

# **Complaints, Investigations & Misconduct in Policing**

**Implementation of Recommendations**

**Thematic Progress Report**

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List of recommendations in full can be found at: [Policing - complaints handling, investigations and misconduct issues: independent review - gov.scot \(www.gov.scot\)](#)

Links to previous thematic progress reports:

- the [first thematic report](#) published on 24 June 2021
- the [second thematic report](#) published on 16 December 2021
- the [third thematic report](#) published on 23 June 2022

## Overview

This is the fourth thematic progress report following the publication of final report from Dame Elish Angiolini's Independent Review of Complaints, Investigations and Misconduct in Policing in Scotland in November 2020.

Since the publication of the final report two years ago, the series of Thematic Progress Reports published by Scottish Government have tracked the significant steps taken by Police Scotland, the Scottish Police Authority (SPA), the Police Investigations and Review Commissioner (PIRC), the Crown Office and Procurator Fiscal Service (COPFS) and HMICS to implement recommendations. Those organisations have delivered major business transformation and service redesign to improve how complaints are handled, bringing greater transparency, fairness and accessibility to systems, policies and process. The last Thematic Progress Report, published in [June](#) 2022, confirmed that **44** recommendations had been discharged at that time.

This fourth report now confirms that a further **11** recommendations have been signed off as completed by the Ministerial Group, bringing the total number of recommendations discharged to **55**. Structured under nine themes, the report records the current status of each recommendation, including those where recommendations have been delivered and signed off, and also highlights some of the key achievements made over the period 1 April 2022 to 30 September 2022.

Earlier this year, the Scottish Government launched a full public consultation seeking views which will help to inform development of the Police Complaints and Misconduct Handling Bill as set out in the Programme for Government on 6 September 2022. An independent analysis of the responses was published on the Scottish Government website on 30 November 2022 and will help to inform how the changes that Dame Elish recommended can be implemented as preparations for legislation continue.

Finally, in the last Thematic Progress Report, we referred to recommendations made by the international scrutiny committees (ISCs) and our intention to provide progress information where there is clear alignment to recommendations made by Dame Elish in both her Preliminary and Final Reports. This includes recommendations made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in 2018, the National Preventative Mechanism (NPM) in 2020 and those made by the United Nations' Subcommittee on the Prevention of Torture (SPT). Although this work does not sit within this governance and reporting framework, in the final section of this report, we have provided a summary of progress where there are synergies between the work undertaken by partners to progress recommendations made by Dame Elish and those of the ISCs. This is intended to bring greater visibility to the significant volume of ongoing work in response to the ISCs' inspection reports.

## Theme 1: Rights and Ethics

The independent review of complaints handling, investigations and misconduct in relation to policing in Scotland sought to bring greater fairness, transparency, accountability and proportionality, protecting the human rights of all involved. This continues to be a priority for the Scottish Government, Crown Office, PIRC, SPA, HMICS and Police Scotland.

### Letter of Rights

The revised versions of the Letter of Rights for Scotland are still on track for submission to the Minister for Community Safety for approval in late 2022.

Following approval, and the publication and translation process, the letters – Children and Young People and an easy read version - will be published on the Scottish Government website and available for download and rollout by Police Scotland. It is anticipated that, at this point, **Recommendation 69** can be submitted by Scottish Government for sign off as completed.

Plans are also being developed for a monitoring and review exercise approximately a year after the roll out of both Letters of Rights to assess their effectiveness and success.

### Ethics in Policing

As reported in June, a Memorandum of Understanding has been established between the SPA Chair and Chief Constable in relation to **Recommendation 32**. This approach is being further enhanced through work of the Scottish Government's Independent Advisory Group on Emerging Technology (ETIAG) where Police Scotland's Data Ethics Framework and an SPA sponsored approach to wider ethics based business case assessment are key elements of overall programme.

The ETIAG was set up to scope the possible legal and ethical issues arising from emerging technological developments in relation to operational policing and ensuring it is compatible with equality and human rights legislation and best practice. The report and recommendations from the ETIAG are now expected to be delivered in the latter part of 2022 and will be considered as part of the SPA's wider approach to oversight of ethical considerations.

### Further updates

A number of the recommendations under this theme will require either primary or secondary legislation to implement and reporting on those recommendations will, therefore, be limited. Details on progress against other recommendations under this theme are set out in the tables below.

## Theme 1: Rights and Ethics

Progress Overview for the period 1 April to 30 September 2022

Recommendations		Lead	Current Position	
1	Code of Ethics should be given a basis in statute.	Scottish Government	In progress	SPA is also considering the Code of Ethics as part of broader ethical oversight. This links to recommendation 32.
10	Statutory duty of candour.	Scottish Government	In progress	The public consultation on legislative proposals closed on 16 August 2022. The analysis of responses has now been published and, as outlined in the current Programme for Government, the Police Complaints and Misconduct Handling Bill is expected to be introduced in 2022/23.
12	Statutory duty of cooperation.	Scottish Government	In progress	
20	PIRC to be added to the list of prescribed persons in The Public Interest Disclosure (Prescribed Persons) Order 2014.	Scottish Government	In progress	
32	Ethical issues – roles of Committees.	SPA	In progress	As reported in June, a Memorandum of Understanding has been established between the SPA Chair and Chief Constable. This approach is being further enhanced through work of the Scottish Government's Independent Advisory Group on Emerging Technology (ETIAG).  The report and recommendations from the ETIAG are now expected to be delivered in the latter part of 2022 and will be considered as part of the SPA's wider approach to oversight of ethical considerations.
69	Amendment to Letter of Rights to clarify general rights and right to complain for detainees in custody.	Scottish Government	In progress	The revised versions of the Letter of Rights for Scotland are still on track for submission to the Minister for Community Safety for approval in late 2022.

## Theme 1: Rights and Ethics cont

Progress Overview for the period 1 April to 30 September 2022

Recommendations		Lead	Current Position	
74	Access to free legal representation for families in Article 2 cases.	Scottish Government	In progress	The Scottish Government made a manifesto commitment to engage with the legal profession and victim support organisations on legal aid reform. Legal aid reform will be considered during this Parliament, including the availability of legal aid for relatives involved in Fatal Accident Inquiries.
76	Consideration of a scheme to pay reasonable travel and subsistence expenses and compensation for loss of earnings for next of kin involved in FAls.	Scottish Government	In progress	Scottish Government is giving further consideration to anticipated budgetary needs to support the administration and delivery of this recommendation.
PR15	PIRC to have statutory power to compel officers to attend for interview.	Scottish Government	In progress	The public consultation on legislative proposals closed on 16 August 2022. The analysis of responses has now been published and, as outlined in the current Programme for Government, the Police Complaints and Misconduct Handling Bill is expected to be introduced in 2022/23.
PR30	Clarify definition of "a member of the public who may make a relevant complaint".	Scottish Government	In progress	

The following is a list of recommendations within this theme which have already been signed off by the Ministerial Group as completed:

Recommendations		Lead
Signed off by Ministerial Group as completed and reported in the 23 June 2022 Thematic Progress Report		
77	Restricted duties or transfers during investigation to take account of family circumstances and support.	Police Scotland
Signed off by Ministerial Group as completed and reported in the 16 December 2021 Thematic Progress Report		
3	Prevention of post incident conferral other than for pressing operational reasons.	Police Scotland
21	Police Scotland to review and audit whistleblowing arrangements and data.	Police Scotland
47	COPFS to refer all potential Article 3 and Article 5 breaches where a crime may have been committed to PIRC rather than Police Scotland.	COPFS

## Theme 1: Rights and Ethics cont

Recommendations

Lead

Signed off by Ministerial Group as completed and reported in the 24 June 2021 Thematic Progress Report

70 Independent Custody Visitors to check that third parties have been notified of detention.

SPA

73 PIRC to act speedily in investigations of deaths in custody.

PIRC

PR1 Police Scotland to refer all allegations of excessive force to COPFS.

COPFS & Police Scotland

## Theme 2: Jurisdiction and Powers

Recommendations within this theme will require, or are likely to require, either primary or secondary legislation to fully implement. As the public consultation has now closed and work to develop the new legislation continues, details of progress against recommendations under this theme will be limited in this report:

Progress Overview for the period 1 April to 30 September 2022				
Recommendations		Lead	Current Position	
8	Clarify definition of “person serving with the police”.	Scottish Government	In progress	The public consultation on legislative proposals closed on 16 August 2022. The analysis of responses has now been published and, as outlined in the current Programme for Government, the Police Complaints and Misconduct Handling Bill is expected to be introduced in 2022/23.
13	Power to enable PIRC staff to access the Centurion database.	Scottish Government	In progress	As this is likely to require legislation to address data protection matters, it was included within the public consultation and is likely to form part of the new Bill. In the interim, PIRC and Police Scotland continue to explore Centurion’s capabilities and possible non-legislative options prior to any potential legislative changes being made.
37	PIRC powers to call in an investigation of a complaint.	Scottish Government	In progress	The public consultation on legislative proposals closed on 16 August 2022. The analysis of responses has now been published and, as outlined in the current Programme for Government, the Police Complaints and Misconduct Handling Bill is expected to be introduced in 2022/23.
38	PIRC powers to investigate practices or policies of Police Scotland.	Scottish Government	In progress	
43	Hold in mind a possible PONI model.	Scottish Government	Keep under review	Engagement with operational partners is required to determine when a periodic review by Scottish Ministers would be appropriate. Decisions are unlikely to be taken until after legislative changes have been progressed.



## Theme 2: Jurisdiction and Powers

Recommendations		Lead	Current Position	
81	Cross jurisdictional investigatory powers.	Scottish Government	In progress	<p>As outlined in the current Programme for Government, the Police Complaints and Misconduct Handling Bill is expected to be introduced in 2022/23.</p> <p>The Scottish Government is currently engaged in discussions with the UK Government on this matter.</p> <p>In advance of legislation, a cross-border MoU has been signed by operational partners setting out key principles and arrangements for the investigation of incidents involving police officers operating outwith their home country on mutual aid or cross-border operations.</p>
PR22	PIRC power to make recommendations and corresponding duty on the Chief Constable to comply.	Scottish Government	In progress	<p>The public consultation on legislative proposals closed on 16 August 2022. The analysis of responses has now been published and, as outlined in the current Programme for Government, the Police Complaints and Misconduct Handling Bill is expected to be introduced in 2022/23.</p>

### Theme 3: Governance and Accountability

Two of the recommendations under this theme will require either primary or secondary legislation and, as such, are included as part of the public consultation. Reporting will, therefore, focus on the recommendations under this theme which can be implemented without legislation.

#### Scrutiny of Performance and Cross-agency Liaison

As reported in June for **Recommendation 78**, the Chief Constable intends to publish annual complaints performance in dealing with complaints against the time-scales set out in the statutory guidance. Timescales are now published in reports to the SPA and will continue going forward. This will ensure that performance in this area is scrutinised on a quarterly basis via the SPA Complaints and Conduct Committee. **This recommendation has, therefore, been fully implemented.**

In relation to **Recommendation 59**, the following statement was included within the SPA's Annual Report and Accounts 2021/22. "An initial joint audit by SPA and the PIRC in respect of 2020-21 is yet to report its findings. Additionally, there is ongoing engagement with Police Scotland in respect of the developing content of Committee assurance reports. As such, it is expected that the Authority will be able to provide a more informed assessment as to the suitability of Police Scotland complaints handling arrangements next year. Nevertheless, there is clear evidence of progress during 2021-22." The Annual Report and Accounts were approved by the SPA Board at its meeting on 29 September 2022. **Recommendation 59 is, therefore, now complete.**

#### Further updates

Details on progress against all recommendations under this theme are set out in the tables below:

Progress Overview for the period 1 April to 30 September 2022				
Recommendations		Lead	Current Position	
29	SPA to hold Police Scotland to account for any delays and raise any concerns over PIRC delays with the Commissioner.	SPA	In progress	Recognising the need for consistency of in-year reporting, broader changes will commence from reporting on Q1 2022/23 performance. Significant changes and improvements have already been made and engagement remains ongoing with Police Scotland on incorporation of enhanced assurance content within Committee reports. This links to recommendation 79.

### Theme 3: Governance and Accountability

Progress Overview for the period 1 April to 30 September 2022

Recommendations		Lead	Current Position	
34	PIRC to be re-designated as a Commission, with one Commissioner, two Deputy Commissioners and a statutory Board.	Scottish Government	In progress	The public consultation on legislative proposals closed on 16 August 2022. The analysis of responses has now been published and, as outlined in the current Programme for Government, the Police Complaints and Misconduct Handling Bill is expected to be introduced in 2022/23.
35	PIRC to be accountable to Parliament for non-criminal matters.	Scottish Government	In progress	
59	SPA to confirm in its annual report whether or not the Chief Constable has suitable complaint handling arrangements in place.	SPA	Completed	SPA included a statement in 2021/22 Annual Report and Accounts in respect of the suitability of Chief Constable's complaints handling arrangements, based on assessment by the Complaints and Conduct Committee during the preceding 12 months, and consultation with the PIRC.
78	Chief Constable to publish annually Police Scotland's performance in handling complaints against timescales in statutory guidance.	Police Scotland	Completed	Timescales are now published in reports to the SPA and will continue going forward. This will ensure that performance in this area is scrutinised on a quarterly basis via the SPA Complaints and Conduct Committee.
79	SPA Complaints and Conduct Committee to scrutinise Police Scotland's performance in dealing with complaints and hold to account.	SPA	In progress	Recognising the need for consistency of in-year reporting, broader changes will commence from reporting on Q1 2022/23 performance. Significant changes and improvements have already been made and engagement remains ongoing with Police Scotland on incorporation of enhanced assurance content within Committee reports. This links to recommendation 29.

The following is a list of recommendations within this theme which have already been signed off by the Ministerial Group as completed:

Recommendations		Lead
Signed off by Ministerial Group as completed and reported in the 23 June 2022 Thematic Progress Report		
4	Police Scotland performance report to identify 5 year trends.	Police Scotland.

### Theme 3: Governance and Accountability cont

Signed off by Ministerial Group as completed and reported in the 16 December 2021 Thematic Progress Report

33	Local scrutiny committees to consider what further complaints information or discussion would assist their scrutiny of the police.	Local Scrutiny Committees & Police Scotland
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Signed off by Ministerial Group as completed and reported in the 24 June 2021 Thematic Progress Report

45	PIRC to report performance against targets in the Annual Report.	PIRC
PR23	PIRC to consider building into structure legal support and advice capacity.	PIRC
PR26	Establishment of Senior cross agency working group.	All partners

## Theme 4: Transparency and Accessibility

All recommendations within this theme have been signed off as completed by the Ministerial Group as follows:

Recommendations	Lead	
Signed off by Ministerial Group as completed and reported in the 23 June 2022 Thematic Progress Report		
46	Publicising avenue to take criminal allegations to COPFS directly.	COPFS
48	Police Scotland to publicise right to complain.	Police Scotland
49	Know your Rights section of the Police Scotland website to be improved.	Police Scotland
Signed off by Ministerial Group as completed and reported in the 16 December 2021 Thematic Progress Report		
30	Greater public sharing of SPA Complaints and Conduct Committee work.	SPA
31	SPA Complaints and Conduct Committee work to feature in SPA Annual Report and Accounts.	SPA
Signed off by Ministerial Group as completed and reported in the 24 June 2021 Thematic Progress Report		
36	Publicising recourse beyond PIRC to Scottish Public Services Ombudsman.	PIRC
PR8	Police Scotland to simplify navigating complaints process for members of the public.	Police Scotland
PR6	Police Scotland to adjust "Early intervention" practice to ensure officers are aware of a complaint against them.	Police Scotland

## Theme 5: Equality, Diversity and Inclusion

The recommendations under this theme can be implemented without the need to make legislation. Many of the recommendations have now been signed off as completed as can be seen from the tracker and updates are also provided below on the ongoing work in relation to those that are still in progress.

### Diversity Data

Police Scotland and SPA continue to take steps to expand collection and publication of diversity data in relation to **Recommendation 5 and Recommendation 60** which remain ongoing. In addition to the Data Owner Group set up by Police Scotland, a Data Working Group has now been formed to take forward actions, including the review of data requirements and systems to ensure they are fit for purpose.

The health check of the Professional Standards Department IT system, Centurion, has now been completed and an upgrade to the system is currently underway. A short life working group is also being established to progress a second upgrade in 2023 which will further enhance Centurion's capability in identifying trends and analysis to drive improvement across the organisation.

Improvements to the IT system will increase the organisation's understanding of complaints across communities. Capturing of diversity and demographical data will allow analysis and a proactive approach in the overall Policing Together initiative and the Preventions and Professionalism Programme. As part of these improvements, the appointment of a new Data Assurance Co-ordinator is also in progress whose remit will include the capture, analysis and reporting of diversity data.

All of the work undertaken in relation to **Recommendation 5** above supports progress of **Recommendations 19 and 60** ensuring data capture is relevant across the organisation. Further collaboration is ongoing with SPA, COPFS and PIRC in order to align the data that each organisation captures and ensure that information collection and analysis is meaningful and informative.

### Unconscious bias training

Unconscious Bias training is now part of Police Scotland's online training module, ensuring that all Police Scotland officers and staff receive training on unconscious bias, equality legislation and diversity. Following feedback from staff associations, unconscious bias training has also been included within Operational Safety Training. In addition, unconscious bias training now also forms part of Chair and Assessor training for conduct meetings and hearings which links with **Recommendation 16** below. **Recommendation 66 has, therefore, now been fully implemented.**

Police Scotland has instigated a review of processes in respect of panel availability and selection to ensure diverse panels for disciplinary hearings can be put in place as far as reasonably possible. As mentioned above, a programme of training, including unconscious bias, has been implemented with a view to having all chief superintendents, superintendents and chief inspectors trained in chairing and assessing panels. A diversity monitoring form has also been produced to record decision making in respect of panel members.

**Recommendation 16 is, therefore, now fully implemented.**

## Workforce impacts and diversity

Since the last reporting period, Police Scotland has expanded its interpretation of **Recommendation 17** to improve awareness, understanding and impact across the organisation. The Policing Together Initiative (with new strategy and implementation plan referred to in Recommendation 18 below) brings together communications, learning and improvement and training mechanisms and provides a focal point and platform for equality and inclusion imperatives. Examples evidenced are the establishment of the Wellbeing Hub, the Equality, Diversity, Inclusion & Human Rights (EDI & HR) Independent Review Group and Sex, Equality and Tackling Misogyny Working Group. Investigative Wellbeing guidance is now published. In September 2022, Police Scotland published the Policing Together: Equality, Diversity and Inclusion Strategy and Implementation plan. Its vision is to ensure Police Scotland is welcoming, inclusive and representative of the communities it serves and that our people demonstrate our values, know that they belong and can fully be themselves. The four overarching outcomes encompass being an anti-racist organisation, EDI and Human Rights being central to everything it does, creating an inclusive culture and that its employees represent and reflects the communities it serves. **Recommendation 17 is, therefore, fully implemented.**

## Independent review

As mentioned above, an Independent Review Group (IRG) has been established to provide critical oversight of equality matters, guide strategic direction and scrutinise activity. The IRG was originally due to report in September 2022 but, due to changes in membership and an extended discovery phase in its workplan, it will now provide a full report to the SPA by the end of 2023. The refreshed group has undertaken an assessment of the timescale required to deliver on the key outcomes and its aim is to ensure that the workstreams established to implement the review conclude their work by autumn 2023. The group also welcomed the proposal within the new Policing Together: Equality, Diversity and Inclusion Strategy to have a standing IRG going forward. **Recommendation 18 is, therefore, still in progress.**

## Further updates

Details on progress against all recommendations under this theme are set out in the tables below:

Theme 5: Equality, Diversity and Inclusion				
Progress Overview for the period 1 April to 30 September 2022				
Recommendations		Lead	Current Position	
5	Police Scotland and SPA to consider expanding collection and publication of diversity data.	Police Scotland & SPA	In progress	The health check of the Professional Standards Department IT system, Centurion, has been completed and an upgrade to the system is now being progressed.

## Theme 5: Equality, Diversity and Inclusion cont

Progress Overview for the period 1 April to 30 September 2022

Recommendations		Lead	Current Position	
5 cont				<p>A short life working group is in the process of being established to progress a further upgrade in 2023. Appointment of a new Data Assurance Co-ordinator is also in progress whose remit will include the capture, analysis and reporting of diversity data</p> <p>Work within SPA has included the addition of equality and diversity monitoring to online complaints forms to enable greater understanding of diversity of complainants. This also links to recommendation 60.</p>
16	More diverse panels for disciplinary hearings.	Police Scotland	Completed	Police Scotland has instigated a review of processes in respect of panel availability and selection and a programme of training including unconscious bias has been implemented with all chief superintendents, superintendents and chief inspectors trained in chairing and assessing panels. A diversity monitoring form will record decision making in respect of panel members and unconscious bias training now also forms part of Chair and Assessor training for conduct meetings and hearings.
17	Appropriate support for anyone who is subject to internal or external discrimination.	Police Scotland	Completed	The Policing Together Initiative provides a focal point and platform for equality and inclusion imperatives along with the establishment of the Wellbeing Hub, the Equality, Diversity, Inclusion & Human Rights (EDI & HR) Independent Review Group and Sex, Equality and Tackling Misogyny Working Group. In addition, Investigative Wellbeing guidance has been published.
18	Independent review of equality matters within Police Scotland.	Police Scotland	In progress	As reported previously, an Equality, Diversity, Inclusion & Human Rights (EDI & HR) Independent Reference Group (IRG) has been established to provide critical oversight, challenge, review and assurance. The IRG reported to the SPA Board in February and in September 2021, and September 2022.



## Theme 5: Equality, Diversity and Inclusion cont

Progress Overview for the period 1 October 2021 to 31 March 2022

Recommendations		Lead	Current Position	
18 cont				The final report from the Group is now expected to be submitted to the SPA Board by the end of 2023.
19	Police Scotland should develop its diversity data collection and analysis to inform a proper understanding of issues related to discrimination.	Police Scotland	In progress	Work being undertaken to progress Recommendation 5 also supports progress of this recommendation. In addition, discrimination training is also being actively progressed, linking to Recommendation 17 and to the work of EDI groups to ensure data capture is relevant across the organisation.
60	Police Scotland to analyse complaints data to gain a better understanding of different groups and communities' experience of the police.	Police Scotland	In progress	Work being undertaken to progress Recommendation 5 also supports progress of this recommendation. Capturing of diversity and demographical data will allow analysis and a proactive approach in the overall Policing Together initiative and the Preventions and Professionalism Programme.
66	All Police Scotland officers and staff to receive training on unconscious bias, equality legislation and diversity with refresher courses.	Police Scotland	Completed	Unconscious Bias training is now part of the organisation's online training module. Following feedback from staff associations, unconscious bias training has also been included within Operational Safety Training. In addition, unconscious bias training now also forms part of Chair and Assessor training for conduct meetings and hearings which links with Recommendation 16.

The following is a list of recommendations within this theme which have already been signed off by the Ministerial Group as completed:

Recommendations		Lead
Signed off by Ministerial Group as completed and reported in the 23 June 2022 Thematic Progress Report		
15	Police Scotland to use staff surveys, meetings and focus groups to understand the experience and impacts of discrimination, prejudice and unconscious bias on all minority groups in the workforce.	Police Scotland
50	Third-party reporting centres for hate crime, including those representing minority groups, to offer support to complainers.	Police Scotland

**Theme 5: Equality, Diversity and Inclusion cont**

Recommendations		Lead
Signed off by Ministerial Group as completed and reported in the 16 December 2021 Thematic Progress Report		
44	PIRC should ensure that discrimination issues are considered as an integral part of their work.	PIRC
Signed off by Ministerial Group as completed and reported in the 24 June 2021 Thematic Progress Report		
PR12	Police Scotland to reflect on the culture of the new service, address any long-standing issues and consider how everyone in the organisation can help to change that culture for the better.	Police Scotland

## Theme 6: Conduct and Standards

All of the recommendations that remain in progress within this theme will require, or are likely to require, either primary or secondary legislation to fully implement. As the public consultation has now closed and work to develop the new legislation continues, details of progress against recommendations under this theme will be limited in this report.

Progress Overview for the period 1 April to 30 September 2022				
Recommendations		Lead	Current Position	
22	Gross misconduct proceedings to continue even if /after officer leaves.	Scottish Government	In progress	The public consultation on legislative proposals closed on 16 August 2022. The analysis of responses has now been published and, as outlined in the current Programme for Government, the Police Complaints and Misconduct Handling Bill is expected to be introduced in 2022/23.
23	For gross misconduct cases for all ranks, PIRC to consider continuation of disciplinary proceedings for former officers beyond 12 months.	Scottish Government	In progress	
24	UK wide barred and advisory lists.	Scottish Government	In progress	
25	Preliminary assessment to move from SPA to PIRC.	Scottish Government	In progress	
27	Composition of Gross Misconduct Hearing panels, including independent legally qualified chair.	Scottish Government	In progress	
28	Police Appeals Tribunal role in appeals to continue following transfer to SCTS.	Scottish Government	In progress	
39	PIRC to handle key stages of senior officer misconduct proceedings.	Scottish Government	In progress	
40	PIRC to have new statutory function to present cases in senior officer gross misconduct hearings.	Scottish Government	In progress	

## Theme 6: Conduct and Standards cont

Progress Overview for the period 1 April to 30 September 2022

Recommendations		Lead	Current Position	
41	PIRC power to recommend suspension of senior officer.	Scottish Government	In progress	<p>The public consultation on legislative proposals closed on 16 August 2022. The analysis of responses has now been published and, as outlined in the current Programme for Government, the Police Complaints and Misconduct Handling Bill is expected to be introduced in 2022/23.</p>
51	Faster misconduct hearings in certain circumstances.	Scottish Government	In progress	
52	Gross misconduct proceedings to be held in public.	Scottish Government	In progress	
53	Chair to consider protecting vulnerable witnesses including officer who is the subject of Gross misconduct proceedings.	Scottish Government	In progress	
54	Scottish Ministers to have powers to consult on and issue guidance in respect of conduct, conferring duties to have regard to guidance, also introducing Reflective Practice Reviews.	Scottish Government	In progress	
55	Statutory provision for Joint misconduct proceedings, including senior officers.	Scottish Government	In progress	
56	Provision for misconduct allegations against probationers to be dealt with during probation period.	Scottish Government	In progress	
57	Alternatives to suspension to be added to regulations.	Scottish Government	In progress	
58	Outcome of gross misconduct proceedings to be made public.	Scottish Government	In progress	

## Theme 6: Conduct and Standards cont

Progress Overview for the period 1 April to 30 September 2022

Recommendations		Lead	Current Position	
PR19	Preliminary assessment to take factors into account, such as anonymity and potential vexatious basis.	Scottish Government	In progress	The public consultation on legislative proposals closed on 16 August 2022. The analysis of responses has now been published and, as outlined in the current Programme for Government, the Police Complaints and Misconduct Handling Bill is expected to be introduced in 2022/23.

The following is a list of recommendations within this theme which do not require legislation have already been signed off by the Ministerial Group as completed:

Recommendations		Lead
Signed off by Ministerial Group as completed and reported in the 16 December 2021 Thematic Progress Report		
26	PIRC to collaborate with SPA on preliminary assessment process (until legislative change is in place).	SPA/PIRC
PR16	Complaints against senior officers should be prioritised and dealt with as speedily as possible.	SPA/PIRC
PR18	SPA to consider alternative options for senior officers other than suspension.	SPA

## THEME 7: TRAINING AND HR

In contrast to the previous theme, all recommendations under this theme can be implemented without the need to make legislation. Good progress has been made by partners, with the majority of recommendations now signed off as completed. Further details on the status of each recommendation is given below.

### **Police Scotland People and Development**

Police Scotland has continued to make significant progress towards implementation of **Recommendation 11** with the report on the rank ratio work completed. This work is now subject to a separate action plan with agreed ownership and is being monitored via a Short Life Working Group chaired by ACC Local Policing East. A review cycle is also in place for monitoring progress, with interim updates required for November and January.

In addition to the rank ratios work, there are two further actions that will support the full implementation of this recommendation once complete. The first is to undertake a training needs analysis of core line manager skills for both newly and recently promoted Sergeants and consider a refresh of such for officers already in the rank. The second is that the Local Policing Service Delivery Review Team are to undertake a more detailed review of workload, role profile and skills of the frontline Sergeant.

An update is to be provided to the Senior Leadership Board in February where it is expected that recommendation 11 will be complete and can be discharged at that point. In the meantime this recommendation remains ongoing.

**Preliminary Report Recommendation 3** asks that Police Scotland considers employing more non-police officer support staff in Professional Standards Department (PSD). A review of the PSD workforce was carried out in May 2022 and found to be reflective of an efficient and effective department. However, the PSD strategic workforce plan 2020-23 recognises that the future model of PSD will require to take cognisance of this recommendation.

A new complaint handling model has now been implemented with more officers at constable and sergeant rank appointed and has dedicated, experienced staff to progress all complaints. Police Scotland has also established an Operational Priorities, Capacities and Resilience group (OPCR) and Resource Prioritisation Group (RPG). This will ensure that the allocation of resources is managed appropriately and that no area is disproportionately impacted due to the significant change in resources and experience over the last few months, and anticipated in the coming 12 months. **Recommendation 3 is, therefore, now fully implemented.**

### **PIRC Recruitment**

**Preliminary Report Recommendation 24** relates to the retirement of former police officers and adapting the PIRC policy in order to replace them with non-police officers.

PIRC has actively ensured that recruitment practices are focused heavily on assessing the skills the business requires at the point of a vacancy being created. Work has now been embedded to develop the PIRC Skills Matrix, which generates the production of specific skills profiles for each role in the organisation. This is used not only to develop current staff, but forms the basis of advertisements for recruitment campaigns. Again the focus is firmly on the skills as opposed to the employment history of candidates. As a result of the activity that has been ongoing and

now embedded in terms of the staff composition within PIRC, the percentage of staff who were former police officers is currently 44% of all staff. **Preliminary Recommendation 24 is, therefore, now fully implemented.**

### PIRC Training

**Recommendation 63** relates to PIRC complaint handling review officers and trainee investigators shadowing police officers at peak times. PIRC has now integrated shadowing as part of its induction and on-boarding process ensuring that new recruits are briefed about the process that enables shadowing opportunities. However, until Police Scotland has capacity and, importantly, the threat of COVID has subsided to allow third parties into custody facilities, it will not be possible to put this into practice. Nevertheless, there is a commitment from all parties to deliver this opportunity when it is safe and practical to do so. **Recommendation 63 is, therefore, now fully implemented.**

### SPA Training

**Preliminary Report Recommendation 17** proposes that training for complaints and conduct officers in SPA should be consolidated to ensure up-to-date knowledge of complaint handling best practice. In response to this recommendation, a comprehensive programme of training and development has been implemented with the team completing the following courses:

- Queen Margaret’s University Professional Award and Professional Certificate course in Complaints and Ombudsman Techniques;
- the SPSO Complaints Investigation Skills training course to enhance complaints investigations skills in line with the SPSO Model Complaints Handling Procedures, as well as a British Standards Institute Auditing Techniques and Approaches training course; and
- a benchmarking review of Complaints Handling Procedures against Scottish and international best practice, and engaged with counterparts in Republic of Ireland to identify learning opportunities.

Finally, to further enhance the skills within the team, a secondment arrangement has been agreed with PSD to support continuous improvement and shared learning. **Preliminary Report Recommendation 17 is, therefore, now fully implemented.**

### Further updates

Details on progress against all recommendations under this theme are set out in the table below:

Theme 7: Training and HR				
Progress Overview for the period 1 April to 30 September 2022				
Recommendations		Lead	Current Position	
11	Police Scotland to consider front line sergeant workload and supervisory ratio of sergeants to constables.	Police Scotland	In progress	The rank ratio review is complete. Work stemming from that is now subject to a separate action plan with agreed ownership and progress monitored via a Short Life Working Group chaired by ACC Local Policing East.

## Theme 7: Training and HR cont

### Progress Overview for the period 1 April to 30 September 2022

11 cont				A review cycle is in place, with interim updates required for November and January. An update is to be provided to the Senior Leadership Board in February 2022.
63	PIRC staff to work shadow police officers at peak times to understand context.	PIRC	Completed	PIRC has now integrated shadowing as part of its induction and on-boarding process ensuring that new recruits are briefed about the process that enables shadowing opportunities. However, until Police Scotland has capacity and, importantly, the threat of COVID has subsided to allow third parties into custody facilities, it will not be possible to put this into practice. Nevertheless, there is a commitment from all parties to deliver this opportunity when it is safe and practical to do so.
PR3	Police Scotland to consider for employing more non-police officer support staff in PSD. This is an option that Police Scotland may wish to ask HMICS to review.	Police Scotland	Completed	A new complaint handling model has now been implemented within PSD with more officers at constable and sergeant rank appointed and has dedicated, experienced staff to progress all complaints. Police Scotland has also established an Operational Priorities, Capacities and Resilience group (OPCR) and Resource Prioritisation Group (RPG). This will ensure that the allocation of resources is managed appropriately and that no area is disproportionately impacted due to the significant change in resources and experience over the last few months, and anticipated in the coming 12 months.
PR17	Training for complaints and conduct officers in SPA to be consolidated to ensure up-to-date knowledge of complaint handling best practice.	SPA	Completed	SPA has implemented a comprehensive programme of training and development has been implemented for the complaints handling team. To further enhance the skills within the team, a secondment arrangement has been agreed with PSD to support continuous improvement and shared learning.
PR24	Following retirement of former police officers PIRC policy should be to replace them with non-police officers.	PIRC	Completed	PIRC has actively ensured that recruitment practices are focused heavily on assessing the skills the business requires at the point of a vacancy being created. Work has now been embedded to develop the PIRC Skills Matrix, which generates the production of specific skills profiles for each role in the organisation. As a result, the percentage of staff who were former police officers is currently 44% of all PIRC staff.



The following is a list of recommendations within this theme which have already been signed off by the Ministerial Group as completed:

<b>Theme 7: Training and HR cont</b>		
Recommendations		Lead
Signed off by Ministerial Group as completed and reported in the 23 June 2022 Thematic Progress Report		
14	Police Scotland Executive team should consider in depth and review the criteria and competencies that it uses to assess police officers' readiness for promotion.	Police Scotland
67	Police Scotland to provide training on engaging with individuals displaying mental ill-health symptoms or related behaviours.	Police Scotland
Signed off by Ministerial Group as completed and reported in the 16 December 2021 Thematic Progress Report		
6	All officers and support staff in Police Scotland's Professional Standards Department (PSD) to receive comprehensive induction training and regular refresher development.	Police Scotland
62	Police Scotland to appoint a PSD training officer to liaise with the SPSO, the PIRC and the SPA on joint training, best practice.	Police Scotland
64	PIRC in house training on law of evidence.	PIRC
65	PIRC and Police Scotland to develop training and development opportunities to embed learning from thematic analysis of complaints.	PIRC/Police Scotland
Signed off by Ministerial Group as completed and reported in the 24 June 2021 Thematic Progress Report		
PR2	Police Scotland to review service-wide capability of line managers, including the adequacy of training and support mechanisms.	Police Scotland
PR4	Police Scotland to ensure that grievance matters are not artificially elevated and dealt with as conduct matters.	Police Scotland
PR9	Police Scotland to raise awareness of internal systems for mediation and grievance.	Police Scotland
PR10	Police Scotland to provide officers in frontline resolution with training in mediation and customer handling.	Police Scotland

## Theme 8: Efficiency and Effectiveness

The recommendations under this theme can largely be implemented without the need to make legislation, with only one recommendation (Preliminary Recommendation 13) requiring or likely to require either primary or secondary legislation. Further details on progress within this theme is given below.

### Mental Health

**Recommendation 72** is in relation to custody. The Scottish Government continues to work with partners, including Police Scotland, through the Redesign of Urgent Care Programme and Unscheduled Care Collaborative, to ensure that people with urgent mental health care needs get the right help, in the right place, at the right time. This is being facilitated by each Health Board providing access to a mental health clinician 24 hours a day, seven days a week for those who require urgent specialist mental health assessment or urgent referral to local mental health services. This is creating national and local routes to ensure people in emotional crisis or distress, and those in need of urgent care, are assessed and supported, regardless of how they access services.

National Guidance has been developed to support Health Boards to implement this approach and significant progress has been made. For example, referral routes from NHS 24 to local services for urgent care during the out of hours period and increased availability of mental health clinicians providing professional support to Police Scotland and the Scottish Ambulance Service. We will continue this work to improve the unscheduled care mental health response.

A key objective of this approach is to ensure that people do not have to attend A&E to receive the care they need. However, when they do, improvements to our urgent care response will ensure appointments can be scheduled so that clinicians are ready to receive them, providing care quickly and reducing waiting times for patients.

To build additional mental health capacity in key settings, the Scottish Government has provided significant investment to recruit an additional 800 whole time equivalent (WTE) mental health posts, including A&Es, GP practices, police station custody suite and prisons – ensuring local provision and support is at the heart of our plans. At the end of this commitment an additional 958.9 WTE mental health posts have been recruited under Action 15 of the Mental Health Strategy, including 179.2 WTE posts within the A&E setting and **35.6 WTE posts in Police Custody suites**.

### Further updates

Details on progress against all recommendations under this theme are set out in the table below:

## Theme 8: Efficiency and Effectiveness

Progress Overview for the period 1 April to 30 September 2022

Recommendations		Lead	Current Position	
68	Strategic Oversight Group or National Complaint Handling Development Group to engage with the SPSO.	Scottish Government	In progress	SPSO will be invited to attend a forthcoming NCHDG meeting, where their expertise and opinion will be welcomed.
72	NHS accident and emergency facilities designed to be able to deal safely with mental health care and acute crises.	Scottish Government	In progress	Work with partners continues through the Redesign of Urgent Care Programme and Unscheduled Care Collaborative, to ensure that people with urgent mental health care needs get the right help, in the right place, at the right time. The Scottish Government has provided significant investment to recruit an additional 800 whole time equivalent (WTE) mental health posts, including A&Es, GP practices, police station custody suite and prisons – ensuring local provision and support is at the heart of our plans. At the end of this commitment an additional 958.9 WTE mental health posts have been recruited to under Action 15 of the Mental Health Strategy, including 179.2 WTE posts within the A&E setting and <b>35.6 WTE posts in Police Custody suites.</b>
PR13	Scottish Government to consider the case for amending the legislation to include a provision to deal with vexatious complainers.	Scottish Government	In progress	The public consultation on legislative proposals closed on 16 August 2022. The analysis of responses has now been published and, as outlined in the current Programme for Government, the Police Complaints and Misconduct Handling Bill is expected to be introduced in 2022/23.

The following is a list of recommendations within this theme which have already been signed off by the Ministerial Group as completed:

Recommendations		Lead
Signed off by Ministerial Group as completed and reported in the 23 June 2022 Thematic Progress Report		
PR11	Police Scotland to accelerate plans to expand use of Body Worn Video.	Police Scotland

## Theme 8: Efficiency and Effectiveness

Signed off by Ministerial Group as completed and reported in the 16 December 2021 Thematic Progress Report

9	All frontline resolution should be carried out by Professional Standards Department.	Police Scotland
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Signed off by Ministerial Group as completed and reported in the 24 June 2021 Thematic Progress Report

80	Time limit for submission of complaints by the public should be clear in the PIRC's statutory guidance and publicised on the relevant websites.	PIRC
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PR20	PIRC to consider the case for creating regional presence to enhance its capacity to respond immediately.	PIRC
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PR25	Independent management review to ensure that the PIRC has appropriate leadership, skills and culture to carry out its functions.	PIRC
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## Theme 9: Audit and Review

All of the recommendations under this theme are non-legislative and are being taken forward by partners to implement within their own organisations, with the exception of one which is Recommendation 75.

### Improvements to Audit Arrangements

Work is continuing in relation to **Preliminary Recommendation 27** which proposes that audit arrangements, including regular dip-sampling, should be prioritised and co-ordinated to improve standards and service to the public. Although the audit timetable has yet to be confirmed, the intention is to undertake an audit of Front Line Resolution (FLR) of complaints and, thereafter, the six-stage complaint handling process. Once the timetable has been agreed with the PIRC Commissioner, discussions will take place with Police Scotland and SPA on planning and co-ordination of the audit process. This recommendation, therefore, remains in progress.

### Police Scotland audit functions

Police Scotland has, with input from Audit Scotland, now developed an audit methodology for complaint handling in respect of **Recommendation 61** regarding the re-design of audit arrangements for police complaints.

The first joint audit by SPA and PIRC has now taken place with the report of findings awaited. SPA and PIRC have committed to running a programme of audit and this will take place on a quarterly basis.

PSD is also appointing a Data Assurance Co-ordinator and the successful candidate will co-ordinate future audits from a Police Scotland perspective. **Recommendation 61 is, therefore, now fully implemented.**

### PIRC audit functions

On **Recommendation 42** significant collaborative working has taken place between PIRC and SPA. The June Thematic Progress Report confirmed that a joint working arrangement agreed between PIRC and SPA and that the fieldwork for the inaugural audit of triage of public complaints against police within the Professional Standards Department (PSD) in Police Scotland had completed.

The purpose is to ensure that matters that can be resolved by Front Line Resolution (FLR), or misconduct, or potential criminality are being properly identified and routed accordingly, and to provide assurance that Article 3 and Article 5 cases are being correctly identified and reported forthwith to COPFS.

The findings from the audit are now being analysed and on completion of the report writing phase, the report will then be presented to the Chief Constable for factual accuracy checking. Given that the audit fieldwork itself is completed and finalisation of the report is nearing completion, **Recommendation 42 is considered fully implemented.**

**Recommendation 7** relates to the follow-up audit of the six-stage complaint handling process or audit of frontline resolution that should be carried out by the PIRC as an independent third party. PIRC has taken the decision to wait until Police Scotland's centralised model of

Complaint Handling has had time to embed before commencing an audit of the six-stage complaint handling process or front line resolution.

PIRC will also take learning from the ongoing annual audit of triage as described above in relation to **Recommendation 42** and apply that to the methodology and practices to be utilised in this audit. As a result of the successful completion of the inaugural audit fieldwork, this particular audit can now be scoped and advanced early next year.

**Recommendation 71** proposes that HMICS, and health inspection or audit body, to conduct a Review of efficiency and effectiveness of the whole-system approach to mental health. We have previously reported that completion of the HMICS Inspection of Healthcare in Custody would assist with the scoping exercise for this recommendation. The inspection for Mental Health is in the scoping stage, with the conclusion of the Healthcare in Custody inspection scheduled for completion in December 2022. The report of HMICS Assurance Review of Police Scotland Contact Assessment Model – published in August 2022 - will also assist in the scoping exercise for this recommendation. This recommendation, therefore, remains in progress.

### Further updates

Details on progress against other recommendations under this theme are set out in the tables below:

Theme 9: Audit and Review				
Progress Overview for the period 1 April to 30 September 2022				
Recommendations		Lead	Current Position	
7	Next follow-up audit of six-stage complaint handling process or audit of frontline resolution to be carried out by PIRC.	PIRC	In progress	PIRC is waiting for Police Scotland’s centralised model of Complaint Handling to be embed further before they audit the six-stage complaint handling process or front line resolution (FLR). PIRC will take learning from the ongoing annual audit of triage regarding Recommendation 42 and apply that to the methodology and practices to be utilised in this audit early next year.
42	PIRC to conduct annual audit of triage within PSD of public complaints against the police to matters are properly identified and routed, and to provide assurance that Article 3 and Article 5 cases are correctly identified and reported to COPFS.	PIRC	Completed	Earlier this year PIRC and SPA staff commenced the inaugural audit which is now being analysed and the report writing phase is ongoing. The report will be presented to the Chief Constable for factual accuracy checking and then tendered for publication thereafter.

## Theme 9: Audit and Review cont

Progress Overview for the period 1 April to 30 September 2022

Recommendations		Lead	Current Position	
61	Police Scotland and the PIRC to consider drawing on expertise of Audit Scotland and SPSO in re-designing the audit arrangements for police complaints.	Police Scotland	Completed	The first joint audit by SPA and PIRC has taken place and report of findings are now awaited. SPA and PIRC have committed to running a programme of audit and this will take place on a quarterly basis. PSD has advertised for a Data Assurance Co-ordinator post and the successful candidate will co-ordinate future audits from a Police Scotland perspective.
71	HMICS, and health inspection or audit body, to conduct a Review of efficiency and effectiveness of the whole-system approach to mental health.	HMICS	In progress	It was previously reported that completion of the HMICS Inspection of Healthcare in Custody would assist with the scoping exercise for this recommendation. The inspection for Mental Health is in the scoping stage, with the conclusion of the Healthcare in Custody inspection scheduled for completion in December 2022. The report of <a href="#">HMICS Assurance Review of Police Scotland Contact Assessment Model</a> – published in August 2022 - will also assist in the scoping exercise for this recommendation.
75	Scottish Government to consider which findings and recommendations made in the Deaths in Custody review points from 2017 could and should be mirrored by public bodies in Scotland.	Scottish Government	In progress	Review of the 2017 Deaths and Serious Incidents in Police Custody in England and Wales has been completed. Relevant findings were included within the public consultation.  Any relevant non legislative elements of the 2017 Review will be progressed separately.
PR27	All audit arrangements, including regular dip-sampling, to be prioritised and co-ordinated to improve standards and service to the public.	All partners	In progress	This links to work undertaken for recommendation 42 and 61.  Although the audit timetable has yet to be confirmed, the intention is to undertake an audit of Front Line Resolution (FLR) of complaints and, thereafter, the six-stage complaint handling process. Once the timetable has been agreed with the PIRC Commissioner, discussions will take place with Police Scotland and SPA on planning and co-ordination of the audit process.

The following is a list of recommendations within this theme which have already been signed off by the Ministerial Group as completed in 2021:

<b>Theme 9: Audit and Review cont</b>		
Recommendations		Lead
Signed off by Ministerial Group as completed and reported in the 24 June 2021 Thematic Progress Report		
2	Criminal Allegations Against Police Division (CAAP-D) of COPFS to regularly repeat review of all the 'assault' and 'excessive force' categorised complaints received by Police Scotland in the month of March 2020.	COPFS
PR5	Frontline resolution of complaints to be subject to close and regular monitoring through regular, internal and external audits, and monitoring of decision-making.	Police Scotland



## International Scrutiny Committees

### Introduction

This section of the report identifies some of the areas where the work completed by partners to progress Dame Elish Angiolini's recommendations, also contributes to the significant progress being made to address areas of concern identified by International Scrutiny Committees (ISCs). It gives greater visibility to the improvements that have been made and provides some insight into the action that has been taken so far. Links to the themes used to report progress of Dame Elish Angiolini recommendations are shown in **red**.

All partners involved in this improvement work are committed to ensuring that policing operations **respect the human rights of all people and officers, who, in turn, should have their rights respected**.

### Third Party Notification

#### Rights and Ethics

The Scottish Government and its key partners recognise that for a person in police custody, ensuring their custodial status has been communicated expeditiously to a third party, identified by them, is vitally important. To this end, Police Scotland has circulated related guidance to their staff to ensure that all efforts to contact third parties, whether these have been successful or not, are entered onto the fully auditable National Custody System. Furthermore, Independent Custody Visitors (ICV), who routinely visit custody centres under the auspices of the ICV Scheme, which is maintained and managed by the Scottish Police Authority, should, as a matter of course, check with custody officers and with detainees that a third party has been notified of their detention.

### Access to a Solicitor

#### Rights and Ethics

Every person detained in police custody has the right to legal assistance. The verbal articulation of their rights is provided to a detainee (and is recorded) as soon as is practicable following their arrival at a custody centre and these are reinforced by the provision of a 'Letter of Rights'. Trained staff facilitate in-person, or in some cases, virtual, interaction as required. Police Scotland do not have powers to deny solicitor access and the decision to delay solicitor consultation under Section 44(2) of the Criminal Justice (Scotland) Act 2016 is used extremely rarely, with full justification by an officer independent to the investigation and of the rank of Sergeant or above. Where this happens, the individual can lodge a complaint using Police Scotland's established complaints process. Police Scotland is operationally independent of Scottish Ministers and responsibility for considering complaints about the conduct of police officers lies with the Chief Constable. Ultimately, a decision to delay access to a solicitor can be subject to scrutiny in court by Scotland's independent judiciary.

### Access to Healthcare Professionals (HCP) and related examinations

#### Rights and Ethics / Efficiency and Effectiveness / Audit and Review

Police Scotland has reassured the Scottish Government that where a person in custody requests medical assessment or assistance, staff will, as a minimum, consult with a Health Care

Professional (HCP) in order that this need can be addressed. Existing guidance is that two members of staff attend whenever any person in custody is taken out of a police cell, including for medical examination. Cognisant on any risk assessment, wherever possible the person in custody will be left in a room alone with NHS staff with the door closed, in order to facilitate confidential medical examination and discussion. If, owing to risk assessment, this is deemed to be unsuitable, the detainee will be left in a room with a HCP with the door open and police staff outside (to enable them to respond quickly, if required, but still respect privacy). Again, owing to risk assessment, if this approach is deemed to be unsuitable, then police staff may be required to be present along with the HCP. Alternatively, the HCP may visit the person in custody in their cell. If the NHS staff have any concern in relation to confidentiality, this can be discussed fully with custody staff and/ or supervisors.

## **Healthcare in Police Custody (Drugs and Mental Health)**

### **Efficiency and Effectiveness / Audit and Review**

Following discussions between the Scottish Government (SG), Healthcare Improvement Scotland (HIS) and Her Majesty's Inspectorate of Constabulary in Scotland (HMICS), SG has provided funding for the establishment a Joint Inspection Programme of Police Custody Centres in Scotland to be jointly run by HIS and HMICS in 2022/23. The primary reasons for the commission are:

- SG has a legal obligation to make sure that any inspection of healthcare in police custody centres is compliant with Optional Protocol to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT).

Recommendation 4, from [HMICS Inspection of custody centres across Scotland](#) published report from August 2018, states that HIS and SG “should ensure that the delivery of healthcare in police custody is appropriately scrutinised so as to improve outcomes for detainees” HIS has a general duty of furthering improvement in the quality of healthcare and a duty to provide information to the public about the availability and quality of services under the health service.

Standards for the inspection of custody centres are currently being developed and will incorporate the management of opiate substitution treatments and compliance with Medication Assisted Treatment (MAT) Standards. Quarterly progress meetings will be held by Scottish Government's Police Division with HIS / HMICS to assess achievements, issues, risks and next steps.

The Scottish Government is working with partners through the Redesign of Urgent Care Programme to ensure that people with urgent physical and mental health care needs get the right help, in the right place, at the right time. The Scottish Government has also provided significant investment to recruit an additional 800 whole time equivalent (WTE) mental health posts, including A&Es, GP practices, police station custody suite and prisons – ensuring local provision and support is at the heart of its plans.

## **Adherence to Human Rights' Conventions**

### **Rights and Ethics**

Scotland's international obligations on human rights are found in United Nations (UN) treaties, one of which is the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT). SG has a legal obligation to ensure that all places of detention, including police custody centres, comply with OPCAT and in

this respect works closely with a range of key partners including; the Scottish Police Authority; His Majesty's Inspectorate of Constabulary in Scotland (HMICS) and Police Scotland to ensure that the care, welfare and security of persons held in such facilities is maintained to consistently high standards.

Police Scotland is a rights based organisation that puts its values of integrity, fairness, respect and a commitment to upholding human rights at the heart of everything it does. Every police officer in Police Scotland makes a declaration on appointment (or is treated as having made one) in terms of Section 10 of the Police and Fire Reform (Scotland) Act 2012. That declaration provides that: "I, do solemnly, sincerely and truly declare and affirm that I will faithfully discharge the duties of the office of constable with fairness, integrity, diligence and impartiality, and that I will uphold fundamental human rights and accord equal respect to all people, according to law"

The Code of Ethics for Policing in Scotland sets out the standards expected of all individuals who contribute to policing in Scotland. The Code of Ethics explicitly includes human rights. The Police Scotland National Decision Making Model contains the Code of Ethics at the heart of all decisions being made.

The Police Scotland Standard Operating Procedure in relation to persons in custody states; "Whilst security is of paramount importance, all persons are to be treated with care and respect, ensuring that their fundamental human rights are maintained at all times. No person should receive less favourable treatment on the grounds of age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Each and every person must be considered as an individual with specific needs relevant to their particular circumstances, health and condition. Reasonable requests, which do not interfere with operational requirements or security, should only be refused when there are justifiable reasons."

[The Independent Human Rights Act Review 2021 \('IHRAR'\)](#) conducted over 2020/21, under Sir Peter Gross, published its final report in October 2021. It acknowledged that human rights are central to Police Scotland's operations, giving several examples, and human rights principles are also embedded in Scots law.

## **Police Complaint Handling / Principles**

**Rights and Ethics/Equality, Diversity and Inclusion/Transparency and Accessibility/ Training and HR/ Efficiency and Effectiveness**

In her final report, Dame Elish acknowledged the comments that were made by the CPT in relation to their visit to custody suites following their visit to Scotland in 2018. As evidenced in this section of the report, a number of Dame Elish's recommendations also address some of the concerns raised by CPT.

Dame Elish's review included extensive consideration of issues relating to custody, the welfare of those who come into contact with the police, as well as the categorisation, referral and investigation of the most serious incidents involving the police. In recognition of the gravity attached to Article 2 and Article 3 obligations under ECHR, the Scottish Government consulted on proposed statutory duties of candour and co-operation for officers potentially involved in incidents resulting in the death or serious injury of any individual in police custody or following police contact. In doing so, the Scottish Government acknowledges the work undertaken by Police Scotland to embed this approach and highlight the rights attached to Article 6 of ECHR.

The Police Complaints and Misconduct Handling Bill to be introduced to Parliament in session 2022-23 will consider the necessary legislative changes in areas such as rights and ethics; governance and jurisdiction; and conduct and standards – as we seek to further improve public confidence in policing in Scotland. It will strengthen governance, accountability and a rights based approach to policing, as well as providing a fair and proportionate misconduct process.

Furthermore, Dame Elish made 11 recommendations which address discrimination and reinforce the importance of diversity and inclusion within policing. Police Scotland continues to address the equality, diversity and inclusion recommendations from the review and has also recently published its Policing Together Equality, Diversity and Inclusion Strategy to drive this work forward.

The Scottish Sub-Group of The National Preventative Mechanism (NPM) commissioned a report which published on 24 August 2021 - [Scotland's progress in the prevention of ill-treatment in places of detention An assessment of the implementation of recommendations made by the European Committee for the Prevention of Torture.](#)

The report suggests that Dame Elish's review is not explicit in supporting the five principles stated by the CPT as key to a strong complaints system. However, Dame Elish's review explicitly recommends principles that should underpin the complaints system which are very similar to those the CPT sets out:

- **CPT principles:**  
availability, accessibility, confidentiality/ safety, effectiveness and traceability
- **Dame Elish principles:**  
fairness, accountability, transparency, proportionality, effectiveness, efficiency and the protection of human rights.

Those principles are woven throughout both her preliminary report and final report making recommendations aimed to improve policing systems and structures simplifying the way in which complaints about the police are received, managed and investigated.

## **Recording of Injuries**

### **Rights and Ethics / Efficiency and Effectiveness**

Police Scotland staff deployed within custody centres must complete and pass the three-day Custody Officer Induction course which includes content on prisoner rights and on adverse incidents and reporting.

As stated in the Independent Review, "HM Inspectorate of Constabulary in Scotland (HMICS) carries out custody inspections not only in respect of duties under the 2012 Act but also in fulfilment of the UK's obligations under the UN Optional Protocol on the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). HMICS is one of 21 bodies designated as a member of the UK's National Preventive Mechanism, a group of bodies tasked with independently monitoring places of detention in accordance with OPCAT. The responsibility for custody healthcare transferred from the police to the National Health Service in 2013. Police Scotland reported to the Review that due to differences in geography, NHS resources, service provision, funding and health board structures, as well as varying levels of custody throughput in each area, each of the 14 health board areas provides a slightly different model of care. Police Scotland's Care and Welfare of Persons in Police Custody Standard Operating Procedure states that police officers and staff should utilise the National

Decision Making Model to make informed decisions, and that all key decisions and the reasons for those decisions made in respect of prisoner care should be recorded on the National Custody System (NCS) or paper log.”

As recommended in the Independent Review, HMICS, and health inspection or audit body, to conduct a Review of efficiency and effectiveness of the whole-system approach to mental health. HMICS has published its new three year scrutiny plan [HMICS Scrutiny Plan 2022-2025](#) in which it sets out the intention to undertake a thematic inspection on the role that policing has in responding to mental health related incidents as well as where other services may be more equipped to provide the appropriate level of support to the public. HMICS will also look at preventative approaches and the support available from partner organisations, to identify alternatives that will offer the best possible outcomes for the public. The current inspection of Police Scotland’s Contact Assessment Model will assist in the scope of this inspection, as will discussions with other scrutiny partners /researchers and stakeholders regarding other work that is ongoing in relation to mental health provision.

Crucially, the SPA's Independent Custody Visiting team Annual Report 2021-22 highlights that during 2021-22, Independent Custody Visitors did not identify any issues or breaches of those United Nations standards for upholding human rights.

The Scottish Government remains committed to creating an inclusive Scotland that protects, respects, promotes and implements internationally recognised human rights. This is embedded in police training and the oath that is taken by officers, and it is at the core of Police Scotland’s professional ethics and values. Dame Elish’s review was supportive of Police Scotland’s Code of Ethics, which is based on the values of integrity, fairness and respect, reinforcing the commitment to fundamental human rights. The Scottish Government has consulted on proposals for the Code to be underpinned in statute and as confirmed in the Programme for Government this is now also being taken forward in the Police Complaints and Misconduct Handling Bill.

## **Conclusion**

As stated in the introduction to this section, it identifies some of the areas where the work completed by partners to progress Dame Elish Angiolini’s recommendations, also contributes to the significant progress being made to address areas of concern identified by International Scrutiny Committees (ISCs).

A substantial body of work has been undertaken, and is still in progress, to address the recommendations made by ISCs. However, the ISC's made several recommendations which go beyond the remit of Dame Elish’s review and, as they sit within other Scottish Government policy areas, progress is not reported here.

[The Universal Periodic Review 2022: Scottish Government Position Statement](#) published on 17 October 2022, sets out the action taken by the Scottish Government in devolved areas since the start of the UK’s last Universal Periodic Review cycle in 2017 to respect, protect, and fulfil the human rights of everyone in Scotland.



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