

Police (Ethics, Conduct and Scrutiny) (Scotland) Bill

Equality Impact Assessment – Results

EQUALITY IMPACT ASSESSMENT - RESULTS

Title of Policy	Police (Ethics, Conduct and Scrutiny) (Scotland) Bill (“the Bill”).
Summary of aims and desired outcomes of Policy	<p>This Bill will provide greater clarity around the police complaints and misconduct processes, as well as other investigations into the police, ensuring there are robust, clear and transparent mechanisms in place to investigate complaints or other issues of concern. The Bill will also contain provision requiring that the chief constable of the Police Service of Scotland prepare a Code of Ethics.</p> <p>The legislative proposals we are bringing forward will embed good practice and underline the importance of maintaining the high standards expected of Scotland’s police officers, further strengthening public confidence in policing.</p> <p>The Bill implements some of the recommendations contained in the work <i>Independent Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing</i> by Elish Angiolini, published in November 2020¹.</p>
Directorate: Division: team	Safer Communities Directorate: Police Division: Police Complaints and Misconduct Handling Bill Team.

¹ [Independent Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing: Final Report \(www.gov.scot\)](http://www.gov.scot)

Background

In 2018 the Scottish Government and the Lord Advocate jointly commissioned Dame Elish Angiolini, a former Lord Advocate and now known as Lady Angiolini, to carry out an independent *Review of Complaints Handling, Investigations and Misconduct in Relation to Policing*. The Review was commissioned five years after the creation of Police Scotland, the Scottish Police Authority (SPA) and the Police Investigations and Review Commissioner (PIRC). Its focus was to look at how the structures and processes for complaints handling, investigations and misconduct issues were working, at a time when the actions of the police saw intense parliamentary, media and public scrutiny. The Review sought to bring greater fairness, transparency, accountability and proportionality to policing, while protecting the human rights of everyone involved.

In undertaking her Review, Dame Elish took evidence from policing partners, current and former officers, and a broad range of stakeholders. Her Preliminary Report was published in June 2019 and made 30 recommendations. The Final Report, published in November 2020², outlined a further 81 recommendations, taking the total to 111; most of which were accepted by then Cabinet Secretary for Justice, Humza Yousaf, and then Lord Advocate, James Wolffe KC. Most are intended to be implemented as specifically set out, but for some there was provision to explore options to achieve the desired outcome.

Since then, the Scottish Government and policing partners have delivered significant change and reform to the police complaints system. Extensive work has been undertaken to implement the recommendations which do not require legislative change. To date 58 non-legislative recommendations for improvement have been delivered, with progress set out in the [thematic reports](#). The most recent of which was published in May 2023. These reports are prepared by the Scottish Government, overseen and approved by a three-tier governance framework, which provides assurance on policing partners progress towards implementation of recommendations.

These thematic reports include progress on a range of non-legislative recommendations that recognised the need to improve equality, diversity and inclusion measures, including improvements to data collection for police complaints, misconduct and whistleblowing. In response, policing organisations have progressed work to establish the collection of agreed and consistent data to provide a richer understanding of equality and diversity issues within this area.

In developing this policy the Scottish Government is mindful of the three needs of the Public Sector Equality Duty (PSED) – to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity between people who share a protected characteristic and those who do not, and to foster good relations between people who share a protected characteristic and those who do not. Where any negative impacts have been identified, we have sought to mitigate or

² [Independent police complaints review - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/independent-police-complaints-review/pages/1-100.aspx)

eliminate these. We are also mindful that the equality duty is not just about negating or mitigating negative impacts, as we also have a positive duty to promote equality.

Furthermore, it is important to set out that Police Scotland has a duty under Equality legislation to identify and work towards Equality Outcomes for its staff and the communities they serve. These have been embedded within the Strategic Outcomes set out within Police Scotland's Policing Together: Equality, Diversity and Inclusion Strategy and Implementation Plan, published in September 2022. The strategy provides a platform for equality and inclusion priorities, including a variety of mechanisms such as communications, learning, improvement and training. Initiatives being progressed include the Wellbeing Hub, the Equality, Diversity, Inclusion & Human Rights Independent Review Group and the Sex, Equality and Tackling Misogyny Group.

Policy Aims

The Police (Ethics, Conduct and Scrutiny) (Scotland) Bill is building on the non-legislative work already underway and is responding to those recommendations from the Review that require a legislative solution in order to achieve their outcomes. The overarching policy objective of this Bill is to ensure that there are robust, clear and transparent mechanisms in place for investigating complaints, allegations of misconduct, or other issues of concern in relation to conduct of police officers in Scotland. The legislation will embed good practice, underline the importance of maintaining the high standards expected of Scotland's police officers.

Police Scotland operates under the principle of policing by consent, where officers must act in a way that secures and maintains the respect and trust of the public and respects human rights, working to secure fairness and access for all. Police officers and police staff work tirelessly to protect and support Scotland's communities. If the conduct of officers and staff falls short of expectations, it is essential that the public has trust in the processes in place to deal with complaints and allegations of misconduct. The Bill underlines the importance of police officers maintaining the high standards of behaviour and conduct expected of them.

The Bill amends the two main pieces of legislation in the area of Scottish policing law (the Police, Public Order and Criminal Justice (Scotland) Act 2006 and the Police and Fire Reform (Scotland) Act 2012) and regulations made under the 2012 Act (The Police Service of Scotland (Conduct) Regulations 2014, and The Police Service of Scotland (Senior Officers) (Conduct) Regulations 2013, referred to jointly in this impact assessment as ("the conduct regulations").

The Bill contains 20 sections, which are organised under cross-headings.

Cross-heading: Ethics of the Police

The provisions under this cross-heading put Police Scotland's existing Code of Ethics on a statutory footing and confers a duty on the Chief Constable of Police Scotland with the assistance of the SPA to prepare, consult widely on, and publish the Code. This also gives power to the Chief Constable to revise the Code when necessary.

This portion of the Bill also gives legal recognition to a duty of candour on individual police constables. It also adds to the policing principles a requirement that the Police Service of Scotland will police in a way which is candid and co-operative in proceedings, including investigations against constables. Introducing an explicit duty of candour on individual constables in the Standards of Professional Behaviour by which the conduct of police officers is measured sets an organisational expectation that officers will uphold the values of policing by consent, whilst maintaining the trust and faith of the public in the execution of their duties. This makes clear on a legislative basis the need for police officers to act with integrity, fairness and respect. Furthermore, the individual and organisational duties reinforce in statute the need for a culture where officers are expected and encouraged to co-operate fully with investigations and answer questions based on their honestly held recollection of events.

Whilst there is currently an expectation that constables will positively assist in such proceedings, the objective here is to make the position clear to police officers and the public - that the service as a whole will give every assistance after a serious incident involving or about the police, in a way which is candid and co-operative.

Cross-heading: Police Conduct

This **cross-heading** of the Bill is concerned with procedures for dealing with certain types of **Police Conduct**. It addresses a perceived gap in existing legislation by clarifying that liability for any unlawful conduct on the part of the Chief Constable sits with the SPA. In doing so it aligns the treatment of unlawful conduct by the Chief Constable with the existing treatment of unlawful conduct by other police officers.

The provisions under this cross-heading of the Bill give the PIRC a greater role in relation to misconduct proceedings, which will subsequently be set out in secondary legislation. The intention is to clarify and ensure consistency in the statutory preliminary assessment function part of the process, enhance independent scrutiny, remove any perception of familiarity, as well as avoid any duplication of functions or associated delay. This differs from the current conduct regulations, which state that if the SPA receives a complaint alleging senior officer misconduct, it assesses whether there is a case to answer. If so, it will be referred to the PIRC for an assessment by the Commissioner, unless the assessment by the SPA determines the alleged actions may be criminal, in which case it is referred to COPFS.

This cross-heading of the Bill also contains provision which ensure gross misconduct proceedings can continue or commence in respect of persons who have ceased to

be constables. Ensuring proceedings reach a conclusion will improve public confidence in the police complaints and misconduct process, provide greater transparency and accountability, as well as strengthen public safety by ensuring former officers are placed on barred and advisory Lists. The establishment of a Scottish police barred list and Scottish police advisory list are also set out within the Bill. The creation of these lists will enhance vetting procedures across Great Britain as a whole and stop those who do not meet the high standards expected of police officers from gaining employment in policing. This will bring Scotland in line with England and Wales and provide a consistent approach across jurisdictions in Great Britain.

This portion of the Bill also seeks to amend legislation around the misconduct procedures for senior officers to ensure the process is open and transparent, and provide the public with confidence that senior officer misconduct cases are taken forward through an impartial process. In effect, this means a newly structured misconduct panel would hear evidence of misconduct and determine whether the conduct forming the allegation is related to that of a senior officer and whether that conduct constitutes misconduct, gross misconduct or neither.

This portion of the Bill also ensures that the current internal appeal processes set out in conduct regulations under section 48 of the Police and Fire Reform (Scotland) Act 2012 (“the 2012 Act”) will be revoked in respect of senior officers and that new regulations will be made containing provision which will provide senior officers with a right of appeal to a Police Appeals Tribunal (PAT), in conduct cases only, in relation to any finding of disciplinary action against them.

Cross-heading: Functions of the PIRC

This **cross-heading** of the Bill concerns the *Functions of the PIRC*. It seeks to clarify that the PIRC’s investigatory powers into criminal offending (as distinct from complaint handling, investigations into serious incidents or senior officer misconduct functions) should apply to those who were officers or SPA staff at the time of the act being investigated who have since resigned or retired or, were off-duty at the time the incident occurred. It also clarifies the PIRC’s investigatory powers into deaths involving a person serving with the police.

This portion of the Bill also makes clear that police officers and staff who experience poor service, which affects them in their personal capacity (as opposed to their capacity as a constable or member of staff) are able to make a complaint about the police to the PIRC.

Whilst the PIRC currently have the ability to make recommendations to Police Scotland regarding the handling of individual complaints, the Bill seeks to put into statute this function alongside a responsibility that the outcomes are published and SPA or the Chief Constable (depending on who the recommendations are directed towards) respond to any recommendations. In doing so, this will build public confidence in policing by providing reassurance that there is an independent oversight body, the PIRC, who can conduct an independent investigation in the most

serious non-criminal complaints at any time, if the complaint in question has not been properly considered by Police Scotland.

Furthermore, in order to support Police Scotland to improve guidance and practices from recommendations made by the PIRC, the PIRC will have a specific new power, similar to that of the Police Ombudsman for Northern Ireland (PONI), to review a policy or practice of the SPA, the Chief Constable or Police Scotland, where the PIRC considers that it would be in the public interest.

The provisions under this cross-heading of the Bill also seek to provide the PIRC with a power to take over consideration of (or call in) complaints being dealt with by the Chief Constable or the SPA. The criteria applied to calling in is to vary dependent on the circumstances. By placing this in statute, this will strengthen the role of the PIRC and enable greater scrutiny of Police Scotland.

Furthermore, this portion of the Bill seeks to provide the PIRC with the ability to audit the handling of whistleblowing complaints dealt with in the first instance by Police Scotland and the Scottish Police Authority. It has no impact on employment rights, and seeks to improve the transparency of processes around how public interest matters are investigated. This, in turn, will encourage people to speak up when they see wrong-doing. It also provides an opportunity for Police Scotland and the SPA to take on board learning and address issues arising from concerns raised.

The provisions under this cross-heading also make arrangements for the PIRC to investigate serious incidents or allegations of criminality involving police officers from territorial forces other than Police Scotland, when undertaking a policing function in Scotland, and to put in place reciprocal powers for other UK jurisdictions.

In addition, this portion of the Bill sets out the legislative powers that can be used to make further legislation to enable the PIRC to have direct access to Police Scotland's complaints database – Centurion – to audit and review files necessary to their function. Ensuring the PIRC can meet their statutory functions to carry out contemporaneous audit of the police case management system independently and remotely will improve efficiency, transparency, independence and public confidence in the police complaints process.

Cross-heading: Governance of the PIRC

This **cross-heading of the Bill** seeks to add to the ***Governance of the PIRC***, via the creation of a statutory advisory board. This will provide a greater degree of confidence in the scrutiny of the decision-making process, and improve accountability and transparency.

Consultation

It has been vital to hear from all those with an interest in the police complaints process when developing our legislative proposals. To fully understand the impact of the proposed changes, we launched a public consultation for 12 weeks in summer 2022 and held online public engagement sessions with both individuals and organisations. The Scottish Government has also continued to engage with policing partners and stakeholders throughout the Bill development process to understand the implications for policing organisations as we developed policy proposals to include in the Bill.

We heard from key policing partners who agreed to have their responses published: Police Scotland; Scottish Police Authority (SPA); Police Investigations Review Commissioner (PIRC); British Transport Police (BTP); and wider policing staff associations / organisations who agreed to have their responses published: Scottish Police Consultative Forum (SPCF); Scottish Chief Police Officers Staff Association (SCPOSA); Scottish Police Federation (SPF); and Association of Scottish Police Superintendents (ASPS).

Policy development has taken place amidst a landscape of high-profile police conduct and complaints incidents further highlighting the need for meaningful change. The Scottish Government has engaged with those with lived experience of the system and who have a strong desire to effect change based on their experiences. This includes people who have been discriminated against due to their sex and representative staff associations, including the Scottish Police LGBTI Association, Scottish Police Disability and Carers Association, Scottish Police Muslim Association, the Christian Police Association and Supporting Ethnic Minority Police employees for Equality in Race (SEMPER).

We heard from organisations in wider public life who agreed to have their responses published: Victim Support Scotland; Scottish Women's Aid; Scottish Women's Rights Centre; Scottish Human Rights Commission; Coalition for Racial Equality and Rights; People Experiencing Trauma and Loss; and, Scotland's Campaign against Irresponsible Drivers.

Respondents provided views on a wide range of issues including those we asked about as well as around the themes more generally. Some shared experiences and interactions with the police and gave an insight into what benefits some of the suggested changes would make in terms of public confidence in policing.

This EQIA takes into account comments received through our public consultation exercise, ongoing dialogue with policing partners and other interested parties, and via our discussions with those with lived experience of the police complaints system, and with an awareness of the evidence provided within Dame Elish's review.

The introduction of this legislation across Scotland specifically targets policing bodies, namely, but not limited to, Police Scotland, SPA, His Majesty's Inspectorate of Constabulary Scotland (HMICS), and PIRC. The main benefit of the legislation will be to provide clarity and assurances to the general public around the police

complaints and misconduct processes, thereby strengthening public confidence in policing.

What might affect the desired outcomes being achieved?

Achieving the desired outcomes will be dependent on, and will involve a need for, all policing partners to take the necessary action and accept the responsibilities placed on them by the legislation. It also requires policing partners to support and promote positive behaviours and a positive culture to support the process of continuous improvement. Subsequent secondary legislation and written guidance will help to support those changes.

Scope of the EQIA

In the exercising of their functions Scottish Ministers have an obligation to meet the three needs of the Public Sector Equality Duty to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The Scottish Government have developed policy positions to instruct provisions for inclusion in the Bill. When doing so consideration was given to the direct or indirect equality impacts of the provisions on all protected characteristics. The scope and significance of the impacts have been considered and assessed in line with Scottish Ministers' obligations to meet their Public Sector Equality Duties outlined above.

The measures set out in the Bill have been informed by a programme of consultation, engagement and evidence gathering which included:

- A **public consultation** entitled '*Police Complaints, Investigations and Misconduct: A Consultation on Legislation*' which ran between May and August 2022. The consultation received 55 responses, 33 from individuals and 22 on behalf of organisations. The consultation analysis report³ was completed by an independent social research organisation and was published, along with all of the responses (where permission was given) on November 2022. Data was not requested for protected characteristics from consultation respondents, as careful consideration was given to determine minimal data required in line with Article 25 of UK GDPR; personal data gathered should be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.
- Three **engagement events** with organisations representing victims of crime, justice groups, voluntary sector organisations and groups

³ [Police complaints, investigations and misconduct - legislation proposals: consultation analysis - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/consultations/analysis/2022/08/20220820-police-complaints-investigations-and-misconduct-legislation-proposals-consultation-analysis/analysis/20220820-police-complaints-investigations-and-misconduct-legislation-proposals-consultation-analysis.pdf)

representing different communities. These responses were grouped together, anonymised and included as a single response to the consultation noted above.

- A range of **meetings with policing partners** via the pre-existing Practitioner Working Group, alongside follow-up meetings with individual organisations and information requests.
- Regular meetings with **Scottish Police Federation**, alongside meetings with other **staff associations**.
- Three sessions with the **Scottish Police Consultative Forum** (members include the Association of Scottish Police Superintendents (ASPS), Scottish Chief Police Officers Staff Association (SPCOSA), SPA, Scottish Police Federation (SPF), HMICS, the Chief Constable and the Scottish Government) at early policy development stage.
- Regular **meetings with other interested parties** such as the Information Commissioner's Office and the UK Government.
- **Collation and analysis of complaints and investigations data** from SPA, Police Scotland, PIRC, and the London Major's office.
- Consideration of the [five thematic progress reports](#) which contain details of improvements already delivered by policing partners in respect of equality, diversity and inclusion.

The premise for this Bill comes from Dame Elish Angiolini's independent Review⁴. The Review contains a chapter covering complaints in the context of inclusion, diversity and discrimination. It is based on views expressed to Dame Elish by members of the public, officers and staff and comments on how those issues should be addressed. Within this chapter Dame Elish stated the importance of considering *'how Police Scotland, and the complaints process as a whole, supports and responds to the needs of the diverse communities it serves and the needs of different groups within and outwith the police service.'* To achieve a better understanding of these issues, Dame Elish met with a range of groups representing minority communities within Scotland and with officers from Black, Asian and minority ethnic communities. This included evidence-gathering meetings and discussions with the Black and Ethnic Minority Infrastructure in Scotland (BEMIS), the Coalition for Racial Equality and Rights (CRER), the Scottish Women's Development Forum (SWDF), the Scottish LGBTI Police Association and Supporting Ethnic Minority Police employees for Equality in Race (SEMPER) Scotland and Police Scotland's National Independent Strategic Advisory Group (NISAG).

As this was an independent Review, the Scottish Government do not hold information on the characteristics of the individuals interviewed or the focus groups that took place. The findings of Dame Elish's Review have primarily informed the provisions contained within the Bill. However, as the recommendations within her independent Review directly relating to equality and diversity do not require a legislative solution, they are not included in the Police Complaints and Misconduct Handling (Scotland) Bill and are not covered within the scope of this EQIA.

⁴ [Independent police complaints review - gov.scot \(www.gov.scot\)](https://www.gov.scot/independent-police-complaints-review)

Key Findings

The EQIA process has helped to strengthen our commitment to deliver recommendations from Dame Elish's Review that require legislation to clarify and improve the police complaints and misconduct processes, ensure the police are held to account when things go wrong, and strengthen public confidence in the police.

Data was collected from policing organisations publications as well as working with colleagues within those organisations to assess the impacts of proposed changes in the Bill. Data gaps were identified and mitigations to those data gaps have been considered by policing partners. This work is being progressed through efforts to address non-legislative recommendations from Dame Elish's Review, to gather richer equality data to provide more conclusive and detailed data in the future. This work is not within the scope of the Bill and therefore not covered within this EQIA. Further information on the progress of these can be found in the [five thematic progress reports](#).

A range of non-legislative work in response to Dame Elish's Review is being progressed, and led by Police Scotland, which will aid the future ongoing monitoring of equality impacts of this legislation. This includes work to improve the collation, analysis and publication of equalities and diversity data. In turn this will provide richer equality and diversity data to help ensure policing bodies can use this data to better meet all three needs of the Public Service Equality Duty to eliminate discrimination, harassment, and victimisation, advance equality of opportunity and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

We also considered evidence and analysis from the consultation held in 2022, engagement with policing partners and other interested parties, including those with lived experience of the police complaints system.

Dame Elish Angiolini's Review provided a number of recommendations based on the evidence gathered. This has resulted in provisions being incorporated within the Bill that are intended to help eliminate unlawful harassment and victimisation through improving processes around police complaints and misconduct. These provisions should provide a positive change for the whole population, making it easier for those who feel they have been discriminated against due to a protected characteristic, including age, disability, sex, gender reassignment, sexual orientation, race, religion or belief and pregnancy and maternity. Provisions that seek to improve public confidence in the police complaints system by providing greater transparency, accountability, independence and oversight, whilst also providing clarity on a number of issues include:

- Placing a requirement in the law for the police to have a code of ethics for police officers,
- introducing an explicit duty of candour,
- clarifying the definitions of a 'person serving with the police' and clarifying other definitions in the Bill, to ensure that police constables or staff who were affected by actions (or failures to act) by the police, in their personal capacity (as opposed to in their official or professional capacity), and want to complain

about a police act (or failure to act), may make a relevant complaint. This removes some of the ambiguity and uncertainty that exists in complaints and investigations processes,

- strengthening the oversight and independence of police investigations and complaints, which will help to improve the outcomes of any complaints that have not been dealt with effectively,
- providing greater powers for the PIRC to call in investigations of a complaint from the police or SPA; review police policies and practices; ensure that the actions of officers from other forces in the UK operating in Scotland can be investigated properly and the ability to make recommendations to the Chief Constable or the SPA,
- enabling police officers to be held accountable for their actions when they were serving, even if they leave the force. This will enable all hearings to reach a conclusion,
- requiring the SPA to establish and maintain a Scottish police barred list and a Scottish police advisory list, and
- providing PIRC with a power to audit the arrangements of the SPA and the police for the investigation of information provided in a whistleblowing complaint, raised within Police Scotland or the SPA.

Age

The Bill aims to strengthen the police complaints process by improving fairness, transparency, accountability and proportionality in policing, while protecting the human rights of everyone involved.

Provisions within the Bill will directly impact police officers. A person must be 18 years old before they can serve as a police officer. It is expected that officers will retire from front line service following 25 years of service, and all officers are asked to retire at the age of 60. Police Scotland's Equality and Diversity Employment Monitoring Report 2019/20 noted that the majority of officers are between 25-54 years old.⁵

Data from SPA's published Quarterly Performance Report for the period 1 April 2022 to 30 September 2022 shows that the number of recorded allegations of discriminatory behaviour by police officers against an individual because of their age has been low. For the year to-date there were no age discrimination allegations out of a total of 64 discrimination allegations, and the five year average has been 2 cases. The total number of allegations received by SPA in the year to-date was 5,157 (these allegations are component parts of 3,343 complaints).⁶

Whilst provisions in the Bill are expected to improve public confidence and empower members of the public to hold officers to account, there is no published data regarding how the Bill may impact different age groups and therefore limited information is available. Through engagement with partners we are aware that complaints are generally not raised by children or young people, but are raised by adults on their behalf and the numbers are low.

⁵ [Police Scotland Equality and Diversity Employment Monitoring Report 2019/20](#)

⁶ [Professional Standards SPA Performance Report Quarter 2 of 2022/23](#).

However, improvements being taken forward through non-legislative recommendations made in Dame Elish's Review will make the complaints system easier to navigate for a member of the public. Although not within the scope of the Bill, improving the data sets of policing partners will also provide a greater understanding of the position in the future.

A number of provisions within the Bill intend to help eliminate unlawful harassment and victimisation, and improve public confidence in the police complaints system that are expected to provide a positive change for people across a range of ages, specific provisions are provided under the Key Findings heading above. These provisions could also help to foster good relations by improving the police complaints and misconduct procedures, promoting transparency and confidence in the processes, for those that may have been discriminated against because of their age, therefore leading to positive change.

Disability

Police Scotland's Equality and Diversity Employment Monitoring Report 2019/20 recorded the number of disabled people working for Police Scotland has increased in recent years. Figures from the Equality and Human Rights Commission show that in 2015-16 22% of the population said they were disabled.⁷ Currently 3% of officers have a disability, however 10% chose not to disclose and a further 3% of officers' disabilities were not recorded.⁸ This would suggest there is progress to be made in ensuring officers and policing staff feel comfortable to share this information, which can improve the diversity of the organisation. Some of the wider work that policing partners are taking forward separately, and work taking place to progress non-legislative recommendations made in Dame Elish's review, seeks to promote inclusivity and diversity within policing.

Data from SPA's published Quarterly Performance Report for the period 1 April 2022 to 30 September 2022 details the number of recorded allegations of discriminatory behaviour by police officers against an individual because of a disability. For the year to-date there have been 10 discrimination allegations based on disability out of a total of 64 discrimination allegations. This is in line with the five year average and a decrease from the same point in the previous year when 15 allegations had been recorded. The total number of allegations received by SPA in the year to-date was 5,157 (these allegations are component parts of 3,343 complaints).⁹

There is limited information available regarding how the Bill may impact on disabled people. However, a number of provisions within the Bill intend to help eliminate unlawful harassment and victimisation, and improve public confidence in the police complaints system that are expected to provide a positive change for disabled people, the specific provisions are detailed under the Key Findings heading above. These provisions could also help to foster good relations by improving the police complaints and misconduct procedures, promoting transparency and confidence in

⁷ [Housing and disabled people: Scotland statistics | Equality and Human Rights Commission \(equalityhumanrights.com\)](https://www.equalityhumanrights.com/en/our-work/2018-04-10/housing-and-disabled-people-scotland-statistics)

⁸ [Police Scotland Equality and Diversity Employment Monitoring Report 2019/20](#)

⁹ [Professional Standards SPA Performance Report Quarter 2 of 2022/23.](#)

the processes, for those that may have been discriminated against because of a disability, therefore leading to positive change.

Those with a mobility impairment may find it more difficult to travel to or access interviews or hearings, and therefore may find it harder to fulfil the duty of candour, which includes a duty to assist with investigations. Policing partners continue to progress work to introduce mitigating actions to ensure appropriate accessibility options are available.

Sex

We know from Police Scotland's Equality and Diversity Employment Monitoring Report 2019/20 that 32% of police officers are female and this percentage has increased, but the rate of growth is slowing year-on-year. However, 62% of policing staff are female¹⁰. The National Record of Scotland population figures for Scotland in 2021 show 51% of the population are women and 49% are men.¹¹

Data from SPA's published Quarterly Performance Report for the period 1 April 2022 to 30 September 2022 shows the number of recorded allegations of discriminatory behaviour by police officers against an individual because of their sex. For the year to-date there were 8 discrimination allegations raised because of sex out of a total of 64 discrimination allegations. This is slightly higher than the five year average of 8 allegations and lower than the 21 allegations recorded at the same point in the previous year. The total number of allegations received by SPA in the year to date was 5,157 (these allegations are component parts of 3,343 complaints).¹²

There is currently limited information available regarding how the Bill may impact on people of different sexes. However, a number of provisions within the Bill intend to help eliminate unlawful harassment and victimisation, and improve public confidence in the police complaints system that are expected to provide a positive change for all sexes, those specific provisions are detailed under the Key Findings heading above. These provisions could also help to foster good relations by improving the police complaints and misconduct procedures, promoting transparency and confidence in the processes, for those that may have been discriminated against because of their sex, therefore leading to positive change.

Pregnancy & Maternity

We were unable to source data on the number of policing officers, staff or complainants who are pregnant or on maternity leave. There is currently limited information available regarding how the Bill may impact on those who are pregnant or on maternity leave.

However, a number of provisions within the Bill intend to help eliminate unlawful harassment and victimisation, and improve public confidence in the police complaints system that are expected to provide a positive change for all, including

¹⁰ [Police Scotland Equality and Diversity Employment Monitoring Report 2019/20](#)

¹¹ [Mid-Year Population Estimates | National Records of Scotland \(nrscotland.gov.uk\)](#)

¹² [Professional Standards SPA Performance Report Quarter 2 of 2022/23.](#)

pregnant people or those on maternity leave, the specific provisions are detailed under the Key Findings heading above. These provisions could also help to foster good relations by improving the police complaints and misconduct procedures, promoting transparency and confidence in the processes, for those that may have been discriminated against because they are pregnant or on maternity leave, therefore leading to positive change.

Pregnant people and those on maternity leave may find it more difficult to attend interviews or hearings due to medical appointments and caring responsibilities, and therefore may find it harder to fulfil the duty of candour, which includes a duty to assist with investigations. Policing partners must continue to progress work to ensure mitigating actions are in place and appropriate accessibility is available to ensure co-operation and attendance is possible.

Sexual Orientation

Data from Police Scotland's Equality and Diversity Employment Monitoring Report 2019/20 indicates that 3% of police officers, 3% of police staff and 5% of special constables identify as Lesbian, Gay or Bisexual (LGB). Thirteen percent of officers chose not to disclose and 3% did not record their sexual orientation. The majority of officers, 81%, identified as heterosexual.¹³ The responses to the 2019 Scottish Surveys Core Questions (SSCQ) shows similar population figures of 3% of adults self-identified as lesbian, gay, bisexual or other. The SSCQ also recorded that at a population level 95% of adults self-identified as straight or heterosexual, with 2% having not recorded their sexual orientation.¹⁴

Data from SPA's published Quarterly Performance Report for the period 1 April 2022 to 30 September 2022 shows that the number of recorded allegations of discriminatory behaviour due to sexual orientation has been low. For the year to-date there were 4 discrimination allegations recorded based on sexual orientation out of a total of 64 discrimination allegations. This is in line with the number of allegations recorded by the same point in the previous year, and the five year average of 3 allegations recorded. The total number of allegations received by SPA in the year to-date was 5,157 (these allegations are component parts of 3,343 complaints).¹⁵

There is currently limited data currently available on how the Bill will impact on people as a result of their sexual orientation. However, improvements being taken forward through the work relating to non-legislative recommendations made through Dame Elish's review will make the complaints system easier to navigate for members of the public. Although not within the scope of the Bill, improving the data sets of policing partners will also provide a greater understanding of the position in the future.

A number of provisions within the Bill intend to help eliminate unlawful harassment and victimisation, and improve public confidence in the police complaints system that are expected to provide a positive change for people who are discriminated against

¹³ [Police Scotland Equality and Diversity Employment Monitoring Report 2019/20](#)

¹⁴ [Scottish Surveys Core Questions 2019 - gov.scot \(www.gov.scot\)](#)

¹⁵ [Professional Standards SPA Performance Report Quarter 2 of 2022/23.](#)

due to their sexual orientation, the provisions are detailed under the Key Findings heading above. These provisions could also help to foster good relations by improving the police complaints and misconduct procedures, promoting transparency and confidence in the processes, for those that may have been discriminated against because of their sexual orientation, therefore leading to positive change.

Race

Data from Police Scotland's Equality and Diversity Employment Monitoring Report 2019/20 shows 1% of officers and 2% of police staff and special constables are from black and minority ethnic (BME) heritage. Higher numbers chose not to disclose their race, including 7% of police officers, 4% of police staff, and 1% of special constables. Furthermore, 3% of police officers, 4% of police staff and 21% of special constables did not record their race. The data shows that the majority of police officers are white Scottish (78%) and similarly for police staff (84%) and special constables (66%).¹⁶ The responses to the SSCQ records that 5% of the adult population were minority ethnic in 2019 and 76.7% were White Scottish.¹⁷

Data from SPA's published Quarterly Performance Report for the period 1 April 2022 to 30 September 2022 shows that recorded allegations of discriminatory behaviour are higher for race than the other protected characteristics they gather data on. For the year to-date there were 35 race discrimination allegations out of a total of 64 discrimination allegations. This is higher than the five year average of 29 and slightly lower than the 35 allegations that were raised by the same point in the previous year. The total number of allegations received by SPA in the year to-date was 5,157 (these allegations are component parts of 3,343 complaints).¹⁸

There is limited information available regarding how the Bill may impact people on the grounds of race. However, improvements being taken forward through the work relating to non-legislative recommendations made through Dame Elish's review will make the complaints system easier to navigate for members of the public. Although not within the scope of the Bill, improving the data sets of policing partners will also provide a greater understanding of the position in the future.

A number of provisions within the Bill intend to help eliminate unlawful harassment and victimisation, and improve public confidence in the police complaints system that are expected to provide a positive change for people who are discriminated against because of their race, the specific provisions are detailed under the Key Findings heading above. These provisions could also help to foster good relations by improving the police complaints and misconduct procedures, promoting transparency and confidence in the processes, for those that may have been discriminated against because of their race, therefore leading to positive change.

¹⁶ [Police Scotland Equality and Diversity Employment Monitoring Report 2019/20](#)

¹⁷ [Scottish Surveys Core Questions 2019 - gov.scot \(www.gov.scot\)](#)

¹⁸ [Professional Standards SPA Performance Report Quarter 2 of 2022/23.](#)

Gender Reassignment

Data from Police Scotland's Equality and Diversity Employment Monitoring Report 2019/20 indicates less than 1% of all police staff and officers identified as transgender, 6% chose not to disclose and 3% are unrecorded, with 90% of all staff and officers not identifying as transgender.¹⁹ It is difficult to provide a direct population comparison as there are currently no official statistics for gender reassignment levels in Scotland available. However, 2021 figures for England and Wales published by the Office for National Statistics show 0.5% of the population identify as a gender different to their sex at birth²⁰ and an IPSOS global survey in 2021 suggests that this is closer to 1% (2% in Great Britain)²¹, suggesting that Police Scotland's figures reflect those at population level.

There is limited information available regarding how the Bill may impact on people who are undertaking or have undertaken gender reassignment. However, improvements being taken forward through the work relating to non-legislative recommendations made in Dame Elish's review will make the complaints system easier to navigate for members of the public. Although not within the scope of the Bill, improving the data sets of policing partners will also provide a greater understanding of the position in the future.

A number of provisions within the Bill intend to help eliminate unlawful harassment and victimisation, and improve public confidence in the police complaints system that are expected to provide a positive change for people who are undertaking or have undertaken gender reassignment, the provisions are detailed under the Key Findings heading above. These provisions could also help to foster good relations by improving the police complaints and misconduct procedures, promoting transparency and confidence in the processes, for those that may have been discriminated against because of gender reassignment, therefore leading to positive change.

Religion and Belief

Data from Police Scotland's Equality and Diversity Employment Monitoring Report 2019/20 indicates a significant proportion of police officers (48%), special constables (36%) and police staff (45%) do not follow a religion or belief. Where religion is recorded, religion beyond Christianity is grouped together and accounts for 1% of police officers, less than 1% of police staff and 2% of special constables.²² The SSCQ recorded that in 2018; 46% of adults were Christian, just over 50% did not belong to a religion, 1.6% were Muslim, 1.9% recorded their religion or beliefs as 'Other' and 0.4% was unknown.²³

Data from SPA's published Quarterly Performance Report for the period 1 April 2022 to 30 September 2022 shows that the number of recorded allegations of discriminatory behaviour due to faith has been low. For the year to-date there have

¹⁹ [Police Scotland Equality and Diversity Employment Monitoring Report 2019/20](#)

²⁰ [Gender identity, England and Wales - Office for National Statistics \(ons.gov.uk\)](#)

²¹

²² [Police Scotland Equality and Diversity Employment Monitoring Report 2019/20](#)

²³ [Scottish Surveys Core Questions 2019 - gov.scot \(www.gov.scot\)](#)

been 5 discrimination allegations recorded based on faith out of a total of 64 discrimination allegations. This is an increase on the 2 allegations recorded by the same point in the previous year and on the five year average of 2 allegations recorded. The total number of allegations received by SPA in the year to-date was 5,157 (these allegations are component parts of 3,343 complaints).²⁴

There is limited information available regarding how the Bill may impact religion or belief. However, improvements being taken forward through the work relating to non-legislative recommendations made in Dame Elish's review will make the complaints system easier to navigate for members of the public. Although not within the scope of the Bill, improving the data sets of policing partners will also provide a greater understanding of the position in the future.

A number of provisions within the Bill intend to help eliminate unlawful harassment and victimisation, and improve public confidence in the police complaints system that are expected to provide a positive change for all people who follow a religion and belief, the provisions are detailed under the Key Findings heading above. These provisions could also help to foster good relations by improving the police complaints and misconduct procedures, promoting transparency and confidence in the processes, for those that may have been discriminated against because of their religion or belief, therefore leading to positive change.

Policing partners must continue to progress work to ensure mitigating actions are in place to consider the requirement for officers to co-operate or attend a hearing or interview with any religious practices.

Marriage & Civil Partnership

The proposed measures are not expected to impact on this characteristic.

Recommendations and Conclusion

On the basis of the evidence available there appears to be a positive, albeit indirect, impact on the majority of protected characteristics, via the provisions contained within the Bill. This is because the measures contained within the Bill aim to improve processes by providing more options for raising complaints and further scrutiny of the police and SPA, thereby leading to positive change. For example, whilst the Bill will not directly impact on different sexes or people of different races, it will help root out misogyny and racism by providing more options for raising complaints and further scrutiny of the police and the SPA. Through increasing transparency and accountability in these processes, we are seeking to increase public confidence that complaints will be responded to and those who have harmed others through their actions are appropriately held to account.

²⁴ [Professional Standards SPA Performance Report Quarter 2 of 2022/23](#).

A range of non-legislative work in response to Dame Elish's Review is being progressed, led by Police Scotland, which will aid the future ongoing monitoring of the equality impacts of this legislation. This includes work to improve the collation, analysis and publication of equalities and diversity data. In turn, this will provide richer equality and diversity data to help ensure policing bodies can better meet all three needs of the Public Service Equality Duty to eliminate discrimination, harassment, and victimisation, advance equality of opportunity and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Furthermore, a substantial programme of work has been established by Police Scotland aimed at transforming its culture and enhancing recruitment, leadership and training to develop a culture which reflects its values of integrity, fairness, respect and commitment to upholding human rights.

Declaration

I am satisfied with the equality impact assessment that has been undertaken for the Police (Ethics, Conduct and Scrutiny) (Scotland) Bill and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Name: John Somers; Deputy Director – Police Division

Date: 11 May 2023



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