
Report To:	Local Police and Fire Scrutiny Committee	Date:	4 February 2021
Report By:	Corporate Director Education, Communities & Organisational Development	Report No:	P&F/01/21/IH
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Subject:	Local Police and Fire Scrutiny Committee Update report (February 2021)		

1.0 PURPOSE

- 1.1 The purpose of this report is to update the Local Police and Fire Scrutiny Committee on current and emerging issues relating to Police and Fire and Rescue Services.
- 1.2 The report includes an update of the recent publication of the Independent Review of Complaints Handling, Investigations, and Misconduct Issues in Relation to Policing, and also seeks approval of a response to the Scottish Parliament's Justice Sub-Committee on Policing- Police Scotland's use of remote piloted aircraft systems and body worn video cameras

2.0 SUMMARY

- 2.1 The report provides an opportunity for the Committee to be made aware of national initiatives, reviews and consultations and, where appropriate, to inform Members' consideration of future agenda items relating to Police and Fire and Rescue matters.
- 2.2 This report is intended to draw these elements together with a view to informing and shaping future meeting agendas as appropriate and raising awareness of emerging issues.

This report provides updates for the following:

- The Scottish Police Authority and Scottish Police Authority Board;
- Her Majesty's Inspectorate of Constabulary in Scotland;
- The Scottish Fire and Rescue Service and SFRS Board;
- The Scottish Parliament
- The Scottish Government

3.0 RECOMMENDATIONS

- 3.1 That the Committee notes the current and emerging national issues relating to Police and Fire and Rescue matters.
- 3.2 That the Committee notes the content of the Independent Review of Complaints Handling, Investigations, and Misconduct Issues in Relation to Policing and agrees to accept a further update following the meeting of the COSLA Policy Scrutiny Convenors Forum.
- 3.3 Continued

- 3.3 That the Committee approves the response to the Scottish Parliament's Justice Sub-Committee on Policing- Police Scotland's use of remote piloted aircraft systems and body worn video cameras

Ruth Binks

Corporate Director Education, Communities & Organisational Development

4.0 THE SCOTTISH FIRE & RESCUE SERVICE AND SFRS BOARD

4.1 **SFRS Incident Statistics 2019-20:** SFRS publish two statistical bulletins annually; the Fire Safety and Organisational Statistics are published in August and the Incident Statistics are published in October of each year, the [Incident Statistics 2019-20](#) bulletin was published on 30 October 2020.

In respect of Inverclyde the following points are noted for members attention:

- In order to provide comparison against all Scottish Local Authorities and the Scottish average, fire types are recorded at the rate per 100,000 population. In relation to all fire recorded as deliberately set the Inverclyde rate is recorded at 577.2 per 100,000 population against the Scottish average of 257.8. Compared to 2018/19 this is increase from 510.6 per 100,000 population against the Scottish average of 287.2.
- In respect of 'Primary Fires' the total rate is 206.9 per 100,000 population (133.7 recorded as accidental and 73.3 recorded as deliberate) against the Scottish average of 180.1 (135.5 recorded as accidental and 44.6 recorded as deliberate).
- In respect of 'Secondary Fires' the total rate is 528.3 per 100,000 population (24.4 recorded as accidental and 503.9 recorded as deliberate) against the Scottish average of 257.8 (44.57 recorded as accidental and 213.2 recorded as deliberate).
- The total amount of Primary Fires in Inverclyde in 2019-20 was 161, an increase of 3 from 2018-19 but considerably lower on the five year previously.
- The total amount of Secondary Outdoor Fires in Inverclyde in 2019-20 was 411, and increase of 39 from 2018-19. Of the 411 incidents 209 were recorded as occurring at 'Grassland' locations.
- There was recorded 828 false alarm calls in Inverclyde during 2019-20, 27 were recorded as malicious, 611 recorded as due to apparatus and 190 recorded as good intent. This is a slight increase compared to the 2018-19 figures.

4.2 **SFRS Board:** The SFRS Board met on [29 October 2020](#) with a number of corporate activities discussed. There was submitted a paper [Grenfell Tower Update Report \(Update Report 4\)](#) which provided the Board with progress on the work undertaken by SFRS in conjunction with relevant partners, following the Grenfell Tower fire tragedy in June 2017.

As part of SFRS' commitment to learning all lessons from the fire, a working group has been established to develop and coordinate a detailed action plan based primarily on the first phase of the Grenfell Tower Inquiry and the first phase report made 31 recommendations to London Fire Brigade and fire and rescue service's in general. Thus far SFRS have met 11 of the 31 recommendations when considered within the Scottish regulatory framework with significant progress made towards the remaining 20 recommendations.

4.3 The SFRS Board met on [17 December 2020](#) with a number of board reporting mechanisms and quarterly progress reports presented to the Board.

5.0 HER MAJESTY'S INSPECTORATE OF CONSTABULARY IN SCOTLAND (HMICS)

5.1 **HMICS Assurance Review of Demand Analysis and Management Terms of Reference:** The aim of this review will be to assess the state, efficiency and effectiveness of the analysis and management of demand within Police Scotland. The [Terms of Reference](#) can be accessed using the link.

6.0 THE SCOTTISH POLICE AUTHORITY

6.1 **SPA Board Meeting:** The SPA Board met on [25 November 2020](#) with a number of papers for Board consideration. There was submitted a paper [Mental Health Demand](#) which provides an overview of the challenges currently faced in Police Scotland's strategic planning as Police Scotland support members of the community in mental health crisis/distress.

6.2 **Audit Scotland:** [The 2019/20 audit of the Scottish Police Authority](#) was published by Audit Scotland on 11 December 2020. In the report the Auditor General commented:

- The Scottish Police Authority has built on the progress highlighted in last year's statutory report. It has made improvements to its financial planning and management, and its 2019/20 financial outcome was within the revised budget approved by the Scottish Government.
- There has been stability in the leadership of the Scottish Police Authority and Police Scotland and the Authority has made good progress in developing the capacity of its corporate function. There has also been progress in relation to organisational governance.
- Progress remains slow in other important areas. The Scottish Police Authority is not yet operating to a financially sustainable budget. Police Scotland has failed to develop a detailed workforce plan. Without firmer progress on these key areas, they will find it difficult to deliver the ambitions of the new Joint Strategy for Policing.
- The Scottish Police Authority, Police Scotland and the Scottish Government need to identify a model for policing in Scotland that is financially sustainable.

The report from Audit Scotland coincides with the publication of the [SPA 's Annual Report and Accounts for 2019/20 financial year](#).

6.3 **Policing Performance Committee:** A meeting of the Policing Performance Committee took place on 17 November 2020 and members are asked to note three papers tabled at the meeting:

- There was submitted a paper by the Assistant Chief Constable for Partnership, Prevention and Community Wellbeing in respect of the [Naloxone Delivery Steering Group Update](#) proposing that Police Scotland undertake a Test of Change exercise regarding the carriage/use of Naloxone (intra-nasal) by police officers. It is proposed that the Test of Change will be delivered in three suitable test-bed areas, for a period of 6 months. The areas are C Division (Falkirk), D Division (Dundee City) and G Division (Glasgow East).
- There was submitted a paper by the Chief Superintendent for Operational Support and Superintendent for Specialist Operation in respect of the [Remotely Piloted Aircraft System \(RPAS\) Evaluation Report](#). This matter has been subsequently brought to the attention of the Scottish Parliament Justice Sub-Committee on Policing and is considered separately at section 9 of the report.
- There was submitted a paper by the Community Accountability Manager (SPA) in respect of [Engagement of Local Authorities on policing- next steps in strengthening national and local joint approaches](#). Members are asked to note the 'next steps' section contained within the report notably; How local demand is understood, resources are deployed flexibly and effectively, and how that is reflected in local police plans.

7.0 INDEPENDENT REVIEW OF COMPLAINTS HANDLING, INVESTIGATIONS AND MISCONDUCT ISSUES IN RELATION TO POLICING

7.1 There was submitted a report to the Inverclyde Local Police & Fire Scrutiny Committee by the Corporate Director for Education and Communities (17 September 2020) seeking approval of

a response by the Committee to the Independent Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing being chaired by the Rt.Hon Dame Elish Angiolini DBE QC.

- 7.2 The [independent review final report](#) was published in November 2020 and makes 81 recommendations. In respect of local scrutiny committees, recommendation 33 notes; “Local scrutiny committees should consider, in consultation with Police Scotland’s local divisional commanders and the COSLA Police Scrutiny Convenors Forum, what further complaints information or discussion would assist their scrutiny of the police.” The substantive section in respect of local scrutiny committees is appended as appendix 1.
- 7.3 Council Officers have discussed the report recommendation with the Secretariat of the COSLA Police Scrutiny Convenors Forum regarding the potential implications for scrutiny arrangements across Scotland. As the COSLA Police Scrutiny Convenors Forum has not met to consider the recommendation it is recommended that Members note the content of the final report and accept an update at a future Committee Meeting.

8.0 THE SCOTTISH GOVERNMENT

- 8.1 **Building and Fire Safety Working Group:** There was a meeting of the [building and fire safety working group](#) on 26 November 2020. This meeting considered updates in respect of the Grenfell Tower Inquiry: Phase one report, Scottish Advice Note on Cladding and a paper in respect of High Rise Building Inventory.

9.0 THE SCOTTISH PARLIAMENT JUSTICE SUB-COMMITTEE ON POLICING

- 9.1 **Remote Piloted Aircraft Systems and Body Worn Cameras:** The Justice Sub-Committee on Policing is considering how Police Scotland currently makes use of remote piloted aircraft systems, also known as drones, and body worn video cameras. The Sub-Committee is also considering any plans Police Scotland may have to expand the use of either technology. The Sub-Committee will gather written evidence on this issue, and plans to take oral evidence from Police Scotland and the Scottish Police Authority on these issues on 18 January 2021.
- 9.2 The Sub-Committee has launched a public call for views as part of this work and has invited interested parties to submit a response on the use of remote piloted aircraft systems and/or body worn video cameras.
- 9.3 Due to time boundaries, members of the committee were asked to submit responses in advance of a submission, the submitted response is appended (Appendix 2) for approval. Information on the consultation and correspondence between the Justice Sub-Committee on Policing, Scottish Police Authority and Police Scotland can be viewed on the [following link](#).

10.0 IMPLICATIONS

10.1 Finance

Financial Implications:

One off Costs

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report	Virement From	Other Comments
N/A					

Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact	Virement From (if Applicable)	Other Comments
N/A					

10.2 **Legal**
None

10.3 **Human Resources**
None

10.4 **Equalities**

Equalities

(a) Has an Equality Impact Assessment been carried out?

	YES (see attached appendix)
X	NO – This report does not introduce a new policy, function or strategy or recommend a substantive change to an existing policy, function or strategy. Therefore, no Equality Impact Assessment is required

(b) Fairer Scotland Duty

If this report affects or proposes any major strategic decision:-

Has there been active consideration of how this report's recommendations reduce inequalities of outcome?

	YES – A written statement showing how this report's recommendations reduce inequalities of outcome caused by socio-economic disadvantage has been completed.
X	NO

(c) Data Protection

Has a Data Protection Impact Assessment been carried out?

	YES – This report involves data processing which may result in a high risk to the rights and freedoms of individuals.
X	NO

10.5 **Repopulation**

This structure is intended to protect and assist the local communities.

11.0 CONSULTATIONS

11.1 None

12.0 BACKGROUND PAPERS

12.1 **Police Scotland Performance**

Local Police and Fire Scrutiny Committee 19 November 2020

12.2 **Local Police and Fire Scrutiny Committee Update report (September 20)**

Local Police and Fire Scrutiny Committee 17 September 2020 (P&F/06/20/HS)

Independent Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing

Final Report

November 2020

The Rt. Hon. Dame Elish Angiolini DBE QC

Chapter Thirteen - Scrutiny by local authority local scrutiny committees of complaints against the police

13.1 Section 45¹¹⁹ (Local authority role in policing) of the Police and Fire Reform (Scotland) Act 2012 requires local police commanders to provide the local authority with such “statistical information on complaints made about the Police Service in, or the policing of, its area” as the local authority may “reasonably require”. In my preliminary report I invited further views on a number of specific issues including the role of local scrutiny committees in relation to police complaints. The Review wrote to all Police Conveners of the local scrutiny committees seeking their views on:

- how the local scrutiny committee operates in their local authority;
- the quality of the statistical information provided to members by the local divisional commander;
- the effectiveness of the arrangements in place for scrutinising Police Scotland’s complaint handling, identifying trends and responding to local issues; and
- any changes and improvements that could be made.

13.2 Eight committees responded to that letter providing a range of detail on how the arrangements operate in their council areas. To supplement that evidence, the Review also wrote to the Chief Constable. All thirteen divisional commanders were consulted on the four questions raised and Police Scotland responded collectively.

13.3 How local scrutiny committees are structured and operate in each local authority area varies depending on the size of the authority and the extent to which they involve other partner organisations. The divisional commanders at chief superintendent level attend the relevant meetings and are responsible for providing information about their division or local authority area.

13.4 The COSLA Police Scrutiny Conveners’ Forum was established by COSLA in 2016. In August 2020 the SPA’s Policing Performance Committee considered a

¹¹⁹ <https://www.legislation.gov.uk/asp/2012/8/section/45>

paper¹²⁰ on local scrutiny that described the Forum's purpose and set out in an appendix each council's local scrutiny arrangements:

"It was set up to enhance the ability of elected members to have a meaningful role in the governance and scrutiny of policing in Scotland, and provide a mechanism for elected members to provide input into national policy issues and broader policing matters that have an impact on local communities. The Forum comprises all local authority scrutiny conveners or the equivalent political lead for police scrutiny at local authority level, supported by relevant senior officials, with additional participation from Police Scotland senior officers, the Scottish Police Authority Board and Executive Team, and Scottish Government officials."

13.5 The SPA told the review that they recognise the potential value of developing a shared evidence base on what is working well in local scrutiny, where best practice lies, and where improvement could be fostered and that there was now an opportunity through the establishment of the new SPA Policing Performance Committee, with COSLA participation, to monitor how local scrutiny is working.

Quality of information

13.6 In terms of the quality of the statistical information provided to local scrutiny committees by the divisional commander, the information provided by divisions is supplied by the Analysis and Performance Unit (APU) and/or Professional Standards Department (PSD) and generally details the number of complaints in the relevant area, the number of complaints per 10,000 incidents, and the total number of allegations (one complaint may include more than one allegation) recorded including on-duty, off-duty and quality of service.

13.7 The commanders identified the benefits of sharing the data as: ensuring transparency and accountability, promoting standards of professional behaviour, enhancing confidence in Police Scotland, allowing them to be questioned by committee members and providing an opportunity to identify issues which may not only relate to policing.

¹²⁰ <https://www.spa.police.uk/spa-media/0vkfhh4/item-5-la-scrutiny-arrangements.pdf>

13.8 One committee explained that their local divisional commander presents a detailed performance report on a quarterly basis, aligned to the priorities for the area. This is complemented by narrative content which describes activity and performance over the period.

13.9 Another committee stated that, in general, members of the committee were satisfied in respect of the statistical information provided by the local divisional commander. At all their committee meetings there is the opportunity to discuss the presented statistics and any particular trends with the local divisional and area commanders. Where additional information has been requested this has been provided either at the meeting, or directly to the elected member following the meeting or at a subsequent meeting. Police Scotland have also presented spotlight reports on two occasions giving greater insight into a particular issue relevant to the area where elected members have raised concerns. The committee was satisfied that the relationship as a community planning and community safety partner is such that Police Scotland do respond to local needs. There was a concern expressed about the role that local scrutiny committees can play when an issue contained within the local police plan is delivered by a national department within Police Scotland.

Complaint handling

13.10 One committee confirmed that they received an infographic-style police report that included a broad range of statistical information including complaints. This committee also noted that both the divisional commander and local area commander had always been happy to discuss any complaints with members collectively and individually.

13.11 Another committee reported that in previous returns to the Scottish Police Authority (SPA) as part of the SPA's annual review of policing, their Council had asked for more detailed information in respect of complaints against the police at a local level, and that consequently the quality of statistical information provided to

their local scrutiny committee had improved over time to cover various complaint categories broken down by off-duty and on-duty allegations.

13.12 One committee stated that police complaints had never specifically been included in quarterly updates until recently. The divisional commander had reviewed the format of the information supplied in consultation with council officers and police complaints data is now included. Any questions that arise from police updates have always been followed up with more detailed information from Police Scotland.

13.13 One committee stated that the value of reviewing complaints data locally would be enhanced where it could be read alongside comparable national statistics.

Changes or improvements

13.14 In respect of any improvements that could be made to the effectiveness of how the arrangements operate or to the information provided, one committee told the Review that there could be 13 styles of report presented across the 32 local authorities because divisional boundaries did not always correspond to local authority boundaries. Its view was that utilising the COSLA Police Scrutiny Convenors Forum to consider good or best practice would be beneficial in determining how information is presented and what roles local scrutiny committees could play; ultimately any changes or improvements should be flexible enough to meet the needs of local scrutiny arrangements.

13.15 One elected member who gave separate evidence to the Review suggested that there might be merit in having dedicated single-item local scrutiny committee meetings on complaints, or an obligation to discuss complaints, or a discussion across local scrutiny committees on a regional basis with members of the Police Scotland Force Executive in attendance.

13.16 Another committee thought that local elected members would benefit from having a better understanding of the role of the SPA in managing and determining complaints against senior officers and the role and functions of the Police

Investigations and Review Commissioner (PIRC). Having regular updates, particularly from PIRC, would help develop that understanding.

13.17 This committee also stated that the information presented was limited to quantitative data and qualitative information would be useful. It would be helpful to receive information on what organisational learning had been derived from complaints, how complaints had resulted in changes to systems or processes and where operational practice had been strengthened.

13.18 The local scrutiny committees of councils provide an opportunity for public scrutiny of the quality of service provided by Police Scotland in the 13 local divisions. There is scope for this mechanism to be more effective and improved in order to ensure appropriate accountability. The key to this is the provision of accessible and meaningful information by the local divisional commander and effective questioning and discussion of trends by elected members.

13.19 In their evidence to the Review, senior members of the press described a loss of value in this scrutiny process post-police reform in 2013 and a missed opportunity in relation to accountability through complaints information. This is a valuable form of local scrutiny and there is evidence that it may have diminished in the years since 2013.

13.20 I am grateful to the local scrutiny committees and to Police Scotland for their responses on this subject. Those responses suggest that practice and levels of interest in police complaints is variable. That is to be expected but I would encourage elected members to consider what enhanced police complaints information might indicate about general public confidence in the police as well as the experience of specific communities. Complaints about the police service is an area for local scrutiny that is specifically provided for in the primary legislation and that could be developed further where the committees, partnerships or boards have the appetite, time and resource.

13.21 It is somewhat surprising that committees are not asking for more information about the nature and the profile of complaints to inform their perspective on the

character of complaints against the police and trends in their local authority area. The level of detail of information that they generally have access to is in contrast to the more detailed information provided to the SPA Complaints and Conduct Committee by Police Scotland's Professional Standards Department in its published quarterly performance report¹²¹. The regional breakdown of information contained in that report would be valuable to elected members and should also be provided to local scrutiny committees.

13.22 I recommend that local scrutiny committees should consider, in consultation with Police Scotland's local divisional commanders and the COSLA Police Scrutiny Convenors Forum, what further complaints information or discussion would assist their scrutiny of the police.

13.23 Recommendation: Local scrutiny committees should consider, in consultation with Police Scotland's local divisional commanders and the COSLA Police Scrutiny Convenors Forum, what further complaints information or discussion would assist their scrutiny of the police.

¹²¹ <https://www.spa.police.uk/spa-media/4fhkaaa0/rep-c-20200820-item-8-police-scotland-professional-standards-quarterly-performance-re.pdf>

LIST OF ALL FINAL REPORT RECOMMENDATIONS (1-81)

Code of Ethics

1. Recommendation: Police Scotland's Code of Ethics should be given a basis in statute. The Scottish Police Authority and the Chief Constable should have a duty jointly to prepare, consult widely on, and publish the Code of Ethics, and have a power to revise the Code when necessary.

Review of 'assault' and 'excessive force' categorised complaints

2. Recommendation: The Criminal Allegations Against Police Division (CAAP-D) of COPFS should repeat on a regular basis the review that they carried out of all the 'assault' and 'excessive force' categorised complaints that had been received by Police Scotland in the month of March 2020.

Police Scotland

3. Recommendation: Other than for pressing operational reasons, police officers involved in a death in custody or serious incident, whether as principal officers or witnesses to the incident should not confer or speak to each other following that incident and prior to producing their initial accounts and statements on any matter concerning their individual recollections of the incident, even about seemingly minor details. As with civilian witnesses, all statements should be the honestly held recollection of the individual officer.
4. Recommendation: The quarterly Police Scotland performance report to the SPA Complaints and Conduct Committee should identify five-year trends.
5. Recommendation: Police Scotland and the Scottish Police Authority should consider expanding the collection of diversity data and the publication of information in order to enhance their understanding, and public understanding, of attitudes and concerns in different communities.

6. Recommendation: All officers and support staff in Police Scotland's Professional Standards Department (PSD) should receive comprehensive induction training on taking up post and regular refresher development opportunities thereafter.
7. Recommendation: The next follow-up audit of the six-stage complaint handling process or audit of frontline resolution should be carried out by the PIRC as an independent third party.
8. Recommendation: The Scottish Government should amend the relevant provisions of the Police, Public Order and Criminal Justice (Scotland) Act 2006 at the earliest opportunity to put beyond doubt the definition of a "person serving with the police".
9. Recommendation: It is inappropriate to involve local officers in the frontline complaints process and therefore all frontline resolution should be carried out by Professional Standards Department.
10. Recommendation: The Scottish Government should propose amendment of the Police and Fire Reform (Scotland) Act 2012 to the following effect: There should be an explicit duty of candour on the police to co-operate fully with all investigations into allegations against its officers.
11. Recommendation: Police Scotland should consider the workload of the sergeant rank at the front line and the supervisory ratio of sergeants to constables in order to give create sufficient capacity for management, coaching and mentoring duties.
12. Recommendation: The Scottish Government should consult on a statutory duty of co-operation to be included in both sets, or any future combined set, of conduct regulations as follows: "Constables have a duty to assist during investigations, inquiries and formal proceedings, participating openly, promptly and professionally in line with the expectations of a police officer when identified as a witness."

13.Recommendation: The Scottish Government should consider the case for giving the PIRC a specific legislative power that would enable staff to access the Centurion database from its own offices so that contemporaneous audit is possible. Providing a basis in law for accessing any information relevant to the PIRC's statutory functions should ensure compatibility with GDPR and any other relevant data protection legislation.

14.Recommendation: Police Scotland's Executive team should consider in depth and review the criteria and competencies that it uses to assess police officers' readiness for promotion.

Inclusion, diversity and discrimination

15.Recommendation: Police Scotland should make use of staff surveys to enhance their understanding of the experience of all minority groups in the service and senior officers should make more use of face-to-face meetings and focus groups with members of these groups to gain a more acute understanding of the impacts of discrimination, prejudice and unconscious bias.

16.Recommendation: Police Scotland should implement, where it is in their gift, the SEMPER Scotland proposal that the composition of panel members for disciplinary hearings should be more diverse.

17.Recommendation: Appropriate support for anyone in Police Scotland who is the subject of internal or external discrimination should be enhanced.

18.Recommendation: In the light of the very worrying evidence that I have received, I consider that issues related to discrimination and their impact on public confidence in Police Scotland should be the subject of a broader, fundamental review of equality matters by an independent organisation. That review should take into account HMICS's proposed inspection of Training and

Development that is to concentrate on the recruitment, retention, development and promotion of under-represented groups.

19. Recommendation: Police Scotland should develop its diversity data collection and analysis to inform a proper understanding of issues related to discrimination so that progress can be made and those issues addressed. The service should consider what it can learn from how this is done by the Police Ombudsman for Northern Ireland and the Garda Síochána Ombudsman Commission respectively.

Whistleblowing

20. Recommendation: The Police Investigations and Review Commissioner should be added to the list of prescribed persons in The Public Interest Disclosure (Prescribed Persons) Order 2014 in order that people working in Police Scotland and in the Scottish Police Authority are able to raise their concerns with an independent third-party police oversight organisation.
21. Recommendation: Whistleblowing can be an indicator of what is happening within an organisation and therefore Police Scotland should review and audit its whistleblowing arrangements and data on a regular basis.

Former police officers

22. Recommendation: The Scottish Government should develop proposals for primary legislation that would allow, from the point of enactment, gross misconduct proceedings in respect of any police officer or former police officer to continue, or commence, after the individual ceases to hold the office of constable.
23. Recommendation: In gross misconduct cases, for all ranks, the Police Investigations and Review Commissioner should determine if it is reasonable and proportionate to pursue disciplinary proceedings in relation to former police officers after the twelve-month period, taking into account the

seriousness of the alleged misconduct, the impact of the allegation on public confidence in the police, and the public interest.

24. Recommendation: The Scottish Government should engage with the UK Government with a view to adopting Police Barred and Advisory Lists, to learn from experience south of the border and to ensure compatibility and reciprocal arrangements across jurisdictions.

The Scottish Police Authority

25. Recommendation: The statutory preliminary assessment function should be transferred from the SPA to the PIRC in order to enhance independent scrutiny of allegations, remove any perception of familiarity, avoid any duplication of functions or associated delay, and give greater clarity around the process. The preliminary assessment should be carried out by the Commissioner or a Deputy Commissioner.
26. Recommendation: PIRC should work collaboratively with the SPA to agree and embed a proportionate and effective approach to preliminary assessment (for Regulation 8 of the senior officer conduct regulations) until such time as new regulations come into effect.
27. Recommendation: Gross misconduct hearings for all ranks should have 1) an independent legally qualified chair appointed by the Lord President, 2) an independent lay member appointed by the Lord President and 3) a policing member. This means in senior officer cases the role of Chair should transfer from the SPA to the independent legally qualified person. The policing member in senior officer cases should be appointed by the Lord President; in all other cases the policing member should be appointed by the Chief Constable.
28. Recommendation: There should be one route of appeal against a determination of a gross misconduct hearing or the disciplinary action to be taken and that should be to a Police Appeals Tribunal, as at present. This

recommendation is subject to the Police Appeals Tribunals being transferred into the Scottish Courts and Tribunals Service.

29. Recommendation: The SPA Complaints and Conduct Committee should hold Police Scotland to account for delays in investigations into complaints and misconduct. Where there is evidence of excessive delays in PIRC investigations having an effect on policing in Scotland the Committee should raise the matter with the Commissioner.

30. Recommendation: To increase public confidence in the system the SPA Complaints and Conduct Committee should consider using its minutes as a means of sharing with the public more of their substantive discussions and how Police Scotland is being held to account in this area; and consider whether some content of the minutes of the private sessions, where some strategic and policy matters are discussed, could be included in the published minutes.

31. Recommendation: The SPA Complaints and Conduct Committee's scrutiny function should be reported on in the SPA annual report, drawing out particular trends, highlighting improvements or concerns and using complaints data as an indicator of communities' satisfaction or dissatisfaction with policing services.

32. Recommendation: The Scottish Police Authority and Police Scotland should consider together what role the SPA Complaints and Conduct Committee, or the Policing Performance Committee, might have in relation to the discussion of ethical issues in policing in Scotland.

Local scrutiny committees

33. Recommendation: Local scrutiny committees should consider, in consultation with Police Scotland's local divisional commanders and the COSLA Police Scrutiny Convenors Forum, what further complaints information or discussion would assist their scrutiny of the police.

The Police Investigations and Review Commissioner

34. Recommendation: The 2006 Act should be amended to re-designate PIRC as a Commission comprising one Police Investigations and Review Commissioner and two Deputy Commissioners, to create a statutory Board and to provide for the necessary appointment arrangements. Given the sensitivity of the office of the Commissioner, the role should be strengthened by the appointment of two Deputies with relevant legal expertise or other relevant experience who are not former senior police officers.
35. Recommendation: The Police Investigations and Review Commissioner should be appointed by Her Majesty The Queen on the nomination of the Scottish Parliament and should be made accountable to the Scottish Parliament through the Scottish Parliamentary Corporate Body and the committees of the Parliament, but not for criminal matters, for which the Commissioner is accountable to the Lord Advocate, and not for operational matters or decisions in which she acts independently. This in accordance with the 2009 opinion of the Council of Europe's Commissioner for Human Rights that each Police Ombudsman or Police Complaints Commissioner should be appointed by and answerable to a legislative assembly or a committee of elected representatives that does not have express responsibilities for the delivery of policing services.
36. Recommendation: The ultimate ability of a member of the public to take a complaint against the PIRC or the Commissioner to the Scottish Public Services Ombudsman when they are dissatisfied with how that complaint has been handled by the PIRC in the first instance should be highlighted more prominently on the PIRC website.
37. Recommendation: The PIRC should be given a statutory power to call in an investigation of a complaint if there is sufficient evidence that Police Scotland has not dealt with a complaint properly, where the complainer provides compelling evidence of a failure on the part of Police Scotland and where the

Commissioner assesses that it would be in the public interest to carry out an independent re-investigation.

38. Recommendation: The PIRC should have an additional power, similar to the PONI's, to investigate a current practice or policy of Police Scotland if she believes that it would be in the public interest to do so; this power should be used to focus on broad themes or trends, or practices which might be of particular public concern.
39. Recommendation: The PIRC should take on responsibility for the key stages of the senior officer misconduct proceedings (both misconduct and gross misconduct) i.e. the functions of receipt of complaints/allegations, preliminary assessment, referral to COPFS of criminal allegations and, where appropriate, referral to an independent legally chaired panel.
40. Recommendation: The PIRC should be given a new statutory function and power to present a case at a senior officer gross misconduct hearing where the case would be determined by a three-person panel comprising an independent legally qualified chair, a lay person and an expert in senior policing.
41. Recommendation: The PIRC should have the power to recommend suspension of a senior officer if she or he believes that not suspending the officer may prejudice an effective misconduct investigation. The PIRC should provide supporting reasons when they make such a recommendation to the SPA that a senior officer should be suspended.
42. Recommendation: The PIRC should conduct an annual audit of triage within PSD of public complaints against the police to ensure that matters that can be resolved by FLR, or misconduct, or potential criminality are being properly identified and routed accordingly, and to provide assurance that Article 3 and Article 5 cases are being correctly identified and reported forthwith to COPFS.

43. Recommendation: The case for all complaints being received by an independent police complaints body such as the PIRC should be kept under review by Scottish Ministers and if, after a reasonable passage of time, the changes recommended in this report have not secured appropriate improvement, then they should consider afresh whether they want to move to a PONI (Police Ombudsman for Northern Ireland) model where all complaints go to that independent body in the first instance.
44. Recommendation: The PIRC should ensure that discrimination issues are considered as an integral part of their work. A systematic approach should be adopted across the organisation and in all cases investigators should consider if discriminatory attitudes have played a part.
45. Recommendation: PIRC should publish their performance against set targets for complaint handling reviews and investigations in the Commissioner's annual report.

The Crown Office and Procurator Fiscal Service

46. Recommendation: The ability to report directly to the Criminal Allegations Against Police Division of COPFS a complaint of a crime by a police officer should be much better publicised and made more accessible to the public by COPFS, by Police Scotland and by the PIRC.
47. Recommendation: Where the terms of a complaint made allege a breach of Article 3 by a police officer, and therefore that a crime may have been committed, the Crown Office and Procurator Fiscal Service should instruct the PIRC to carry out an independent investigation rather than directing Police Scotland to investigate it; breaches of Article 5 may, depending on the circumstances and seriousness of the case, likewise require early independent investigation.

Accessibility and communication

48.Recommendation: Police Scotland should publicise the right to complain as well as how to complain by displaying posters in police stations and other public buildings on how to make a complaint about, pay a compliment to, or submit a comment on Police Scotland.

49.Recommendation: The Know your Rights section of the Police Scotland website for young people should be amended to make clear their right to make a complaint.

50.Recommendation: Police Scotland should have discussions with a number of the third-party reporting centres for hate crime, including those representing minority groups, and secure their agreement to offer third-party support for those who wish to make a complaint against the police.

Recommendations based on evidence from other jurisdictions

51.Recommendation: Provision equivalent to that in England and Wales for accelerated misconduct hearings should be included in Scottish conduct regulations for all ranks of constable to deal with circumstances where the evidence is incontrovertible and where that evidence means that without further evidence it is possible to prove gross misconduct, or where the subject officer admits to their behaviour being gross misconduct.

52.Recommendation: Police officer gross misconduct hearings should be held in public. The Chair should have discretion to restrict attendance as appropriate but the aim should be to ensure that as much of a hearing is held in public as possible.

53.Recommendation: In addition to the existing protections for witnesses, the Chair of the gross misconduct hearing should consider whether the evidence of any vulnerable witnesses should be heard in private and they should also be under an obligation to consider any other reasonable adjustments that they

believe to be necessary to ensure the protection of such vulnerable witnesses. This may include the officer who is the subject of the proceedings.

54. Recommendation: The 2012 Act should be amended to confer on Scottish Ministers a power to issue statutory guidance in respect of conduct and a duty to consult on any such guidance, and confer a duty on policing bodies to have regard to any such guidance. Scottish Ministers should use that power at the earliest opportunity to issue guidance in respect of a new Reflective Practice Review Process. That guidance should build on the spirit of existing Scottish guidance and take into account any valuable elements of English and Welsh best practice.
55. Recommendation: Subject to safeguards needed to protect the rights of each individual officer, the regulations should make provision for the possibility of joint misconduct proceedings to deal with any number of officers, including senior officers.
56. Recommendation: The regulations governing probation (the Police Service of Scotland Regulations 2013) should be amended so that a fair and speedy consideration of any allegation of misconduct can be dealt with during the probation period.
57. Recommendation: A statutory suspension condition in England and Wales that temporary redeployment to alternative duties or an alternative location should have been considered as an alternative to suspension should be replicated in Scottish regulations in relation to all ranks of constable. Provision should also be made for regular review of the suspension of an officer.
58. Recommendation: The outcome of gross misconduct proceedings should be made public. The Chair's report, subject to any necessary redactions, should be published by the Scottish Police Authority on its website for a period of no less than 28 days.

Audit

59. Recommendation: In order to ensure public confidence in the police, the SPA should confirm each year in its annual report whether or not in its view, based on an informed assessment by the Complaints and Conduct Committee and evidence from the relevant audits, the Chief Constable has suitable complaint handling arrangements in place.
60. Recommendation: At the point at which people make complaints Police Scotland should collect and analyse data to enable them to undertake demographic modelling and gain a better understanding of different groups and communities' experience of the police service.
61. Recommendation: Both Police Scotland and the PIRC should consider drawing on the expertise of Audit Scotland and the Scottish Public Services Ombudsman in re-designing the audit arrangements in respect of police complaints.

Training

62. Recommendation: Police Scotland should appoint a PSD training officer to maintain the momentum in training and development arising from its internal Risk, Assurance and Inspection (RAI) team audit, and to liaise with the SPSO, the PIRC and the SPA on joint training, best practice and other relevant development opportunities.
63. Recommendation: PIRC complaint handling review officers and trainee investigators should work-shadow police officers at peak times to see at first hand the atmosphere and environment in which police officers are obliged to make decisions that can have serious implications.

64. Recommendation: PIRC should deploy the in-house expertise that the organisation has to deliver internal training for investigators in the law of evidence.
65. Recommendation: PIRC and Police Scotland should work together to develop training and development opportunities that take the theoretical learning from thematic analysis of complaints and embed it in practical learning for individual officers.
66. Recommendation: All Police Scotland officers and staff should receive training on unconscious bias, equality legislation and diversity; this should be updated throughout their career, with the opportunity for refresher courses at regular intervals.
67. Recommendation: Police Scotland officers should receive regular training inputs on how to deal effectively with individuals who display mental ill-health symptoms or related behaviours.

Public sector best practice

68. Recommendation: The Strategic Oversight Group or the National Complaint Handling Development Group should take an early opportunity to engage with the SPSO to agree where their contribution and advice would be most useful.

Custody

69. Recommendation: The Scottish Government should consider adding to the Letter of Rights a contextual reference to the individual's general rights; and a reference to the individual's right to complain (either while in custody or thereafter) about their treatment.
70. Recommendation: Independent Custody Visitors should, as a matter of course, check with custody officers and with detainees that a third party has been notified of their detention.

71.Recommendation: As soon as it is reasonable and feasible to do so, HMICS, along with the appropriate health inspection or audit body, should conduct a Review of the efficiency and effectiveness of the whole-system approach to mental health.

72.Recommendation: NHS accident and emergency facilities should be designed to be able to deal safely with mental health care and acute crises.

Complaints arising from deaths in police custody or following police contact

73.Recommendation: Investigations involving death or serious injury in police custody are likely to be amongst the most serious and complex cases the PIRC has to investigate. Delay can add to the distress of families and have an adverse impact on those police officers involved in the circumstances of the death. Such cases should be dealt with in the same timescale and with the same urgency as a homicide investigation.

74.Recommendation: In Article 2 cases, in order to facilitate their effective participation in the whole process, there should be access for the immediate family of the deceased to free, non-means tested legal advice, assistance and representation from the earliest point following the death and throughout the Fatal Accident Inquiry.

75.Recommendation: Many of the issues identified in the 2017 report of my Independent Review of Deaths and Serious Incidents in Police Custody in England and Wales are also directly relevant in the Scottish context. The Scottish Government should consider which of the findings and recommendations made in that report could and should be mirrored by public bodies in Scotland.

76.Recommendation: For cases where the Fatal Accident Inquiry may last several weeks, the Scottish Government should consider the feasibility of a

scheme to pay reasonable travel and subsistence expenses and compensation for loss of earnings of the next of kin.

Officer and support staff welfare

77.Recommendation: Any restricted duties or transfers imposed for the duration of an investigation should take into account, where appropriate, the individual's family circumstances, and subject officers or staff should be offered the opportunity to access appropriate support services provided by Police Scotland.

Time limits

78.Recommendation: The Chief Constable should publish annually Police Scotland's performance in dealing with complaints against the time-scales set out in the statutory guidance.

79.Recommendation: The Scottish Police Authority Complaints and Conduct Committee should scrutinise Police Scotland's performance in dealing with complaints and hold the service to account where the targets are not being achieved.

80.Recommendation: A non-statutory time limit for the submission of complaints by the public should be made explicit in the PIRC's statutory guidance and publicised on the relevant websites. Complaints made more than twelve months after the event or incident should only be considered where the circumstances are grave or exceptional.

Cross-border jurisdictional issues

81.Recommendation: The Scottish Government should agree with the UK Government and the Northern Ireland Executive how best to amend the primary legislation to give the PIRC the power, in clearly defined circumstances, to investigate the actions of officers from PSNI and English

and Welsh police forces or services, and the other three reserved police forces, when they are undertaking a policing function in Scotland; and explore with the other administrations how reciprocal powers could be put in place for the IOPC and the PONI in respect of the actions of Police Scotland officers when they are operating in England, Wales or Northern Ireland.

November 2020

APPENDIX 2

Written submission from Inverclyde Council Local Police and Fire Scrutiny Committee to the Scottish Parliament's Justice Sub-Committee on Policing

Are you responding as an individual or on behalf of an organisation?

1. What are your views on Police Scotland's use of RPAS and the parameters of that use?

The Inverclyde Council Local Police & Fire Scrutiny Committee notes that the deployment of RPAS can add value and effectiveness to Police Scotland in order to ensure the safety and wellbeing to individuals and communities in Scotland. For instance its use in the search for missing persons could be more cost effective than the Police Scotland helicopter or deploying officers in large numbers as well as its deployment in the searching of remote and rural terrain for vulnerable missing persons.

However clarification is required on its potential use beyond searching for missing persons in remote and rural terrain. In the report submitted 'Remotely Piloted Aircraft System (RPAS) Evaluation Report' to the Scottish Police Authority at the Policing Performance Committee on 17 November 2020 the report outlines deployment of RPAS at public order incidents (including deployment within our local authority area) as well as 'events'. Whilst it is clear that this has supported Police Scotland it does appear that this is beyond the scope of its intended use and clarification by Police Scotland, the Scottish Police Authority or by Parliament in terms of its future use either by means of a standard operating procedure or statutory may be required.

In relation to its deployment in Greenock, whilst we understand it would have been an operational decision by management within Police Scotland to use RPAS, nonetheless clarity should be sought over its use in this particular incident against other similar operations when RPAS was not deployed. Reiterating our previous point clarification by Police Scotland, the Scottish Police Authority or by Parliament is required in respect of the future deployment of RPAS.

2. What are your views on the oversight, governance, and transparency of Police Scotland's use of RPAS and BWVCs, and any possible role for the incoming Scottish Biometrics Commissioner, once in post?

Noting the role of the Scottish Biometrics Commissioner is to provide ..." Greater oversight of how the police take, store, use and dispose of data such as finger-prints, DNA samples and facial images," members of the Inverclyde Local Police & Fire Scrutiny Committee would be satisfied that the use of RPAS and BWVCs would be include in any future code of practice to provide guidance and information on good practice.

3. What are your views on any data protection, security and retention implications, as well as the impact on community, privacy and human rights, or any ethical implications?

Following approval by Inverclyde Council to upgrade the existing network CCTV system within Inverclyde, consideration was given to the good practice established through the Surveillance Camera Commissioner (England and Wales) who publishes guidance on the use of all CCTV by public authorities on the use of CCTV including public space CCTV and which we understand extends to the use of RPAS by Police authorities (in England and Wales). While the remit of the Surveillance Camera Commissioner does not extend to Scotland the guidance is generally accepted to be good practice

when installing or using CCTV systems, as a minimum the implications as noted in the question should be considered in respect of the use of RPAS by Police Scotland.

The Committee does note that in a response from the Scottish Police Authority to the Convenor of the Justice Sub-Committee on Policing (2 December 2020) that the original evaluation report be reviewed and resubmitted to the Policing Performance Committee by Police Scotland to address issues in relation to compliance with best value, privacy, human rights and ethical assessments and any other emergent and relevant issues. Inverclyde Council Local Police and Fire Scrutiny welcomes this.

4. What are your views on the engagement, consultation and transparency of plans to use, or the current use of, RPAS and BWVCs?

Members considered this response in light of correspondence between the Justice Sub-Committee, Scottish Police Authority and Police Scotland and our powers as per Section 45 of the Police and Fire Reform (Scotland) Act 2012. The Committee have not been made aware of the use of RPAS within the authority area until the publication of the RPAS Evaluation Report presented at the SPA Policing Performance Committee in November 2020. Inverclyde Council Local Police and Fire Scrutiny are keen to understand the engagement, consultation and transparency of its use previously in Inverclyde and assuming its future use in Scotland how Police Scotland intend to engage and consult with communities within Inverclyde and throughout Scotland.

5. What are your views on the legal and regulatory basis that Police Scotland rely upon to use RPAS in urban and rural areas?

Inverclyde Council Local Police and Fire Scrutiny Committee understand that the present legal basis on the use of RPAS is governed by mandatory requirements of the Civil Aviation Authority. As the use of RPAS by Police Scotland has been broader than its indented use, consideration has to be given to its future use and the legal and regulatory basis that Police Scotland rely upon to use RPAS. Continuing our response from question 3 the Committee would welcome clarification on the future use of RPAS by Police Scotland thereby dictating any future legal and regulatory issues that may arise

6. What are your views on Police Scotland's current use of BWVCs and whether that requires to be evaluated to inform the risks, costs and benefits in the business plan prior to their wider introduction, such as an evaluation of their use by the football co-ordination unit?

Members of the Inverclyde Local Police and Fire Scrutiny Committee have considered this question in the context of 2 recent reports. The Dame Elish Angiolini report into complaints handling, investigations and misconduct issues recommends that Police Scotland should accelerate its plans to expand the use of body-worn technology. However the Audit Scotland report for 2019/20 of the Scottish Police Authority commented that transformation is challenging with current levels of investment. In 2018 Police Scotland prepared a Digital, Data and ICT (DDICT) Strategy that sets out how information technology would be used to support Policing 2026. The Strategic Business Case was approved by the Board in September 2018 and recognised the need for significant investment. An estimated required budget of £298 million over the next nine years was projected. It is unsure what the current required budget would be should be there be a partial or full roll out of BWVCs.

Inverclyde Council has significantly invested in a CCTV/camera infrastructure including the use of BWVCs by our Community Warden Staff and Enforcement Officers. There has been clear benefits particularly in relation to the capture of antisocial behaviour incidents or when enforcement officers have locus in addition to supporting the welfare and safety of our staff. As part of a wider community safety partnership the use of BWVCs (as well as our overall camera infrastructure) has supported colleagues including Police Scotland.

In relation to the use of BWVC at football matches, members understand that concern has been raised amongst supporters groups and the publication of the academic article 'Lights, camera, provocation? Exploring experiences of surveillance in the policing of Scottish football' indicates that consideration should be given in evaluating the use and scope of use of BWVCs by Police Scotland.

The Committee supports the use of BWVCs, though would welcome updates via the Scottish Police Authority in respect of budgeting and the impact it may have on other business areas within Police Scotland particularly within a context of local policing.

Any further issues or views

Is there any issue associated with the use of RPAS and BWVCs you wish to comment on, not already covered by previous questions?

In a number of previous consultation responses in respect of policing matters, Inverclyde Council Local Police and Fire Scrutiny Committee have raised issues around national/specialist operation units in Police Scotland and its impact on the delivery of the local local policing plan. Whilst the committee supports any additional resources within Inverclyde either as a response to ongoing incidents or to make communities safer, the Committee are keen to ensure that where possible, they understand the deployment of such resources. Therefore in respect of RPAS, it would be helpful if Police Scotland/SPA considers the next steps in conjunction with the COSLA Police Scrutiny Convenors Forum in order that members can consider the deployment of RPAS within a local policing context.