

## **JUSTICE SUB-COMMITTEE ON POLICING**

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

#### **WRITTEN SUBMISSION FROM THE SCOTTISH PUBLIC SERVICES OMBUDSMAN**

##### **About the SPSO**

1. The Ombudsman has a number of different functions under the Scottish Public Services Ombudsman Act 2002:
  - 1.1. the final stage for complaints about most devolved public services in Scotland including councils, the health service, prisons, water and sewerage providers, Scottish Government, universities and colleges.
  - 1.2. specific powers and responsibilities to publish complaints handling procedures, and monitor and support best practice in complaints handling.
  - 1.3. independent review service for the Scottish Welfare Fund with the power to overturn and substitute decisions made by councils on Community Care and Crisis Grant applications.
  - 1.4. the role of the Independent National Whistleblowing Officer (INWO) for the NHS in Scotland. (Due to take full effect from 1 April 2021).
2. The SPSO adds value to Scottish public services in many ways, such as helping people, particularly the vulnerable, in crisis or need, promoting local resolution, improving consistency of decision-making and promoting the value of good complaint handling. Notably, we encourage learning for improvement, to enable more effective delivery of Scottish public services.
3. SPSO does not have jurisdiction over the Police. The Police Investigations and Review Commissioner is under our jurisdiction but only in relation to how complaints about her own service are handled; not over her statutory investigative powers. We have concentrated in this submission on areas where our expertise is most relevant; sharing our expertise and front-line resolution of complaints about service delivery.

##### **SPSO expertise**

4. There are 53 mentions of the SPSO in the final report. Most of these refer to our position as Scotland's centre of expertise in public service complaints-handling. In terms of complaints handling, Scotland has taken a lead internationally:
  - 4.1. the Scottish Parliament was the first to set and endorse principles of complaints-handling

4.2. SPSO have been setting complaints standards, monitoring, supporting and sharing good practice in relation to those principles and standards for 10 years.

5. There are a number of recommendations in the report that agencies seek out our expertise and support. We are very happy to share knowledge and expertise, and provide assistance but should stress that we have limited resources to support the standards work for all the organisations under our jurisdiction. PIRC remains the centre for specific expertise in police complaints where our knowledge and understanding of the context is limited.
6. We have already had early discussions with PIRC about how SPSO can work with them to support improvements in police complaints-handling. We plan to meet with PIRC colleagues during February to further consider these matters.

### **Front-line and early resolution**

7. Our relevant experience lies in service complaints and we do not intend to comment on matters relating to significant misconduct or grievance. Service complaints are often seen as less significant and it is a welcome aspect of the report that they are accepted as part of a continuum of issues that may be raised about policing. They are significant because they involve interaction between large numbers of police officers and members of the public and, as such, play a significant part in, either enhancing or undermining trust in the system on both sides.
8. In this context, we consider there could be an opportunity to assess the legislative power that PIRC has in relation to complaints handling by the police against the statutory powers we hold and confirm whether the powers PIRC hold are sufficient. In our consideration of the report and analysis of submissions already made to the committee, we have identified that there is potentially some tension between the front-line resolution approach and a centralised complaint-handling function. There are known benefits of a front-line resolution approach, which empowers all front-line staff to accept and resolve complaints. However, given the concerns that complaints have not always been handled with an appropriate level of impartiality we recognise that, in the short and even medium term, the recommendation that all complaints are investigated by a specific department with appropriate expertise is sensible as this would enable a degree of separation. We would, however, caution against introducing an overly-bureaucrat system which lessens or undermines the responsibility of front-line staff for responding to complaints made at the point where service is being delivered.
9. Whatever system is developed, front-line staff will likely be the point of receipt for many complaints and there will be a need to ensure they are trained and supported to deliver a timely, empathetic and resolution-focused response to straight-forward service-delivery complaints. Situations where front-line staff conclude complaints are simply passed on for others to handle, could potentially hinder the shift in culture that is required to support the more significant changes that are proposed. Complaints, ideally, should be seen as the responsibility for all and not for a minority of staff alone. We would also propose that procedures are clear about when and how members of the public and / or their families should be involved. It

is our experience of significant adverse event investigations in the health service that people can feel let down and mistrustful of processes from which they are excluded or where information-sharing is partial. Again, we would respect the expertise of others on how this approach could be embedded in practice within the police, where there may be constraints to protect court action, but note and support the many comments Dame Eilish Angiolini made in her direct evidence to the committee about the benefits of empathy and humanising the response of the service to complaints. On this point, we are pleased to note that, PIRC has agreed to share actions designed to improve accessibility and communication and to promote continuous improvement in complaint handling with SPSO and it is intended to have regular discussion on such matters.

10. In closing, we would add our support for a more independent status for PIRC as an organisation reporting direct to Parliament. This has been the SPSO's status since our inception and we have found that it has both helped us to assert our independence when required while challenging us to continuously improve because of the enhanced scrutiny and transparency that comes with directly reporting to and being held to account by the Parliament.

Scottish Public Services Ombudsman  
5 February 2021