

**OFFICIAL**



**POLICE  
SCOTLAND**

Keeping people safe

**POILEAS ALBA**

**Complaints about the Police  
Standard Operating Procedure**

<b>Owning Department</b>	Professional Standards
<b>Version Number</b>	5.00
<b>Date Published</b>	16/05/2018

**OFFICIAL**

**Compliance Record**

<b>Equality and Human Rights Impact Assessment (EqHRIA): Date Completed / Reviewed:</b>	23/05/17
<b>Information Management Compliant:</b>	Yes
<b>Health and Safety Compliant:</b>	N/A
<b>Publication Scheme Compliant:</b>	Yes

**Version Control Table**

<b>Version</b>	<b>History of Amendments</b>	<b>Approval Date</b>
1.01	Initial Approved Version	29/03/2013
1.02	Amended to add other sub categories under the Equalities Act for discriminatory behaviour	07/05/2013
2.00	Update of Force Logo and Police Division Information – Full Cyclical Review carried out	25/06/2014
3.00	Full Cyclical Review – completely revised – significant changes	30/05/2017
4.00	Sect 7.4 amended to reflect revised deadline for implementation of PIRC recommendations following Complaint Handling Reviews (as per Force Memo PS 004/18)	09/01/2018
5.00	Updated to reflect Complaints About PSD/ACU Police Officers / Police Staff	16/05/2018

**OFFICIAL**

# OFFICIAL

## Contents

1. Purpose
2. Priorities
3. Application
4. The Police, Public Order And Criminal Justice (Scotland) Act 2006
5. Categories of Complaint
  - 5.1 On Duty – Definition
  - 5.2 On Duty – Criminal
  - 5.3 On Duty – Non Criminal
  - 5.4 Off Duty Complaints
  - 5.5 Off Duty Criminal
  - 5.6 Quality of Service Complaints
6. Six Stage Complaint Handling Process
  - 6.3 Stage 1 – Notification of Complaint
  - 6.4 Stage 2 – Recording and Initial Assessment
  - 6.5 Frontline Resolution
  - 6.6 Stage 3 – Allocation – Local Complaint Handling or Specialist Investigation
    - 6.7 Local Complaint Handling
    - 6.8 Specialist Investigation
    - 6.9 Conducting Effective Investigations
    - 6.10 Investigating On Duty Criminal Complaints
    - 6.11 Stage 4 – Determination
    - 6.12 Abandoned and Withdrawn Complaints
    - 6.13 Stage 5 – Identify Organisational and Individual Learning
    - 6.14 Stage 6 – Notification to Complainer
7. Police Investigation and Review Commissioner (PIRC)
8. Scottish Police Authority
9. Complaints about Senior Officers
10. Complaints about former Counter Corruption Unit (CCU) / former & current Anti-Corruption Unit (ACU)

OFFICIAL

**OFFICIAL**

**11.** Early Intervention Process

**Appendices**

Appendix 'A'	List of Associated Legislation
Appendix 'B'	List of Associated Reference Documents
Appendix 'C'	List of Associated Forms
Appendix 'D'	Glossary of Terms
Appendix 'E'	Enquiry Officer – On Duty Complaints - Checklist
Appendix 'F'	Responsibilities of Area Commander or Departmental Manager
Appendix 'G'	Definitions of Heads of Complaint
Appendix 'H'	Categorisations for all Complaints about the Police
<b>Appendix 'J'</b>	<b>Complaints Against PSD/ACU Police Officers / Police Staff</b>

## OFFICIAL

### 1. Purpose

1.1 This Standard Operating Procedure (SOP) supports the following Police Service of Scotland (hereinafter referred to as Police Scotland) Policy:

- [Professional Standards](#).

1.2 Police Scotland aims to deliver high quality policing services to the communities it serves across Scotland. It is accepted that on occasions things will go wrong and mistakes will be made. Members of the public need to have confidence that when they wish to raise a concern or make a complaint about either the quality of the policing service provided or the actions of an individual, their concerns will be listened to and appropriate action taken.

1.3 In handling complaints Police Scotland will:

- deal with complaints in a fair, consistent, objective, thorough and proportionate manner;
- try to resolve concerns and where necessary take positive action to put things right;
- apologise if a mistake has been made and where possible offer an explanation;
- where complaints, which are not of a serious or criminal nature, cannot be resolved by explanation or apology, ensure that a proportionate enquiry is undertaken and that the complainer is kept updated;
- ensure that complaints of a serious or criminal nature are subject to thorough investigation;
- where appropriate, review and change policies, procedures or practices;
- ensure that learning points are acted upon;
- in cases where misconduct is established, ensure the matter is dealt with in accordance with the relevant Conduct regulations or Police Staff discipline procedures

1.4 Police Scotland recognises that feedback from the public and other stakeholders is essential in order to continually improve the quality of policing and service delivery. Complaints about the police form an integral part of this feedback. Police Scotland must embrace the complaints process to ensure that appropriate lessons are learned and that action is taken to deal with inappropriate behaviour. It is also a medium that may identify or expose procedures or practices that consistently fail to meet public needs and expectations and are in need of revision. It should also be recognised that the complaints process often provides the opportunity to explain actions or omissions that were lawful and appropriate.

OFFICIAL

## OFFICIAL

- 1.5 The Police Investigations and Review Commissioner (PIRC) (formerly the Police Complaints Commissioner for Scotland) has issued statutory guidance designed to improve police complaint handling in Scotland by adopting a culture of learning from complaints. Police Scotland acknowledges the value of this guidance and has embedded it into this Standard Operating Procedure (SOP). This strengthens the accountability, transparency and integrity of the police complaint handling system.
- 1.6 The Statutory Guidance sets out a six-stage process which is the basis of all Police Scotland complaint handling including Early Resolution, Local Complaint Handling and Specialist Investigation. This process forms the basis of this SOP and reference should be made to the Statutory Guidance for further information about the six stage process.

## 2. Priorities

- 2.1 To provide structured guidance to staff involved in the recording, assessment, resolution, management, investigation and determination of complaints about the police from initial receipt of a complaint through to conclusion.
- 2.2 To ensure consistent and proportionate standards of complaint handling across Scotland.
- 2.3 To ensure all complaints are appropriately investigated and an audit trail maintained which accounts for the rationale behind decisions and outcomes in respect of complaint investigations.
- 2.4 To use the complaints process as a method of learning, and thereby contribute to continuous improvement in service delivery.

## 3. Application

- 3.1 The application of the contents of this document is mandatory for all police officers and police staff working for Police Scotland.

## 4. The Police, Public Order and Criminal Justice (Scotland) Act 2006

- 4.1 The [Police, Public Order and Criminal Justice \(Scotland\) Act 2006](#) Section 34(2) defines a complaint about the police as:

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

OFFICIAL

## **OFFICIAL**

- 4.2 A complaint about the police can be made by any of the following:
- a member of the public who claims to be the person in relation to whom the act or omission took place;
  - a member of the public who claims to have been adversely affected by the act or omission;
  - a member of the public who claims to have witnessed the act or omission;
  - a person acting on behalf of a person falling within any of the above
- 4.3 A complaint does not include a statement made by a person serving with, or who has served with, the police regarding any matter which is related to a person's employment or service with the police. This should be dealt with by the internal grievance procedure. Similarly it does not include a statement objecting to any part of conduct proceedings which are subject to their own appeals process. If, however, a serving officer or member of police staff is dealt with as a suspect or accused person in respect of on or off duty criminal allegations, they are entitled to make a complaint in the same way as a member of the public can.

## **5. Categories of Complaint**

- 5.1 Complaints fall into three broad categories:
- On duty (Criminal and Non-Criminal allegations);
  - Off duty (Criminal and Non-Criminal allegations);
- and
- Quality of Service (complaints about the organisation).

### **5.2 On Duty - Definition**

- 5.2.1 A police officer is considered to be on duty when:-
- Operating within duty hours;
  - When off duty and identifies him/herself 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.
- 5.2.2 A member of Police Staff is considered to be on duty when they are operating within duty hours.

**OFFICIAL**

## **OFFICIAL**

### **5.3 On Duty Criminal Complaints about the Police**

5.3.1 Where a complaint about the police is made and there is a reasonable inference that a crime may have been committed, the process of completing an online Complaint Capture Form is followed (see Section 6 below). However; if there is an inference of criminality, the matter should be referred to the Duty Inspector, who will arrange for immediate actions to be undertaken in respect of obtaining a statement from the complainer, seizing Closed Circuit Television (CCTV) evidence, or any other evidence which could be lost through the passage of time. This will then be passed to Professional Standards Department (PSD) without delay. Where a complaint of criminality is made outwith normal office hours, and there appears to be supporting evidence, contact should be made with the On-Call PSD Officer for further direction.

### **5.4 On Duty – Non-Criminal Complaints about the Police**

5.4.1 On receipt of an on duty non-criminal complaint PSD will make an assessment of the complaint to determine whether or not it is suitable for Early Resolution. Where it is determined to be minor or trivial in nature, the PSD Resolution Unit will contact the complainer directly in an effort to resolve the complaint at an early stage.

5.4.2 Where the complainer cannot be contacted by telephone, the PSD Resolution Unit will write to or e-mail the complainer, requesting that they make contact within 14 days. In the event the PSD Resolution Unit cannot make contact there will be an assumption that the complainer does not wish to pursue the complaint and it will be closed as an 'Abandoned Complaint'. If the complainer subsequently makes contact the original complaint will be re-opened.

5.4.3 If Early Resolution has not been achieved, or is not considered to be appropriate, the complaint will be allocated for local investigation.

5.4.4 There may be instances when it will be appropriate for the investigation of non-criminal complaint to be carried out by PSD, particularly where the complaint is considered to be serious or complex in nature.

### **5.5 Off Duty Complaints**

5.5.1 Complaints about the police may also be made about the acts or omissions of an officer, or staff member, who was off duty at the time of the matter giving rise to the complaint. In order for the matter to be considered as a complaint about the police, it must directly relate to the individual's role as a police officer or member of police staff. It is not appropriate to record a complaint about the police about matters which are civil in nature.

**OFFICIAL**



## **OFFICIAL**

5.5.2 Complaints are often made about situations which are personal disputes. It must be remembered that police officers and members of police staff have a right to privacy away from work. Every complaint must be assessed objectively and consideration should be given to whether a link exists between the situation complained about and the role of the police officer or member of police staff. The complaint should be treated as a complaint about the police only if the conduct (if it was to be established) relates to, or would have a bearing upon, the person's role as a police officer or member of police staff. Where no such link can reasonably be established the matter should not be recorded as a complaint about the police and the complainant should be politely advised of this.

### **5.6 Off Duty Criminal Complaints about the Police**

5.6.1 If a criminal complaint is made about an off duty police officer or member of police staff, it will be formally recorded and investigated in accordance with the nature of the criminality involved, under normal Crime Recording Standards. The police officer or member of police staff should be treated no differently to any other member of the public. If there is sufficient evidence, the matter will be reported by means of a Standard Police Report (SPR) to the appropriate Procurator Fiscal (PF), or, where appropriate, a 'Direct Measure'. The SPR or 'Direct Measure' will be submitted as local procedures dictate.

5.6.2 Where, during an ongoing investigation, there is a likelihood of an officer or member of police staff being interviewed under caution, detained, or arrested; PSD should be notified as soon as practicably possible. The decision to interview, detain or arrest is entirely operational. However; PSD must be notified in the event that there is a requirement to restrict the officer's duties, or, in some cases, consider a suspension from duty. In the case of a member of police staff PSD will notify HR. The decision to interview, detain or arrest should not be delayed because of a requirement to notify PSD.

5.6.3 In circumstances where an off duty police officer or member of police staff is issued with and accepts any form of 'Direct Measure' for a criminal offence such as a Recorded Police Warning or Fixed Penalty Notice, the officer or member of police staff receiving the 'Direct Measure' and the supervisor of the officer issuing the 'Direct Measure' must notify PSD within 24 hours.

5.6.4 While the officer or member of police staff should not be treated any differently from a member of the public a supervisory officer must be notified so that welfare arrangements can be considered. This includes consideration about the place of interview, detention or arrest, which must not be the individual's usual place of work or a place where they are well known to the staff working there. A supervisory officer must also give consideration to who investigates the case and where possible it should be officers who are not known to the subject officer.

**OFFICIAL**

## OFFICIAL

5.6.5 Off duty criminal allegations should only be recorded as a 'Complaint about the Police' where the circumstances described in section 5.4 apply. In all other instances where an off duty officer is reported for a crime or offence it will be recorded by PSD, but not as a Complaint about the Police.

### 5.7 Quality of Service Complaints

5.7.1 Quality of Service complaints fall under the following three headings:

- **Policy/Procedure:** - Complaints relating to policing policy, practice or procedure rather than the action of any particular member of staff;
- **Service Delivery:** - Complaints relating specifically to a policing response including policing presence, time and type of response;
- **Service Outcome:** - Complaints relating to the outcome of policing action including the failure to take action or a lack of satisfaction with the action taken.

## 6. Six Stage Complaint Handling Process

6.1 There are six key stages for complaint handling:

**Stage 1** – Notification of Complaint;

**Stage 2** – Recording and Initial Assessment;

**Stage 3** – Allocation and Investigation (Local or Specialist);

**Stage 4** – Determination;

**Stage 5** – Identify Organisational or Individual Learning;

**Stage 6** – Notification to Complainer.

6.2 A Complaints about the Police process flowchart, providing an easy to follow overview of the six-stage complaint handling procedure, can be found on the PSD 'Documents' intranet page [here](#):

### 6.3 Stage 1 – Notification of Complaint

6.3.1 Complaints about the police are received by various means, including in person by face to face contact, by telephone, or in writing whether by letter, e-mail or online complaint form via the Police Scotland website.

6.3.2 From the outset, every complaint should be taken at face value and, in the absence of strong and clear evidence to the contrary, must be assumed to have been made in good faith. Complaints must be considered on their own merit. The six-stage process is flexible to allow staff to attempt to resolve the complaint at an early stage. A prompt and accurate explanation by knowledgeable staff can prevent the complaint from escalating to the stage where an investigation is required. However, it must still be formally recorded.

OFFICIAL

## OFFICIAL

- 6.3.3 **All complaints must be submitted to PSD on a [Complaints Capture Form](#) within 24 hrs of receipt**, whereupon the complaint will be recorded, assessed and allocated. Once completed the Complaints Capture Form is automatically sent to the appropriate PSD Office by e-mail. (Staff in receipt of a complaint from a member of the public should **not** use the 'Police Complaints Form' on the Police Scotland Website which is for the public to use. The Complaints Capture Form on the front page of the Intranet **must** be used). Where the complaint is received in writing or by e-mail the correspondence **must** be sent to PSD the same day it is received.
- 6.3.4 Once PSD receive a complaint about the police, contact will be made with the complainer by telephone, wherever possible within three working days, and in the case of minor, non-serious complaints, an effort to resolve the complaint by telephone will be made. This is known as (Early Resolution.)When Early Resolution has not been achieved the complaint will be allocated for local investigation. Where the complaint appears to relate to a period of time in police custody the PSD Complaints Assessment and Resolution Unit will arrange for any available Custody CCTV to be retained for the enquiry officer.
- 6.3.5 Recording arrangements will require to be maintained by Divisions and Departments to support the management and monitoring of complaints which are allocated for investigation.

### 6.4 Stage 2 – Recording and Initial Assessment

- 6.4.1 Accurate and consistent recording is a fundamental part of effective complaint handling. The 'Centurion' recording database is maintained by PSD and is used to record all complaints about the police. All complaints must be entered into the 'Centurion' database in accordance with the PSD Complaint Recording Guidance and, thereafter, updated and managed in accordance with Section 17 of the [Records Retention SOP](#).
- 6.4.2 All complaints must be passed to PSD within 24 hours of receipt. The PSD Resolution Unit will consider whether it is a relevant complaint under the [Police, Public Order and Criminal Justice \(Scotland\) Act 2006](#). (See section 4) Sometimes it is not clear at the outset whether the complaint is about the actions or behaviour of an individual, about the organisation and its delivery of service, or merely a request for an explanation or information about a particular incident. In such circumstances clarity must be sought, and the person should be asked if it is their intention to make a complaint about the police.
- 6.4.3 Once a complaint has been received an assessment requires to be carried out to establish the type of complaint and the seriousness of what has been alleged. This is carried out by PSD.

OFFICIAL

## OFFICIAL

- 6.4.5 In the majority of cases the complainer will be contacted by telephone by the PSD Complaints Assessment and Resolution Unit in order to clarify the exact nature of the complaint. In some cases it will not be possible to determine whether a complaint is of a non-serious or criminal nature from the initial information provided and some form of preliminary enquiry may need to be undertaken. This usually necessitates taking an initial statement from the complainer(s) and can include meeting with a limited number of witnesses and taking possession of items such as CCTV evidence. It must be stressed that the purpose of these preliminary enquiries, is to establish more facts in order to allow an assessment of the seriousness of the complaint and where it is most appropriate for the investigation to take place, not to commence the investigation. Generally PSD will arrange for a local supervisor to carry out the preliminary enquiry and return the information to the PSD Resolution Unit for assessment.
- 6.4.6 Allegations made against individuals which, if upheld, would be unlikely to result in misconduct proceedings or allegations made about the Quality of Service provided, which are not anticipated to have a significant impact on service reputation or public confidence, should be classified as minor or trivial and are suitable to be dealt with by Early Resolution or by local complaint handling.
- 6.4.7 When assessing a complaint, any readily available information should be considered. This may, if relevant include the history of the complainer and the officer(s) concerned.
- 6.4.8 Complaints received by PSD (which have not been resolved through Early Resolution and are suitable for local complaint handling) will be sent to the appropriate Division or Department for investigation within three working days. A letter of acknowledgment, or e-mail of acknowledgement (where an e-mail address has been provided) will be sent by PSD to the complainer within three working days of the complaint being received. The letter or e-mail will inform the complainer that the complaint has been allocated to the local division or department and will include a copy of the leaflet '[A Guide for Complaints about the Police](#)'. Where no postal address has been provided by the complainer a web-link will be provided to the leaflet within the acknowledgement e-mail.

## 6.5 Early Resolution

- 6.5.1 When a complaint is made face to face, or by telephone, a supervisor may be able to resolve it there and then without the need to progress through the full six stage process set out in the statutory guidance. Rather than conducting an investigation the matter may be resolved by explanation, or a simple apology, or assurance. This is known as a **Divisional Frontline Resolution (FLR)**.

OFFICIAL

## OFFICIAL

6.5.2 Frontline Resolution is suitable only where complaints are;

- Non-criminal;
- Non-serious i.e. minor or trivial ;
- Non-complex;

and

- Can be resolved without investigation, other than familiarisation with the circumstances of the incident.

6.5.3 If the matter appears to be resolved and the complainer indicates they are happy with the explanation, apology or assurance they should be asked whether they are satisfied that the matter has been dealt with effectively to ensure they have no expectation of the matter being progressed any further.

6.5.4 Complaints involving allegations of a serious or criminal nature are **not** suitable for Early Resolution or local complaint handling. No attempt should be made to resolve such allegations with a complainer through this form of verbal resolution.

6.5.5 If a complaint is resolved by Early Resolution, and the matter relates to a police officer or member of police staff, then the officer or staff member and their line manager will be notified of the nature of the complaint and that it has been resolved. Any conduct issues or learning opportunities should be considered.

6.5.6 Where a complaint has been resolved by Divisional FLR, the supervisor who carried out the FLR must complete a [Complaints about the Police \(CAP\) 6 Stage Process Form \(Force Form 037-002\)](#) and complete a [pro-forma letter](#) to the complainer for the signature of the senior officer responsible in the division or department for complaint handling. The six stage form and copy of the letter should then be forwarded to PSD for recording purposes. Given the nature of FLR it is important that all complainers are provided with information on Complaints about the Police which will allow them to make an informed decision on how to progress their complaint if, on reflection, they remain dissatisfied. The pro-forma letter provides them with this information.

6.5.7 PSD Resolution Unit staff assess all incoming complaints for suitability of Early Resolution with the exception of those described at Section 6.5.1 (above) (i.e. those dealt with by Divisional FLR).

6.5.8 Where the complaint is assessed as suitable (see Section 6.4.2) contact will be made with the complainer, within three working days, by telephone. The nature of their complaint will be fully discussed and the process of Early Resolution will be explained. An appropriate explanation, apology or assurance will be provided. Only if the complainer agrees the complaint can be resolved this way will the complaint be concluded at this stage.

OFFICIAL

## **OFFICIAL**

- 6.5.9 PSD Resolution Unit staff must note details of the conversation with the complainer and what actions were agreed with them. This ensures that if the complainer changes their mind there is a record of what has already been discussed and agreed.
- 6.5.10 Officer(s) subject to the complaint and their first line manager will be made aware of the complaint and that it has been resolved by Early Resolution.
- 6.5.11 A pro-forma letter, or e-mail, will be sent to the complainer, which explains that the matter has been resolved by Early Resolution and, if the complainer changes their position, they should contact the Professional Standards Department in the first instance. This letter should not contain information about referring the complaint to the Police Investigations and Review Commissioner (PIRC).

### **6.6. Stage 3 – Allocation and Investigation (Local or Specialist Investigation)**

- 6.6.1 Where Early Resolution has not been successful, or is not appropriate, a decision will be made as to whether the complaint is suitable to be dealt with by way of Local Complaint Handling Procedures or Specialist Investigation by PSD.
- 6.6.2 At any stage in an investigation the matter may be de-escalated or escalated from local to specialist investigation or vice versa, in light of emerging information.
- 6.6.3 When considering what level of investigation is appropriate and proportionate for the complaint in question the overarching principle is that enquiries must be sufficient to enable an effective and reasoned response to the complainer that will withstand scrutiny.

### **6.7 Local Complaint Handling**

- 6.7.1 The main focus of complaints which have been assessed as being suitable to be dealt with locally will be to conduct a proportionate investigation to establish what, if anything, has gone wrong, to identify learning, and to provide a full and transparent response to the complainer within 56 days.
- 6.7.2 Complaints suitable for Local Complaints Handling will usually be allocated to a supervisor who will be referred to as the 'Enquiry Officer'. The Enquiry Officer should have had no prior involvement in the incident or specific actions being investigated, and be able to conduct an objective investigation. Where this is not possible, or there is any doubt consultation should be undertaken with PSD to ensure that the Enquiry Officer is suitably independent. In the case of Quality of Service investigations it is important to ensure that the Enquiry Officer is knowledgeable about the policies and procedures relating to the complaint.

**OFFICIAL**

## OFFICIAL

6.7.3 The Enquiry Officer should make contact with the complainer at the earliest opportunity. Delay in initial contact can often lead to further dissatisfaction, early contact is therefore essential. The focus of this first contact should be to establish exactly what has led to the complainer's dissatisfaction, what requires to be done to put things right and what the complainer's expectations are. The complainer should be advised from the outset how the complaint will be dealt with and reassured that a proportionate investigation will be undertaken in order to establish the facts. It is important to establish exactly what issues are of concern to the complainer. Success in resolving a complaint relies on a shared understanding of the complainer's expectations of the process. For example; there is no point continuing to attempt to resolve a complaint with an explanation if the complainer is expecting financial compensation. It is helpful at the outset to clearly explain:

- What the enquiry officer can and cannot achieve;
- What practical action can and cannot be taken;
- What action might be appropriate and proportionate to investigate the complaint;

and

- What the Service's policies and processes are in relation to the subject of complaint.

6.7.4 During the course of any investigation it is considered best practice to note full statements from the complainer and relevant witnesses. The statement should cover all the complaints contained within the initial correspondence, and should note any allegation that the complainer no longer wishes to pursue. If, on this first contact with the Enquiry Officer, the complainer now accepts the explanations provided this should be noted in the statement. It is accepted that it may not always be possible to obtain a statement from the complainer. A contact log with the complainer should be kept along with file notes detailing conversations and other information, including all e-mails, relevant to the complaint. The purpose of this is to maintain a full audit trail for all decisions that are made, and should the complainer decide to request to have the complaint reviewed by the PIRC at a later date, all necessary information is available for such a review to take place.

6.7.5 There should be a clear understanding between the person noting the complaint and the complainer as to what is being investigated. At the conclusion of the statement there must be a summary of the agreed **Heads of Complaint Under Investigation**, and the complainer should be asked to complete and sign a '**Heads of Complaint**' Form (Force Form 037-045 – Available from PSD only) which lists the description of each allegation. This document can be considered as the agreement between the complainer and the Enquiry Officer and sets out exactly what is to be investigated. It also assists greatly in the recording process. A copy of the Heads of Complaint Form **must** be provided to the complainer at the earliest opportunity. A copy can be provided at the time, or it can be posted or scanned and e-mailed to the complainer. Where the complainer wishes an amendment or addition, this should be accommodated and a new or amended form sent out.

OFFICIAL

## OFFICIAL

- 6.7.6 The Heads of Complaint form **must** be returned to PSD at the conclusion of the complaint with all associated documentation used in the investigation of the complaint.
- 6.7.7 In every complaint where medical evidence in relation to illness/injury of the complainer may be relevant, the complainer should be asked to sign an [Authorisation for Disclosure of Details of Medical Examination Form \(Force Form 037-012\)](#) authorising the Enquiry Officer access to any appropriate medical records.
- 6.7.8 The Enquiry Officer should obtain an account from all relevant personnel.. This may be in the form of operational statements, if required. However, where simple clarification is being sought, it is acceptable to get information by e-mail. The Enquiry Officer should notify the officer(s)/staff who are the subject of the complaint that a complaint is being investigated. Police officers have a duty to provide an account of their operational activity. However, distinction has to be made as to whether an officer is a witness or a 'Subject Officer' in relation to a complaint. Subject Officers, or potential subject officers, **cannot** be compelled to provide an operational statement, or an account, but can provide one, should they wish to do so.
- 6.7.9 Where the Subject Officer provides an operational statement but has not addressed the specific allegations made by the complainer, the Enquiry Officer should ask for a further operational statement covering the detail of all of the allegations that have been made. Alternatively, the Enquiry Officer can take a statement from the Subject Officer covering these points, but only if the Subject Officer agrees to it.
- 6.7.10 A Subject Officer or member of staff subject to a complaint is not obliged to provide any response, however they should be made aware that, if their version of events is not available, 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 a credible account. Complaint determinations are made on balance of probability using the available evidence.
- 6.7.11 Officers who are witnesses must provide a full operational statement addressing the allegations made which **must be their own version of events and not a copy of a statement from other witnesses**. All operational statements must contain the date on which they were created. All handwritten police and witness statements must be forwarded to PSD on completion of the investigation.
- 6.7.12 If a complaint is made against an officer or staff member who has since retired, resigned, or been dismissed, the complaint must still be recorded and investigated or resolved in the same manner as any other complaint about the police. Although disciplinary procedures cannot be taken, this does not prevent the matter being treated as a complaint about the police. Organisational and individual failings may be identified, and an apology can be issued on behalf of the Service, where appropriate.

OFFICIAL



## **OFFICIAL**

- 6.7.13 Risk assessment is important when handling complaints. Risks need to be identified and managed, whatever the nature of the complaint. Sometimes responding to complaints can provide complainers with information they do not expect, or indeed they do not like. Where family members, friends or associates are interviewed and provide versions of events and views which differ from that of the complainer, careful consideration must be given to the wording of the final response. Enquiry Officers should consider all risks that are presented, such as potentially vulnerable witnesses and complainers, and any risk to the police officers and members of police staff involved. A file note must be made where a decision is taken not to include certain information in the final response, this ensures that during any Complaint Handling Review by PIRC they are able to understand the rationale being applied.
- 6.7.14 Local complaint handling should be focussed to deal with the matter quickly, however this should not compromise the quality of the investigation.
- 6.7.15 During the course of a local investigation, if it becomes apparent that the matter is more serious than initially assessed, there may be a need to review the investigative strategy and consider a Specialist Investigation. In such cases, and in every case where an inference of criminality becomes apparent, consultation should take place with PSD immediately.

### **6.8 Specialist Investigation**

- 6.8.1 Certain complaints are not suitable for Local Complaints handling, including:
- Serious or complex complaints
  - complaints alleging criminality
  - complaints of a nature which may later justify proceedings for misconduct;
- and
- complaints alleging serious failures in policing services.
- 6.8.2 In such cases the Investigating Officer will be a member of PSD. However, depending on the nature of the complaint, it may be considered more appropriate to select an officer with the necessary specialist skills. In such circumstances PSD will continue to maintain oversight of the investigation.
- 6.8.3 If a Specialist Investigation is necessary, an Investigating Officer will be appointed. This officer shall:
- Have appropriate levels of knowledge, skill and experience to plan and manage the investigation;
  - Have had no prior involvement in the circumstances to be investigated; and
  - Be impartial.

**OFFICIAL**

## **6.9 Conducting Effective Investigations**

6.9.1 Non-serious investigations can often be straightforward and easily dealt with. Such investigations do not therefore require an investigation report. They can be concluded by fully completing the sections within the [Complaints about the Police \(CAP\) 6 Stage Process Form \(Force Form 037-002\)](#). More complex cases handled at Division should include an investigation report, as do all Specialist Investigations. In **all** cases a full and clear response to the complainer is required, detailing the enquiry carried out, the rationale for any decision to uphold or not uphold allegations and what, if any, action will be taken and why. There will be occasions when a complaint is properly addressed and a proportionate response is given to the complainer, but the complainer remains dissatisfied with the outcome. It is vital that all action taken is documented and reflects the position of Police Scotland that there is no more action that can reasonably be done to deal with the complaint.

6.9.2 The Enquiry Officer should make every reasonable effort to investigate all of the relevant circumstances and information surrounding a complaint. The investigation should be proportionate and should reflect the ability to provide a reasoned response based on the balance of probabilities. Ultimately, the Enquiry Officer is responsible for determining what level of information is required to conclude the complaint, and for ensuring the information gathered is of suitable quality and quantity to enable a full and informed response to be provided to the complainer. The following list, whilst not exhaustive, should be considered:

- CCTV evidence – custody suite, public space and private systems;
- Custody records;
- Custody photographs;
- Forensic evidence (clothing, etc.);
- Crime reports / SPR's;
- Officer's notebook entries;
- Injury on Duty / Use of Force / Exposure to Violence reports;
- Command and Control entries;
- Door to door enquiries;
- Warrant Files;
- Medical reports;
- Forensic evidence;
- Check procedural issues, legislation and guidance specific to the complaint;
- Consider contacting other specialist departments relative to the complaint for advice.

## **OFFICIAL**

- 6.9.3 Throughout the complaint investigation, the Enquiry Officer should consider where the Service can learn lessons by considering what happened, what should have happened, what the failings are, what led to the failings, what could have been done to prevent them and what can be done to rectify them.
- 6.9.4 Auditable records will be kept in respect of all complaints detailing all enquiries undertaken and all significant steps taken during the complaints process. All evidence obtained or created as part of the investigating must be retained.
- 6.9.5 Record keeping of actions taken, including all contact with the complainer, is an integral part of the complaint handling process, whether it is through local complaint handling or specialist investigation. A comprehensive record benefits the complainer, the police and the public. It allows the complainer to be fully informed as to the progress of the complaint and ensures a transparent complaint handling system which is open to scrutiny. It is good practice for Enquiry Officers to provide the complainer with an update every 28 days on the progress of the investigation. This can be by letter, e-mail or telephone. A record should be kept on the contact log when an update is provided.
- 6.9.6 A completed investigation should:
- Explain the nature of the complaint and include all allegations;
  - Outline what the complainer's expectations are;
  - Give a clear account of the investigation carried out and the evidence obtained;
  - Where a decision has been made not to obtain a statement or follow up information, provide an explanation as to why;
  - Outline all of the facts that are established, based on the evidence obtained;
  - Show that all of the complainers issues of concern have been fully considered;
  - State whether each allegation has been upheld or not upheld;
  - Show clear reasoning which draws out conclusions from the information and evidence;
  - Recommend action to be taken based on the outcome of the investigation; and
  - Set out any learning for the police from the complaint. (If the complaint is not upheld, learning for the Service should still be considered).

**OFFICIAL**

## OFFICIAL

6.9.7 As the complaint passes through the complaint system there must be an audit trail of all action taken by the Enquiry Officer and the processes followed. This includes:

- a record of all communication with the complainer and other witnesses;
- any visits carried out;
- reference to any policy and procedures considered;

and

- any evidence gathered

6.9.8 For instance, some complainers may prefer to communicate by telephone rather than by e-mail or letter. If this is the case a record of all telephone conversations must be kept. Any internal correspondence relating to a complaint, including e-mails, must be retained and collated as part of the complaint documentation. With the potential for subsequent scrutiny and in order to demonstrate a fair and objective approach, all complaint correspondence should be professional in content and language.

6.9.9 Where a complaint has been referred to the PIRC and the PIRC request the complaint file, there is a requirement to submit all evidence gathered including documentation, correspondence, e-mails, CCTV evidence and any other material used in the consideration of the complaint.

### 6.10 Investigating On Duty Criminal Allegations

6.10.1 All criminal complaints involving on duty police officers and / or members of police staff should be investigated and concluded within 56 days of the complaint being made. Criminal Complaints about the Police are reported on a standard [CAP report template](#) which has been agreed with the Crown Office Procurator Fiscal Service (COPFS) Criminal Allegations Against the Police Division (CAAPD). There are five categories or report as follows:

- **Category 1:** Allegations of criminality, which could not be described as minor in nature, which contain sufficient prima facie evidence. (CAAPD require to be notified within 48 hrs of a Category 1 complaint and may instruct that the matter is reported directly by SPR within a shorter timescale);
- **Category 2:** Allegations of criminality, which could not be described as minor in nature, which contain insufficient prima facie evidence but appear to have substance;
- **Category 3:** Allegations of criminality, which could not be described as minor in nature, which contain insufficient prima facie evidence but appear -to lack substance;
- **Category 4:** Allegations of criminality, which could be described as minor in nature, and might properly be returned to Police Scotland Professional Standards Department for action;

OFFICIAL

## OFFICIAL

- **Category 5:** Allegations of criminality which have been withdrawn immediately, or withdrawn after initial enquiry within the police station, or where the complainer has failed to co-operate with the Police in connection with the investigation of the complaint and the complaint does not meet the criteria for any of the above categories.

6.10.2 PSD will investigate on duty criminal allegations about the police. Where there is, from the early stages of an investigation, an indication that a crime may have been committed, PSD will contact COPFS CAAPD to advise them. This consultation will take place as soon as reasonably practicable and within two working days of the evidence coming to light. CAAPD may advise further investigation action or enquiry to be undertaken or may refer the matter to PIRC to investigate.

6.10.3 Where a complaint to which [Section 1 of the Road Traffic Offenders Act 1988](#) applies, a warning in terms of this Section must be given at the time of the offence or a [Notice of Intended Prosecution \(NIP\) \(Force Form 126-066\)](#) served on the subject officer within 14 days of the offence. It should also be noted that, if the driver at the time of the offence is not identified and the offending vehicle is registered to the Chief Constable, the provisions of this Section should be complied with by serving the NIP on the Service as registered keeper within 14 days of the alleged offence. This is normally the Fleet Manager.

6.10.4 In relation to offences arising from road traffic collisions involving police vehicles, reference should be made to the [Road Traffic Collisions SOP](#).

6.10.5 The CAP report will thereafter be forwarded by PSD, to CAAPD.

6.10.6 Where a report involving an allegation of criminal conduct by an on duty police officer is referred to the CAAPD the DCC Designate will arrange for the officer(s) subject to the complaint to be informed and advised that misconduct proceedings may subsequently be taken, irrespective of whether or not criminal proceedings are brought against the officer(s).

6.10.7 All concluded complaints must be recorded on a [Complaints about the Police \(CAP\) 6 Stage Process Form \(Force Form 037-002\)](#), which contains all information required for recording on the Centurion system. This includes the appropriate disposal code(s) relating to the complaint. Nationally agreed disposal codes On Duty, Off Duty and Quality of Service complaints are shown at Appendix 'I' .

OFFICIAL

## OFFICIAL

### 6.11 Stage 4 – Determination

6.11.1 In order to determine the outcome of a complaint or allegation, i.e. if the allegations are upheld or not, the Enquiry Officer must carry out an objective analysis of the evidence obtained. In determining their recommendations they should consider:

- What prompted the complaint?
- What facts have been established?
- Whether the police action was unsatisfactory and should be avoided in the future?
- What can be done to prevent it happening again?
- Whether an apology is appropriate?
- What can be learned from the complaint?
- Is any remedial action necessary?

6.11.2 A conclusion to a complaint should include any reason for poor performance that has been established. For example there may have been a lack of resources; inexperienced officers; training issues; poor planning and supervision; a lack of coordination; a misunderstanding or a genuine mistake on the part of the officers or staff members.

6.11.3 An allegation should be **upheld** where the evidence based findings show that, **on the balance of probabilities**, the service provided did not reach the standard a reasonable person could expect or the actions or behaviour of the officer or member of staff did not reflect the Standards of Professional Behaviour.

6.11.4 Conversely; a complaint would be **not upheld** when the evidence based findings show that the service provided or conduct of officers and staff was of the standard that a reasonable person could expect. For example; if the facts uncovered were to illustrate that what the complainer has alleged, did not happen or did not happen in the manner they described, the complaint would be concluded as **not upheld**. A complaint would also be **not upheld** when the circumstances described by the complainer did happen but were found to be reasonable and proportionate in the circumstances.

6.11.5 When deciding what a reasonable person would expect, any determination must be based on an objective analysis of the facts established. The Enquiry Officer **must not** base their conclusion on assumption or personal opinion. They must take into account all of the evidence gathered, any policy or standard operating procedure that can be applied to the situation and the Police Scotland [Standards of Professional Behaviour](#).

6.11.6 The decision whether to uphold a complaint must be taken based on the 'balance of probabilities'. That is, the enquiry officer must use their own professional judgement to decide, based on all available evidence, whether one account is more probable than the other.

OFFICIAL

## OFFICIAL

- 6.11.7 There may be occasions when it is simply not possible to conclude that on account is more probable than another. This may occur when the evidence is equally weighted on both sides, for example where there is nothing in the surrounding facts to support either account, or where there is nothing to undermine the credibility of either account. In such circumstances the complaint will not be upheld. An explanation why the complaint is not upheld must be provided. This explanation should describe what evidence the enquiry officer found in the course of the enquiry for each allegation.
- 6.11.8 During the complaint investigation, information may be uncovered which shows a failing on the part of the police that has not been made as a specific allegation by the complainer. However, if it had been made as a complaint, it would most likely have been upheld. This should not be ignored. Appropriate action should be taken and, where the failing is relevant to the complainer, an explanation should be provided to the complainer of the failing, what action was taken and why.
- 6.11.9 For non-criminal complaints, dealt with at local level, there is no requirement for the enquiry officer to write a report. The details of the full investigation and the outcomes for each explanation should be clearly articulated in the final letter to the complainer. In certain serious or complex complaints the Local Commander may ask for a full report as well as the final letter, particularly if there are upheld complaints which may lead to proceedings under the Conduct Regulations. In most cases the final letter and the completion of the [Complaints about the Police \(CAP\) 6 Stage Process Form \(Force Form 037-002\)](#) is sufficient. (See Section 6.14 'Stage 6' below).

### 6.12 Withdrawn and Abandoned Complaints

- 6.12.1 In criminal or non-criminal complaints (which have been allocated for local investigation), where a complainer intimates that they wish to withdraw the complaint in full, the following actions are necessary:
- A handwritten statement of withdrawal should be obtained and signed by the complainer. This should be written by the complainer, or if necessary, by a supervisory officer. The statement must include the complainer's reason for withdrawing the complaint;
  - CCTV / medical / photographic evidence where available should be retained

OFFICIAL

## OFFICIAL

6.12.2 However, for criminal and non-criminal complaints in any of the following circumstances where a complainer wishes to withdraw their complaint, a full enquiry will still be required if;

- The complainer states that their reason for withdrawing the complaint is that they have no faith in the complaints procedure and/or that the police will not investigate the matter properly;
- In the case of criminal allegations, evidence exists that supports the complainer's allegations;
- The complaint arises from a matter that is particularly sensitive, serious or high profile;

or

- The subject officer has a concerning complaint history (consult PSD for further advice if concerns are raised about multiple analogous incidents surrounding one officer).

6.12.3 In cases where a criminal complaint is withdrawn by the complainer, the subject officer must not be advised that the complaint is withdrawn at this time because there may be instances where a withdrawn criminal complaint is still referred to COPFS as a 'Category 5' complaint. It will be the responsibility of PSD to intimate the final outcome to the relevant staff member.

6.12.4 When an explanation has been offered to a complainer and is fully accepted, the allegation should not be considered to have been withdrawn, nor should the complainer be prompted to withdraw the allegation. The appropriate outcome is that the particular allegation is '*Concluded by explanation to complainer*' and requires no further investigation.

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

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

or

- behaving in an abusive or offensive manner.

6.12.6 Each complaint/complainer must be considered according to individual circumstances. All contact and attempts to contact a complainer should be recorded. The Enquiry Officer will make all reasonable efforts to secure a complainer's cooperation. If he/she is satisfied that the investigation cannot proceed without the complainer's further cooperation, consideration may be given to abandoning the complaint investigation. The decision to abandon a complaint should be communicated to the complainer in writing.

OFFICIAL



## OFFICIAL

- 6.12.7 Alternatively, the Enquiry Officer may consider that a final written response to the complainer is appropriate, based on the available information and evidence already obtained.
- 6.12.8 Occasionally it will not be possible to resolve all of the complainer's issues. In certain cases, where a complainer continually adds new complaints to an ongoing investigation and persists in demanding further interaction with the Enquiry Officer, the Enquiry Officer must show that they have done all they can to explain the complaints process and conduct an adequate investigation. On occasion further engagement with the complainer will not add value for the complainer or the organisation and it is best to bring the complaint to a conclusion. If this happens a clear explanation of the reasoning behind the decision taken should be provided to the complainer along with information on how to refer their complaint to PIRC, if they are not satisfied with how it has been handled.
- 6.12.9 Where a complainer is unreasonable, or has unmanageable expectations, or is proving to be extremely persistent, PSD should be consulted for advice on how to manage the handling of the complaint and, on occasion, the complainer's access to the complaints process in future. Please refer to the, [Unacceptable, Persistent or Unreasonable Action by Complainers Standard Operating Procedure](#).

### 6.13 Stage 5 – Identify Organisational and Individual Learning

- 6.13.1 The complaints process promotes a culture of learning. Continuous improvement is the primary objective of the complaints handling process. Complaints provide an opportunity to measure current performance, assess public expectation and improve service delivery.
- 6.13.2 Opportunities may become apparent during complaint investigations for improvements to service delivery and to prevent repetition of complaints. Learning can include changes to current practices and policies or can involve direct developmental input for an individual or group of individuals. It is equally important that good practice is identified in order that all parts of the organisation can benefit.
- 6.13.3 Significant issues identified during the investigation of a complaint should be addressed without waiting on the conclusion of the complaint to prevent any recurrence. The Enquiry Officer should alert such learning opportunities to the appropriate commanders. The Enquiry Officer should not issue guidance or author reminders during the investigation, as it may appear to subject officers as though the outcome of the complaint investigation has been predetermined. The appropriate commanders can however issue reminders and general guidance.
- 6.13.4 Any learning outcomes should be detailed on the concluded [Complaints about the Police \(CAP\) 6 Stage Process Form \(Force Form 037-002\)](#) and will be collated and, where appropriate, disseminated by PSD.

OFFICIAL

## OFFICIAL

### 6.14 Stage 6 – Notification to Complainer

- 6.14.1 Communication is a key element of any complaint handling system. From the outset there should be communication with the complainer. Additionally, any officers and staff involved in the complaint should be kept informed.
- 6.14.2 Throughout the complaint handling process, the complainer should be informed of progress at planned intervals. It is recognised that, on occasion, complaints may contain a combination of criminal and non-criminal allegations. In such cases criminal proceedings take primacy and may delay the final notification to the complainer of the non-criminal allegations. Wherever possible the Enquiry Officer should address the non-criminal allegations as early as possible. When the non-criminal allegations arise from the same set of circumstances as the criminal allegations, it may not be possible to address the non-criminal allegations until the criminal allegations are concluded by CAAPD.
- 6.14.3 When the complaint goes through the local complaint handling procedure, it is necessary to provide the complainer with a final written response which considers the needs of the complainer. This should be signed off by an officer of an appropriate supervisory rank, usually Chief Inspector or above. In the final letter clear, unambiguous language must be used, and if the complainer requires, translation into their own language should be provided. Where, because of a complainer's specific requirements, a final letter is not appropriate and a response has to be given verbally, a detailed record of this must be kept, including whether allegations were upheld / not upheld and any apologies given, along with the reasons why a final letter was not provided. Where a complainer accepts a verbal response, if possible, they should be asked to sign the officer's notebook / Personal Digital Assistant (PDA) confirming that they have done so.
- 6.14.4 In certain circumstances, when taking into account the needs of the complainer or in sensitive cases, it may be beneficial to explain the result of the complaint investigation to the complainer before a final letter is sent.
- 6.14.5 The complainer's needs must be taken into account throughout the process. For example; the needs of a person making a complaint about the way the death of a family member was dealt with differs to a routine complaint about the incivility of an officer, therefore the method of explaining the outcome of the complaint must be carefully selected. The complainer may indicate that they have other needs for a verbal response and this should be taken into account.
- 6.14.6 The explanation should be clear and impartial and should communicate whether each allegation is upheld or not. It should *fully* address the complainer's allegations and concerns, and the reasoning behind any decision should be apparent. The explanation should also include any action to be taken as a result of the complaint, and any learning identified for Police Scotland.

OFFICIAL

## **OFFICIAL**

6.14.7 The final letter of response should:

- Be clear and easy to understand, written in plain language and free from jargon;
- Not include disparaging remarks or unfounded judgements;
- Address all of the allegations which were agreed at the outset;
- Address each allegation contained within the Heads of Complaint Form and state clearly whether each allegation is upheld or not;
- Be based on the facts established by the Enquiry Officer;
- Explain the facts and how they were used to inform the conclusions reached;
- Contain a summary of the enquiries carried out in respect of each complaint;
- Explain any service or conduct failings identified;
- Communicate the details of any learning identified for Police Scotland;
- Communicate any action which has been proposed or taken;
- Provide clear apologies if failings have been identified
- Where certain allegations are not being addressed, explain why. (For example if one of the allegations is a criminal matter and is still being dealt with by CAAPD);

and

- Include details of what to do if the complainer remains dissatisfied.

6.14.8 The letter must reassure the complainer their 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.

6.14.9 When explaining to the complainer how the facts were used to inform the conclusions reached, there should be a reference to any relevant legislation, policy or exceptional circumstance which supports the position of the Service.

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

6.14.11 Where a decision has been made not to institute misconduct proceedings, the complainer should be informed of any other measures taken or intended to be taken in respect of the officer. If a decision is made to commence conduct proceedings the complainer should be advised. If no action is being taken this should also be explained. Providing complainers with this information promotes transparency in decision-making.

**OFFICIAL**

## OFFICIAL

6.14.12 Consideration must be given to the degree of information that it is possible to disclose. For example; is the information likely to be sub-judice? However, as much pertinent information should be given to the complainer as is reasonably possible.

6.14.13 When the final outcome of the complaint is communicated to the complainer, the complainer must be notified of what to do if he or she remains dissatisfied. The following paragraph will be included at the end of each final letter to a complainer:

**“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 PIRC, you must submit an application form to them within three months of the date of this letter, 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.gsi.gov.uk](mailto:enquiries@pirc.gsi.gov.uk)**

**Online: [www.pirc.scotland.gov.uk](http://www.pirc.scotland.gov.uk)**

**Post: PIRC, 2<sup>nd</sup> Floor, Hamilton House, Caird Park, Hamilton, ML3 0QA**

6.14.14 It is imperative, therefore, that the date on the final letter is the date the letter is sent to the complainer. The name of the supervisor signing the letter should be printed at the bottom of the letter, so it is clear to the complainer who is responding to them.

## 7. Police Investigations and Review Commissioner (PIRC)

7.1 The Police Investigation and Review Commissioner (PIRC) is established under the [Police, Public Order and Criminal Justice \(Scotland\) Act 2006](#) as amended by the [Police and Fire Reform \(Scotland\) Act 2012](#) (hereinafter referred to as ‘The Act’).

7.2 PIRC has the general, statutory remit to ensure the maintenance and review of suitable arrangements in Scotland for the handling of complaints. This includes the function of ensuring that such arrangements and processes are efficient and effective, have an appropriate degree of independence and that these processes are adhered to. PIRC may conduct reviews of any arrangements and processes and make recommendations on how these might be amended or improved.

OFFICIAL

## **OFFICIAL**

- 7.3 PIRC can conduct Complaint Handling Reviews (CHRs). Any complainer may refer a complaint to PIRC for review if they are unhappy with the way a complaint has been handled. PIRC will not normally commence a review until the Service has already concluded its own investigation and has responded to the complainer.
- 7.4 Where PIRC have completed a CHR, any recommendations made should be implemented by Police Scotland within 28 days of the date on which the PIRC's review was received. In exceptional cases (e.g. where the recommendation requires the amendment of internal procedures or there is difficulty in accessing witnesses) and in cases where a reconsideration direction has been given, implementation may take longer than 28 days. PIRC should be notified that the 28 day limit will not be met and should be provided with a target date for completion.
- 7.5 In some CHRs, PIRC may specify that a recommendation should be dealt with by an officer or staff member who was not involved in the police body's handling of the complaint. Where a reconsideration direction in a CHR is issued it must be dealt with by an individual who was not previously involved in the complaint.
- 7.6 Under The Act, PIRC is able to carry out investigations under the following circumstances:
- Allegations of a criminal nature (as directed by the Crown Office and Procurator Fiscal Service);
  - Death in police custody (under direction of the Crown Office and Procurator Fiscal Service);
  - Death or serious injury following police contact;
  - Serious injury while in police custody;
  - Police use of firearms and other weapons;
  - or
  - Relevant police matters where the Commissioner considers it would be in the public interest to do so.
- 7.7 A complaint where there is an allegation that the actions being complained of has resulted in death will be referred to COPFS who may direct PIRC to investigate. This includes any complaint that alleges the police failed to take action, which could have prevented someone's death.
- 7.8 Where there is an allegation that conduct complained of has resulted in serious injury, not amounting to a criminal act (e.g. police officers pursuing a suspect who runs out in front of a car or falls from a building and is seriously injured) the Chief Constable must refer the complaint to the PIRC to investigate.

**OFFICIAL**

## **OFFICIAL**

- 7.9 The Chief Constable and SPA will refer circumstances, even where there has been no complaint about the police, where there has been a serious incident in which a person has died or suffered serious injury and there is an indication that contact with the police may have directly or indirectly caused or contributed to the death.

### **8. Scottish Police Authority (SPA)**

- 8.1 The Scottish Police Authority has a role in scrutinising complaint handling arrangements. The SPA will meet regularly to examine Police Scotland's complaints processes. A statistical report will be provided to the SPA on a quarterly and annual basis.

### **9. Complaints about Senior Officers**

- 9.1 Senior officers are defined as the Chief Constable, Deputy Chief Constables, and Assistant Chief Constables.
- 9.2 When a complaint about a Senior Officer is received, it must be passed to the SPA. The SPA has its own procedures for dealing with complaints about the police involving Senior Officers.
- 9.3 The SPA is responsible for managing complaints about Senior Officers.
- 9.4 Where the SPA receive a complaint and consider it does not relate to a senior officer they may refer the complaint to Police Scotland.

### **10. Complaints about Anti-Corruption Unit (ACU) and Professional Standards Department (PSD) Police Officers and Members of Police Staff.**

- 10.1 Complaints, both criminal and non-criminal, regarding ACU/PSD police officers or members of police staff will be allocated to an independent enquiry officer, external to the department, by the Head of PSD. This includes police officers / members of police staff no longer working in CCU/ACU if the complaint relates to their tenure within the department and was a result of their operational duties.
- 10.2 All complaints made regarding ACU or PSD police officers/police staff are subject to mandatory notification to the SPA. This notification will be undertaken via the Head of PSD.
- 10.3 The SPA will review all new complaints through a process of dip sampling.
- 10.4 At the conclusion of any complaint investigation, SPA will be informed of the outcome via the Head of PSD.

**OFFICIAL**

## OFFICIAL

10.5 Allegations of criminality, in their initial form, will be reported to COPFS in order for them to consider the complaint and direct their progression.

### 11. Early Intervention Process

11.1 The Early Intervention Process is designed to identify officers who generate repeated complaints, the aim being to intervene timeously and take appropriate action to address issues to improve performance, reduce future complaints and improve service delivery to the public. The process is based on pre-determined triggers, analysis and profiling an officer's complaint history. This determines the risk that the officer poses and provides measures to improve individual behaviour thereby minimising the impact on the reputation and operational efficiency of Police Scotland. By their very nature complaint processing and investigations consume a considerable amount of police time.

11.2 An officer will be identified for consideration of the Early Intervention Process following the activation of a trigger which has been set on the complaints recording database. This process triggers when an officer receives four separate complaints within the preceding year. This is effective as a rolling year.

11.3 An assessment will be carried out by a PSD officer of at least Chief Inspector rank. Following this assessment liaison would take place with the relevant Divisional Superintendent for appropriate action to take place. This action will include one of the following: -

- Category A Intervention – ACU Review / Investigation;
- Category B Intervention – PSD / ACU Intervention;
- Category C Intervention – Divisional / PSD Intervention;
- Category D Intervention – Divisional Intervention;
- Category E Intervention – Officer to be notified.

11.4 An Early Intervention Assessment will be completed within three weeks of initial notification of the trigger. The Early Intervention Meeting and process should be concluded within a further three weeks.

OFFICIAL

**List of Associated Legislation**

- The [Police, Public Order and Criminal Justice \(Scotland\) Act 2006](#) as amended by the [Police and Fire Reform \(Scotland\) Act 2012](#);
- [The Road Traffic Offenders Act 1988](#)



**List of Associated Reference Documents**

**Policy**

- [Professional Standards Policy](#)

**Standard Operating Procedures**

- [Road Traffic Collisions SOP](#)
- [Unacceptable, Persistent or Unreasonable Action by Complainers SOP](#)
- [Record Retention SOP](#)

**Guidance**

- [The Police Investigations and Review Commissioner \(PIRC\) Statutory Guidance;](#)
- [Complaints about the Police Six-Stage Complaint Handling Process Flowchart;](#)
- [A Guide for Complaints About the Police;](#)
- [Police Scotland Standards of Professional Behaviour.](#)

**List of Associated Forms**

- [Complaints about the Police \(CAP\) 6 Stage Process Form \(Force Form 037-002\)](#)
- [Notice of Intended Prosecution \(NIP\) \(Force Form 126-066\)](#)

**Glossary of Terms**

- ACU Anti-Corruption Unit
- CAP Complaint about the Police
- CAAPD Criminal Allegations Against the Police Division (COPFS)
- CCTV Closed Circuit Television
- COPFS Crown Office and Procurator Fiscals Service
- FLR Front Line Resolution
- NIP Notice of Intended Prosecution
- PDA Personal Digital Assistant
- PF Procurator Fiscal
- PIRC Police Investigation and Review Commissioner
- PSD Professional Standards Department
- SOP Standard Operating Procedure
- SPA Scottish Police Authority
- SPR Standard Prosecution Report

**Enquiry Officer  
On Duty Complaints - Checklist**

This checklist is a guide for enquiry officers who have been allocated a complaint at local level. The notes provided below should provide a useful checklist to ensure that all the information is gathered during the enquiry.

**Before Seeing Complainer**

Obtain as much background information as possible relating to the complaint. Consider the following:

- Viewing any available CCTV evidence;
- Familiarise yourself with any relevant documents;
- Crime Reports;
- Police Reports;
- System for Tasking and Operational Resource Management (STORM) Incidents;
- Medical Reports;
- Injury on Duty Reports;
- Use of Force / Baton / CS Spray forms;
- Vulnerable Persons Database (VPD);
- Any police statements (i.e. retrieved from any associated criminal case – not including operational statements which should only be requested after specific allegations are known);
- Any witness statements (i.e. retrieved from any associated criminal case); and
- Check procedural issues, legislation, guidance, etc. (This will ensure that you are prepared to answer any questions posed by the complainer and that any advice you offer is in accordance with the law and Service policy/procedures).

Consider contacting other Departments for advice:

- Legal Services Department;
- Professional Standards Department (PSD);

Also have relevant documents available;

## OFFICIAL

- Production labels;
- Business cards/contact cards;
- Scottish Government Complaints leaflet; or
- Medical Mandate.

**At this stage you must also give consideration to any issues relating to Equality and Diversity that may have a bearing on how you deal with the complaint and allegations. There may be a need to consider having an interpreter or an appropriate adult. In the case of a child, arrangements must be made for the child to be accompanied by a parents, guardian or other suitable adult. As with any investigation, this adult should not be a witness.**

### Interviewing the Complainer

Discuss nature of complaint and where required provide the complainer with information and clarification on police systems, procedures and powers, etc. Although conciliation or resolution is possible at this stage for all non-criminal and non-serious complaints, you may find it useful to conduct some further enquiry and thereafter return to see the complainer with this in mind. It may not provide a complainer with much faith in the system if you appear to conciliate the complaint without making any obvious attempt to clarify facts given by the complainer. Providing the complainer has faith in the procedures adopted he/she may be quite happy to receive an explanation or even an apology if that is appropriate at that stage. It is not, however, your function to arbitrate and this should not be attempted.

If the complainer wishes to withdraw the complaint following interview, ensure that he/she provides a statement to that effect or signs your notebook indicating clearly that the complaint is withdrawn entirely, that he/she does not wish to give a statement and that he/she does not wish any further enquiries made. In effect the withdrawal should be spontaneous and unequivocal, and you must ask the reason for the withdrawal and record it in the statement. Details of the withdrawal should be included on a completed [Six Stage Form](#) Even although the complainer has withdrawn the complaint, officers should, if appropriate, seize CCTV, medical and photographic evidence. That said, if independent evidence exists that any wrongdoing took place or if the complainer states they have withdrawn because they have no confidence in the complaints system, then a proper structured enquiry is required, irrespective of the complainer's wishes

As Enquiry Officer you should clarify the precise nature of the complaints being made, in order that a more detailed and accurate statement can be recorded focusing on the specific areas of complaint. All areas of concern must be gone over and the complainer asked exactly what they are complaining/not complaining about. The information detailed below should be incorporated in the complainer's statement wherever practicable:

OFFICIAL

## OFFICIAL

- Time, date and location of incident;
- Who was present/possible witnesses;
- What the complainer did in lead-up to contact with police;
- Exactly what the Police did to cause complaint;
- Description of Officer(s) concerned (each allegation); Complainer under influence of drink/drugs?
- Other relevant information to prove/disprove allegation; and
- The final paragraph should clearly outline each allegation and record the fact that the complainer is aware that only these allegations will be investigated.

It is essential that the exact nature of the allegation is made known. Crucially it must be established if the allegation is criminal or non-criminal, the complainer must be asked to clarify where any ambiguity exists. Once the statement has been completed a **Heads of Complaint form (available from PSD)** must be completed. This form should list a brief description of each allegation being made. The complainer should then sign this document. This can be considered as the contract between the complainer and the police, leaving the complainer in no doubt what will be investigated.

You must also ascertain the expectations of the complainer. It may be that they only wish to receive an explanation or an apology. On the other hand they may have completely unrealistic expectations of what can be delivered to them from the complaints process. Asking the correct questions will allow you to gauge how to conduct your enquiry. You may also have to advise the complainer that their expectations, if unreasonable, cannot be met. Although they will be disappointed, it is better that this disappointment is managed at the beginning of the process rather than building up their expectations only to leave them even more disappointed at the conclusion.

Also remember that the complainer can be interviewed in the presence of a friend, representative or solicitor if desired, providing this person is not a witness to the circumstances being complained about.

Members of the public are not necessarily skilled in deciding when an allegation is criminal or non-criminal. It is, however, crucial that their perception of why they consider an allegation to be criminal is known, and what information they have used to come to that conclusion. If you assess that the complainer is inferring criminality you should consult PSD.

### Witnesses and Evidence Gathering

All available evidence should be gathered by the enquiry officer. Statements of any witnesses to the incident should be noted. Telephone numbers where available for all complainers and witnesses should be included in the report. If any subsequent contact is made with the complainer, or witnesses after the initial statement, ensure

OFFICIAL

## **OFFICIAL**

a detailed file note containing a record of the contact is entered into the complaint file. Similarly any e-mails received should be retained.

### **Final Report / Final Letter - Your Conclusions**

**In most cases no Final Report is required. All of the evidence is weighed up and conclusions reached in the Final Letter to the complainer. On occasions where the complaint is particularly serious or complex, there are issues of a sensitive nature which cannot be provided in the final letter or there are conduct matters to be considered a final report may be beneficial.**

When compiling the final letter you should not show bias but consider the facts and circumstances impartially. There is no value in attempting to discredit the complainer unless there is clear evidence to support that position. Conclusions should reflect a balanced appraisal of the evidence gathered during the course of your enquiry. Where there is evidence in support of either the complainer or the officer(s) subject to the complaint this should be detailed.

Remember that there are legitimate disposals available locally for all allegations that are considered to be minor or trivial and non-criminal. However, they can only be considered on the basis of the evidence gathered up to that time.

You must bear in mind that the evidence required in relation to all complaints that are non-criminal is the same as the civil standard of proof, that is, the balance of probabilities. In essence what this means is that to decide in favour of the complainer the evidence need only show that the complainer's allegation is the more probable version of events. There is no need to prove the allegation(s) beyond reasonable doubt. That may mean that evidence, which would not be admissible or sufficient in terms of the criminal law, may be adequate to prove the allegation in terms of the complaint. Hearsay evidence may, for example, be admissible and sufficient, under certain circumstances, to lend sufficient support to an allegation where that same evidence may not be competent in criminal cases.

All available evidence must be gathered and considered. Any CCTV evidence must be seized at the earliest opportunity regardless of whether or not it provides supporting evidence. You must be able to demonstrate that it was viewed and taken into account. If CCTV evidence is not seized at the time the complaint is lodged and subsequently lost, this could lead to criticism.

If evidence is not gathered for any reason, the report or final letter should clearly state why, together with a clear indication where the evidence is stored. This can often happen in cases where the complainer is the subject of a report to the Procurator Fiscal and productions have been lodged in respect of the ongoing criminal case.

All statements associated with a complaint should be typed prior to sending to the PSD, with the exception of local resolution procedures and withdrawals.

**OFFICIAL**

## **OFFICIAL**

During the course of an enquiry relating to a complaint there may be procedural issues identified that do not form part of the original complaint and allegations. In these cases it is expected that the Local Police Commander or Head of Department will address these matters. Providing that the procedural issues do not have an impact on the allegations being investigated it is expected that an explanation of the action taken to address procedural issues is included in the initial report.

**OFFICIAL**



## **Responsibilities of Area Commander or Departmental Manager**

In respect of complaints where a level of enquiry is required, ensure that a suitably qualified officer is appointed to carry out the initial enquiry timeously. This will normally be an Inspector but a Sergeant may undertake this role if he/she is sufficiently experienced. Consideration should be given to shift rotation and annual leave commitments of proposed initial enquiry officers.

Constant monitoring of complaint enquiries will provide the necessary support to the enquiry officer and ensure that the full range of options available is explored with regard to concluding the complaint locally for non-criminal allegations. If there is a delay in dealing with/concluding the complaint enquiry then the complainer should be updated verbally or in writing every 28 days and a file note placed in the file.

When the enquiry officer's report /6 Stage Form is received ensure that:

- The Six Stage Form is completed accurately and that all allegations are recorded;
- A Heads of Complaint Form has been completed and signed by the complainer
- The officer(s) subject to complaint have been correctly identified. If uncertainty exists leave blank;
- All relevant documents and productions are included;
- The CCTV evidence has been secured. Consider viewing same to ensure that any evidence is properly reflected in the final letter;
- Medical and photographic evidence has been obtained or reasons provided if not available;
- The final letter addresses all of the allegations as set out in the Heads of Complaint Form and that each allegation is properly addressed as "upheld" or "not upheld" and a full rationale of why, on the balance of probabilities, that conclusion has been reached. It is important that a full and transparent rationale is provided.
- Consideration has been given to any procedural issues that are not the subject of complaint but are identified and ensure appropriate action has been taken to address any service delivery or quality of service issues.
- Any actions committed to for upheld complaints have been carried out.

## **Definitions of Categories of Complaint**

### **On Duty Allegations**

An allegation should be recorded as “**on duty**” when an officer is operating during working hours, or on certain occasions when an officer, off duty, clearly identifies themselves as a police officer and utilises police powers in an effort to deal with a situation where it may be inferred they would be in neglect of their duty had they not acted. Effectively in such a situation an officer has signed back on duty by declaring that they are a police officer and by acting in an official capacity.

On duty allegations are categorised under 12 headings as listed below. Two of the allegation categories, irregularity in procedure and discriminatory behaviour, have a list of sub-categories, which are used to further define the nature of an allegation.

### **Assault**

An allegation that a member of the police service was responsible for a criminal attack on another person as defined by the common law crime of assault:

“Every attack directed to take effect physically on the person of another is assault, whether or not actual injury is inflicted. There must be **criminal intent**: an accidental injury, even although caused by a mischievous act, does not amount to assault.”

In order for a complaint about the police to be recorded as an allegation of assault the same standard of evidence in the complainer’s version of events which is required under Scottish Criminal Recording Standards (SCRS) is required i.e. the allegation being made by complainer should be such that it would justify recording and investigating the event as the crime of assault in circumstances where the perpetrator is not in the police service. Even though a complainer may use the word “assault” in their allegation, careful consideration should be given to the context in which they are claiming assault. Where there is no inference from the complainer or from the circumstances described that there has been criminal intent the category of “excessive force” is more appropriate.

### **Excessive Force**

An allegation that a member of PSoS has used excessive force in circumstances where they are exercising police powers to control a prisoner, or to control persons in a crowd, or the use of defensive tactics to prevent a person from interfering with officers in the execution of their duty. In general, this classification should be used where officer safety techniques have been utilised and the complainer perceives them to have been excessive for the circumstances. One of the deciding factors in distinguishing this allegation type from assault is “intent”. Where a complainer infers, or the circumstances appear to infer that there was “criminal intent” to injure then the allegation would be recorded as assault. In cases where a person complains that they have been “assaulted” purely because they claim they have been wrongly arrested the allegation should be recorded as Unlawful/Unnecessary arrest.

## OFFICIAL

### Incivility

Incivility should be recorded when a member of the public perceives a member of a police service to have been rude in a manner of speech, language or action. This definition includes allegations where the complainer alleges the member of staff has spoken to them in an unnecessarily loud, harsh, inappropriate or impolite manner. It may include swearing which does not amount to a breach of the peace. It also includes circumstances where the complainer states that a member of staff did not seem to care, or gave the impression that they were not interested or didn't listen to them. Other examples include abruptness, lack of sympathy or adopting an aggressive tone. Incivility can often be about a complainer's perceptions about their interaction with a member staff.

### Neglect of Duty

An allegation of Neglect of Duty is one where it is alleged a member of the police service has **failed** to perform a duty set out by law or under Service procedures. Where a complaint amounts to an officer having not done something which the complainer expects the police should do and there is no defined policy covering the issue an allegation should be recorded under Quality of Service and may provide a learning outcome for the Service to amend Service procedures. The distinction between neglect of duty and irregularity in procedure is that with neglect of duty the member of staff has **failed** to do something which was required, or reasonably expected by law or procedures. Examples would be:

- Failing to breath test of a driver involved in a reportable road accident when procedure states that all drivers involved in reportable road accidents should be tested;
- Failing to record a production in the production register;
- Failing to secure found monies in a safe;
- Failing to follow up enquiries; or
- Failing to provide any updates to a complainer.

### Irregularity in Procedure

Irregularity in Procedure relates to instances where it is alleged a member of staff has carried out procedures, or an activity, which is incorrect, incomplete, unreasonable in the circumstances, or not in accordance with the legislation or standard operating procedures. In this category the member of staff will have been carrying out procedures, but did not carry them out correctly or in accordance with the rules. It is distinct from neglect of duty, which relates to an omission to carry out an act at all. There are a number of sub-categories which should be used to ensure that the procedures which regularly feature in complaints are monitored and where learning opportunities exist they are identified at an early stage whether through the complaint handling process or by requiring a review of procedures. Examples are:

OFFICIAL

## **OFFICIAL**

- Where updates have been given to a complainer but they are insufficient, infrequent or don't meet the expectations of the complainer;
- A police officer carried out breath test procedures but they were not carried out according to the guidance; or
- A person complains he was arrested at his/her home address and was taken to the police van without being given the opportunity to put on his/her shoes.

### **Traffic Irregularity/Offence**

Complaints involving the conduct of officers while driving fall into this category. Common complaints such as allegations of speeding, parking on double yellow lines, dangerous driving, use of mobile phone when driving should be included under this heading.

### **Oppressive Conduct/Harassment**

This category should be used where it is claimed the member of staff acted in a manner that was oppressive and unnecessarily forceful or they pursued a course of conduct, which could be considered as harassment towards a member of the public. Allegations where an officer has bullied, intimidated, threatened or displayed overly aggressive behaviour fall into this category. It does not include situations where the complainer perceives an officer's tone was aggressive (see incivility). Where harassment is alleged to be based on discrimination, then the allegation should be recorded under discriminatory behaviour, not under Oppressive Conduct/Harassment. Examples of oppressive conduct/harassment allegations include:

- A member of the public reports that she has been stopped and searched over twelve times within the last month and officers have had no grounds for doing so;
- An allegation is received from a parent that her 15 year old son was told that if he did not tell officers who had sold him alcohol he could be locked up;
- A suspect alleges that during the course of a police interview the officer adopted an intimidating attitude and threatened her that if she did not provide an explanation she could end up in jail;
- A driver reports that he has been stopped in excess of five times over the preceding two weeks because he drives an old car. He believes that officers are victimising him; or
- A search for stolen property was conducted in a dwelling house using the authority of a warrant. The householder later complained that the number of officers within his/her house was intimidating, unnecessary and oppressive.

### **Unlawful/Unnecessary Arrest or Detention**

This category includes two distinct types of allegations. Firstly unlawful arrest or detention is where there is an allegation that an officer did not have power to arrest or detain an individual because there was no provision for the arrest or detention

## **OFFICIAL**

## **OFFICIAL**

under common law or within statute. It should be noted that there is no criminal offence of “unlawful arrest” contained in common law or statute. Secondly there is **unnecessary** arrest or detention where there are relevant powers but the complainant believes that an officer should not have arrested them, on the grounds of necessity or proportionality.

### **Discriminatory Behaviour**

An allegation that a police officer or member of police staff either engaged in a course of action or behaved in a manner which was discriminatory towards an individual or group on the basis of their race, sexual orientation, faith, age, gender or disability. Some examples where discriminatory behaviour should be recorded are as follows:

- Officers attend a neighbour dispute. One neighbour is charged with a breach of the peace and the other is not charged. The neighbour who is charged complains that the only reason that police have not charged his/her neighbour is because his/her neighbour is of a different ethnicity. He believes he has been treated differently.
- A male complains to police that he has been sexually assaulted by his ex-partner. He believes that officers did not treat his complaint seriously because he is male and that had he been female the matter would have been more thoroughly investigated.
- Officers stop a vehicle for a routine road check. The female driving the vehicle later complains that she is transgender and the officer who approached her vehicle to speak to her continued to refer to her as “sir,” after she had corrected him.

### **Corrupt Practice**

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

- Following a disturbance in licensed premises two men are arrested for breach of the peace. One was kept in custody and the other was charged and liberated to be cited. The male who was kept in custody alleges that the other male was liberated because his sister is a senior officer who arranged for his release.
- A member of staff leaked police information to the media for monetary advantage.
- An officer assisted in securing employment for his/her friend’s daughter with the police service, circumventing the normal application process.

**OFFICIAL**

## **OFFICIAL**

### **Other (Criminal)**

Any allegation that an on duty police officer or member of police staff has committed a crime under common law or statute which is not contained in any of the other headings. There are a number of sub-headings for recording criminal allegations.

### **Other – (Non-Criminal)**

Any non-criminal allegation, which is not covered under the other headings

### **Off Duty Allegations**

An off-duty allegation of criminality should be recorded when a member of the public uses the complaint process to make a complaint about an officer, which if proved, would amount to a crime or offence. If the allegation would not ordinarily be recorded under SCRS and investigated as a crime or offence it should be recorded as an off-duty complaint under the category of “incivility” or “other”. It must be borne in mind that police officers and police staff have the right to a private life away from work therefore the complaint must be assessed as objectively as possible and where no link exists between the officer’s/member of staff’s role it should not be recorded as a complaint about the police.

### **Quality of Service Allegations**

#### **Quality of Service - Policy / Procedure**

This type of complaint relates to a complaint about policing policy, practice or procedure rather than how a member of staff delivered the particular service. Often Quality of Service Policy/Procedure complaints are resolved by explanation to the complainer, however some of these complaints will result in changes to policy or procedure and these changes would be recordable for the Service as a Learning Outcome. Examples of this type of complaint are:

- A member of the public writes in to complain that when she contacted the police after a minor non-injury road accident no officers were dispatched to the scene. The police service involved has a policy whereby if it is a minor non-injury road accident, the vehicles are drivable and there is no obstruction of the road, drivers are advised to exchange details and officers are not dispatched. If the officers have followed the Service policy, then the complaint is about the policy and is a Quality of Service complaint. If, however, a member of staff had not followed the policy and officers should have been dispatched, then this would be an “On Duty” complaint because it was the actions of a staff member, rather than the policy which has resulted in the complaint.

**OFFICIAL**

## **OFFICIAL**

### **Quality of Service – Service delivery**

This type of complaint relates to an expression of dissatisfaction about policing in general, or in a specific geographic area or in relation to a specific incident or event. It may also be about policing capacity, or ability to provide some form of specific service to the public. Examples are:

- A complaint that insufficient officers were deployed to an incident or an event.
- A complaint that officers, in general, take too long to attend calls in a specific geographical area
- A complaint of lack of police presence in a particular area.
- A complaint that the police take too long to investigate fraud.

### **Quality of Service – Service Outcome**

Service outcome complaints relate to the outcome of policing action and include instances where a complainer was expecting a particular outcome and the outcome was different or where a policing response has not effectively dealt with a situation. Examples are:

- A member of the public is involved in a dispute with a neighbour and expected a charge to be preferred against their neighbour. The outcome was that both parties were issued warning letters about their behaviour. The complainer believes the police should not have used warning letters on this occasion.
- Numerous calls have been made to the police about anti-social behaviour in a particular location, and despite police attendance the anti-social behaviour is still going on.
- A member of the public reports that they have been assaulted. A full investigation was carried out and there is insufficient evidence to report to the Procurator Fiscal. The complainer believes that if further resources had been used there would have been sufficient evidence to have the assailant charged. The complainer is dissatisfied that the crime remains undetected.

**OFFICIAL**

**OFFICIAL**

**Appendix 'H'**

**Categorisations for All Complaints about the Police**

**ON DUTY ALLEGATIONS**

<b>NO.</b>	<b>Category</b>
1	Assault
2	Excessive Force
3	Incivility
4	Neglect of Duty
5	Irregularity in Procedure – (see sub-category list)
6	Traffic Irregularity/Offence
7	Oppressive Conduct/Harassment
8	Unlawful/Unnecessary Arrest or Detention
9	Discriminatory Behaviour – (see sub-category list)
10	Corrupt Practice
11	Other – Criminal – (See Off Duty Allegations 1 – 7)
12	Other – Non Criminal

**Irregularity in Procedure (No. 5)**

<b>NO.</b>	<b>Sub-Category</b>
1	ASBO/Fixed Penalty Procedures
2	Custody Procedures/Care of Prisoners
3	Disclosure of Information (non criminal)
4	Forced Entry to Premises
5	Inaccurate Information Placed on Police Systems
6	Insufficient Enquiry Carried Out
7	Interview Procedures
8	Length of Time Taken to Investigate/Carry out Enquiries
9	Method of Arrest/Detention
10	Officer Did Not Provide Name or Shoulder Number
11	Other
12	Productions/Lost & Found Property
13	Provide Insufficient Explanation Regarding Police Procedures
14	Provide Insufficient Updates to the Complainer
15	Road Traffic Procedures
16	Search Procedures – Person or Property
17	Statement Taking
18	Vehicle Recovery Scheme

**Discriminatory Behaviour (No. 9)**

<b>NO.</b>	<b>Sub-Category</b>
1	Race
2	Sexual Orientation
3	Faith
4	Age
5	Gender
6	Disability
7	Gender Reassignment
8	Marriage/Civil Partnership
9	Pregnancy and Maternity

**OFFICIAL**



**OFFICIAL**

**Quality of Service Allegations**

<b>NO.</b>	<b>Category</b>	<b>Sub-Category</b>
1	Policy/Procedure	Policing Policy
		Policing Procedure
2	Service Delivery	Policing Response
		Time of Response
		Type of Response
3	Service Outcome	Lack of Satisfaction with Action Taken
		Police Failure to Take Action

**Off Duty Allegations**

<b>NO.</b>	<b>Category</b>	<b>Offence</b>
1	Crimes of Violence	Causing death by dangerous driving
		Cruel and unnatural treatment of children
		Serious assault
2	Crimes of Indecency	Assault with intent to ravish
		Indecent assault
		Lewd & libidinous practices & indecent exposure
		Procuration & other sexual offences
		Rape
		Unnatural crimes
3	Crimes of Dishonesty	Breach of trust & embezzlement
		Fraud
		Housebreaking
		Theft
		Theft by shoplifting
		Theft of motor vehicle
4	Fireraising, Malicious Mischief etc	Fireraising
		Vandalism
5	Other Crimes	Attempt to Pervert
		Breach of Data Protection Act
		Drugs Offences
		Having in a public place an article with a blade or point
		Perjury
		Possession of offensive weapon
		Resist arrest
6	Miscellaneous Offences	Breach of peace
		Children & young persons offences
		Drunkenness
		Petty Assault
		Post Office, telecomms & data protection
		Racially aggravated conduct
Racially aggravated harassment		

**OFFICIAL**

**OFFICIAL**

		Urinating
7	Offences involving Motor Vehicles	Accident offences
		Construction & use offences
		Dangerous & careless driving
		Driver's contravention of pedestrian crossing regulations
		Driver's neglect of traffic directions
		Driving whilst disqualified
		Driving with no insurance
		Driving with no MOT
		Drunk Driving
		Failing to provide the identity of the driver of a motor vehicle
		Mobile telephone offences
		Motor vehicle, other offences
		Parking offences
		Seat belt offences
		Speeding
Vehicle excise licence offences		
8	Incivility	
9	Other	

**OFFICIAL**

**Complaint about the Police Disposal Codes**

**Allegation Result Description For On Duty and Off Duty Allegations**

<b>Allegation Result Description</b>
Upheld - Leading to criminal proceedings
Upheld - Alternative to Prosecution by APF
Upheld - Leading to misconduct disposal
Upheld - Concluded by explanation
Not Upheld - Leading to No Proceedings by APF
Not Upheld - Concluded by explanation
Not Upheld - Insufficient evidence
Not Upheld - Malicious complaint
Withdrawn
Abandoned

**Officer Disposals For On Duty and Off Duty Allegations**

<b>Officer Disposal</b>
Criminal conviction leading to misconduct proceedings
Misconduct Proceedings
Advice to officer or training provided
No action
Staff member no longer employed

**Disposals for Quality of Service Allegations**

<b>Result Disposal</b>
Upheld - Concluded by explanation
Upheld - Change to policy/procedure
Upheld - Training needs identified
Not Upheld - Concluded by explanation
Withdrawn
Abandoned

