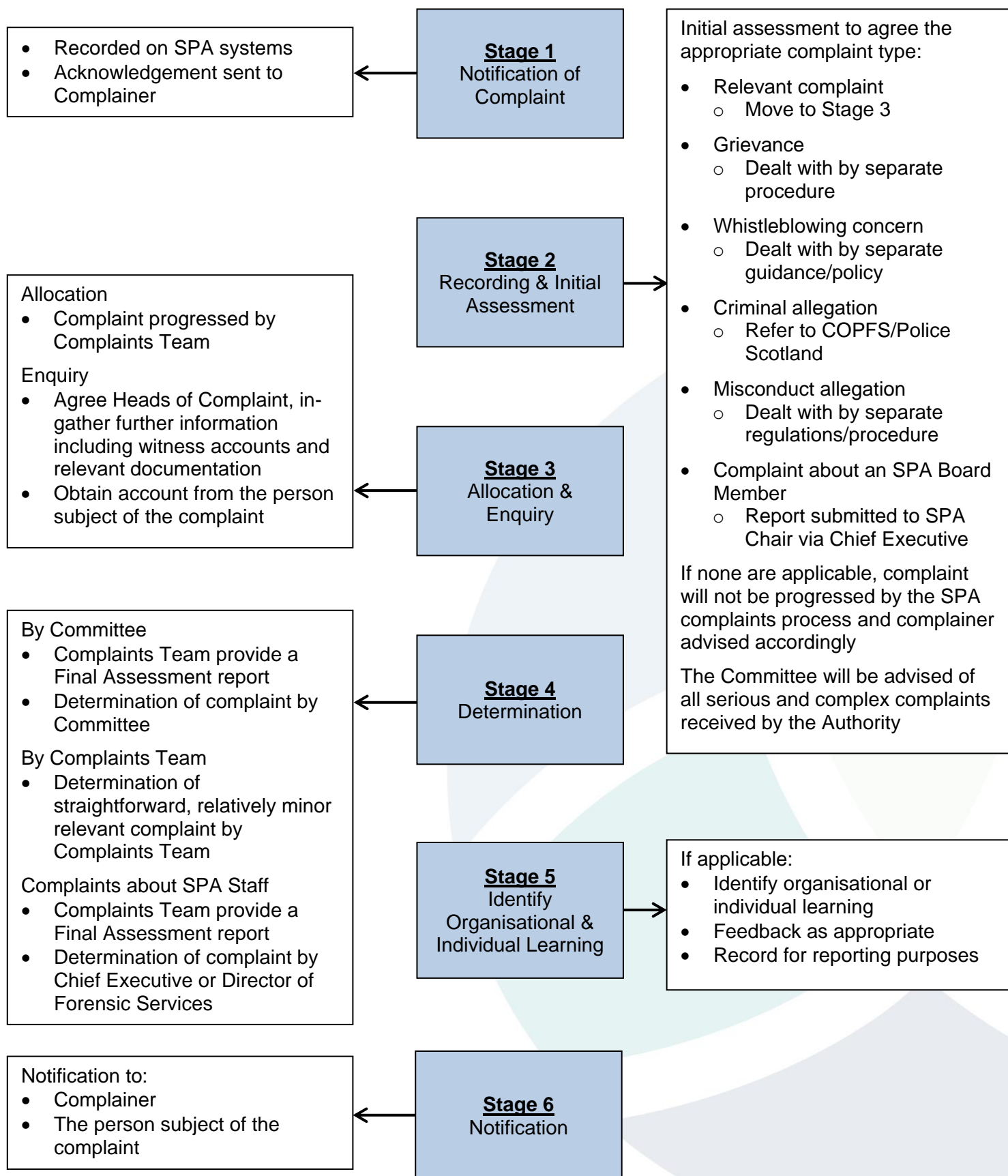
in June 2022. Complaints received about an individual SPA Board Member will be reviewed by the SPA Complaints Team to establish the nature of the complaint and a report submitted to the SPA Chair, via the SPA Chief Executive. The SPA Chair will forward the complaint to the Commissioner for Ethical Standards in Public Life in Scotland where it appears that a Board member may have contravened the Code of Conduct.

The Commissioner considers complaints about members of devolved public bodies who are alleged to have contravened the Code of Conduct.

On finding a contravention of the Code, the Commissioner will report to the Standards Commission for adjudication. Where a hearing is held by the Commission, and a contravention of the Code is established, it determines the level of sanction to be applied.

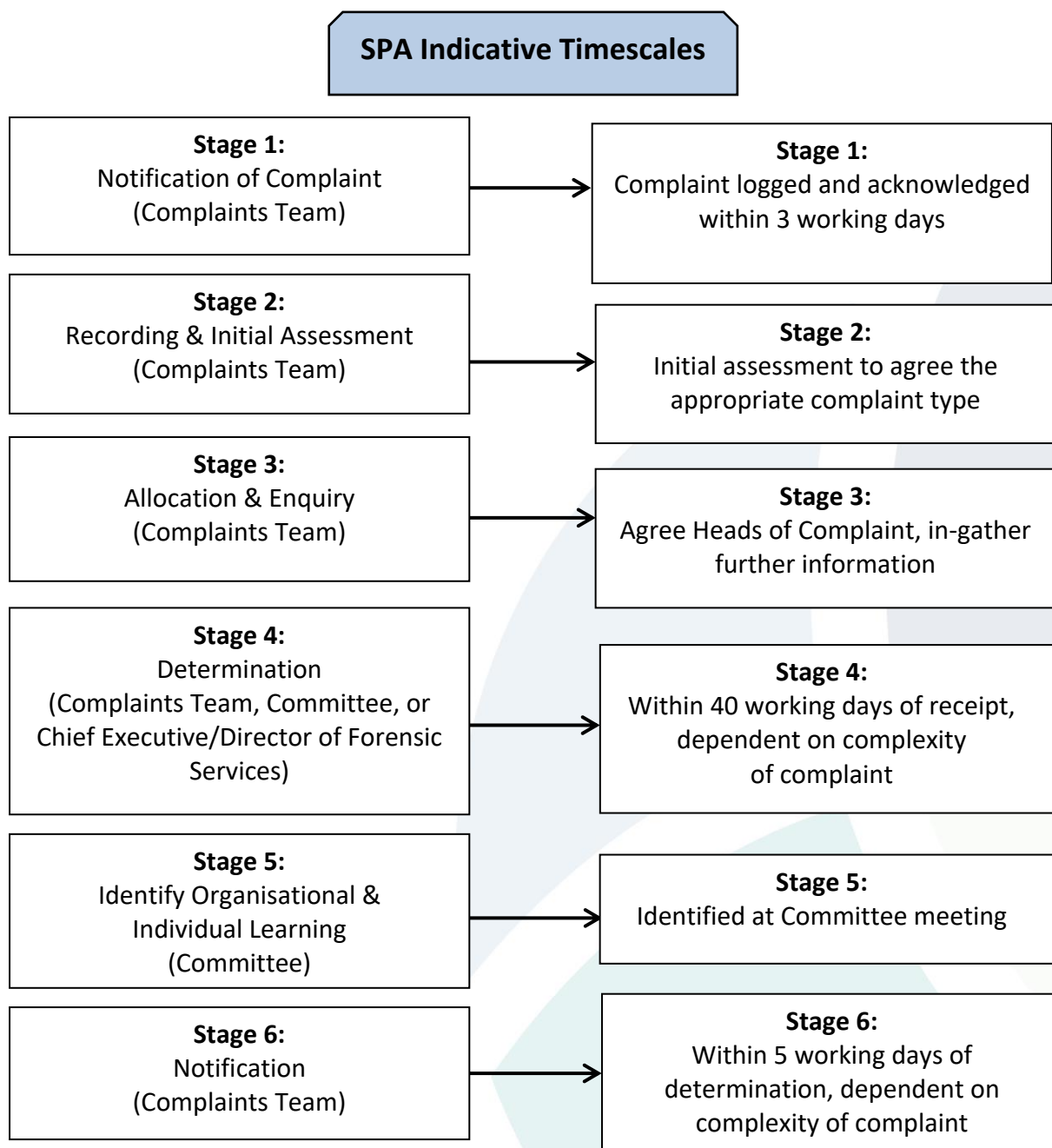


Appendix 1 SPA Complaints Process



Appendix 2 SPA Indicative Timescales

The following diagram provides an indication of the SPA's timescales with reference to the PIRC's 6-stage process for handling relevant complaints.



Appendix 3 Relevant Legislation/Guidance

The following legislation and other sources are relevant to the handling of complaints received by the SPA:

- [The Police, Public Order and Criminal Justice \(Scotland\) Act 2006 as amended](#)
- [Police and Fire Reform \(Scotland\) Act 2012](#)
- [PIRC Statutory Guidance on the handling of complaints about the police in Scotland \(October 2022\)](#)
- [The Police Service of Scotland \(Senior Officers\) \(Conduct\) Regulations 2013](#)
- [Ethical Standards in Public Life etc. \(Scotland\) Act 2000](#)
- [SPA Code of Conduct for Members v2.0 \(June 2022\)](#)
- [The Equality Act 2010](#)
- [The Equality Act 2010 \(Specific Duties\) \(Scotland\) Regulations 2012](#)