

Criminal Justice Committee
Wednesday 29 May 2024
22nd Meeting, 2024 (Session 6)

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

Note by the clerk

Background

1. The Committee is taking evidence on the [Police \(Ethics, Conduct and Scrutiny\) \(Scotland\) Bill](#) at [Stage 1 of the Parliament's legislative process](#).
2. The Bill proposes changes to the law to, in the view of the Scottish Government, ensure there are robust, clear and transparent mechanisms in place for investigating complaints, allegations of misconduct, or other issues of concern in relation to the conduct of police officers in Scotland.
3. Today's meeting is the last evidence-taking session scheduled at Stage 1.

Today's evidence on the Bill

4. At today's meeting, the Committee will take evidence from the Cabinet Secretary for Justice and Home Affairs and her officials.
5. The following supplementary submission has been provided to the Committee by Victim Support Scotland and is reproduced at the Annex—
 - o [Victim Support Scotland](#)

What next?

6. Following today's meeting, the Committee will consider a draft Stage 1 report which should be published in the coming weeks. The Scottish Government will then respond to the report and a debate will be held in the Chamber for all MSPs.

Further reading

7. The Bill and supporting documents [can be found online](#). A SPICe briefing on the Bill [can be found online](#). The responses to the Committee's call for views on the Bill [can be found online](#).
8. A [SPICe analysis of the call for views](#) was circulated with the committee papers for the meeting on 13 March 2024.
9. A [briefing](#) on the background to the Police (Ethics, Conduct & Scrutiny) (Scotland) Bill and a review of police complaints systems in other jurisdictions was published in 2023.

Clerks to the Committee
May 2024



Additional written evidence submitted in respect of Police (Ethics, Conduct and Scrutiny) (Scotland) Bill

Victim Support Scotland welcomed the opportunity to give evidence to the Criminal Justice Committee as they considered Stage 1 of the Police (Ethics, Conduct and Scrutiny) (Scotland) Bill. During that session, Kate Wallace, VSS CEO offered further written evidence, provided here below.

It is important to reiterate that VSS consistently report that the complaints process and complaint review process in relation to police officers extremely complex. Embarking on these processes is a huge undertaking on the part of victims and their families, and the process itself often adds to the trauma they have experienced. No victims we have supported have approached this prospect lightly, therefore system reform is essential to improve trust and confidence in the process and the justice system as a whole. Victims should be able to access justice in a way that is free from trauma.

Further, families often share that due to complexities, they often lack understanding of the PIRC process and Professional standards, what they are and what their purpose is.

The categories of cases VSS has supported through either police complaints or PIRC are in relation to the following alleged incidents:

- Criminal conduct by police officers
- Misconduct by police officers; ranges from misinformation to victims and their families to mishandling of criminal investigations, failure to adhere to standard operating procedures, etc.
- Breaches of confidentiality by officers
- Issues with returning of crime locus to victims and families; including returning properties that are not in a suitable state and properties where the deceased's belongings have been disposed of.
- There are general communication issues, including a lack of empathy and inappropriate handling of distressing information; problems include how families were notified of the death, failure to keep relevant family members updated, and not sharing accurate and timely information throughout the process.
- Lack of response from frontline services.

Communication with victims about the complaints or complaints review process is often poor with long, complex letters sent that victims and their families which they can find difficult to understand. It is often extremely challenging to understand what action will be taken as a result of a complaint or PIRC review.

VSS is aware of situations where PIRC has conducted a review, has not upheld the grounds the review and then has received further evidence and reconsidered its findings. A duty of candour would have assisted in these situations so that PIRC were given full, factual information by Police Scotland in the first place. This would have reduced the traumatising impact on victims.

To provide a more detailed illustrative example, here is feedback from one family supported by VSS's Support for Families Bereaved by Crime Service:

A family supported by Victim Support Scotland's Support for Families Bereaved by Crime Service SFBC was subject to a breach of highly sensitive information by a Police Officer following the murder of their family member.

The officer shared a WhatsApp message which included details of injuries and the crime scene, and this was then shared widely on social media. The family read the WhatsApp online the night they were informed about the murder. This had a significantly traumatising effect, as they learnt of information before the Police were able to share these. These details were then confirmed when FLOs arrived at their home the next day and read out a pre-prepared statement.

The Anti-Corruption Unit carried out an investigation into the incident. COPFS decided that no criminal proceedings would be brought against the officer who had been suspended. In total, 13 officers were referred to the National Conduct Unit in relation to this matter. The officer was suspended, arrested, interviewed and charged by the Anti-Corruption Unit. COPFS ruled that no criminal proceedings would be taken against that individual and they subsequently resigned from the force.

Current regulations for Police Scotland do not extend to people who have resigned prior to a misconduct hearing and/or ruling.

The current regulations also did not permit the family (interested parties) to be present at or involved in the Conduct proceedings. Therefore, at no time was the family able to have knowledge of the outcome that was reached regarding the remaining 12 officers.

The entire process caused additional and significant trauma on the family. They do not feel justice has been served regarding the officer who resigned. They were also extremely dissatisfied with the fact they (the interested party) were not entitled to information regarding the outcome of the misconduct investigation.

They strongly believe that the system needs to change regarding resignation of police officers who are going through misconduct proceedings and families/victims' access to information.

VSS links in closely with people affected by crime, and feedback on their experiences is integral to our consultation responses. Here is a summary of what they have told us about the Police complaints process.

'I think the PIRC reports should all be made public. And that Police Scotland's response to the PIRC reports should be made public. It shouldn't have to be whistleblowing members of the public who make those things public. They should be made public.'

'There should be a Code of Ethics and it should apply to Chief Constable and SPA jointly. The Chief Constable should be responsible. Having myself gone through a process of making a complaint with Police Scotland that had 11 points which weren't upheld, I feel like there should be a Code of Ethics as that would provide substance.'

'PIRC should have stronger powers to insist within the statutes of law that Police Scotland return responses within the time limit.'

'I can only go by my experience. There definitely should be an explicit duty of candour. They should cooperate fully with all investigations into allegations against its officers. I have found that the officers have not done that in my case.'

'I made complaints to the police and to PIRC to try to get information [about the investigation] but we were frequently getting told 'don't keep pestering us'.'

Northern Ireland model for Police complaints

Victim Support Scotland supports the proposal in Section 11 of the Bill, which enables the PIRC to conduct complaint handling reviews even without a request from the complainer or the appropriate authority, provided it is in the public interest. We believe this provision is useful for fostering key learning and preventing future mistakes.

As we noted in our consultation response, there are useful models of complaints review in the public sector whereby reviews of findings of complaints are also anonymously published where appropriate to do so, such as the approach of the Scottish Public Service Ombudsman.

There is also a working model of this power in policing in Northern Ireland held by the Police Ombudsman for Northern Ireland (PONI). Regarding the recommendations made by Lady Angiolini, we would highlight the recommendation to consider adopting a model similar to the Police Ombudsman for Northern Ireland (PONI) for Scotland. VSS is supportive of an independent complaints handler, as per the Northern Ireland model. This is due to the fact that PIRC simply reviews Police Scotland's complaints and the way they have handled them, and this causes confusion for victims. We would wish to emphasise the importance of involving the complainer in the review process whenever possible, considering it best practice.

Published responses to complaint reviews should fully respect the privacy and confidentiality of the complainer to ensure the public feels safe and comfortable making complaints to PIRC in the future.

We remain supportive of proposals in the Victims, Witness, and Justice Reform (Scotland) Bill to establish a Victims and Witnesses Commissioner, and would expect cooperation between PIRC and the Commissioner to fulfil their functions effectively.

Extension of time limit

In terms of the proposal to extend the time limit for officers who have left the force to 12 months, VSS is in support of this in principle but thinks the timeline may not be long enough and it should be extended so that officers who have left the force may be subject to conduct proceedings, related to their time on the force, at any time after they have left and the code of conduct including duty of candour should apply. The reason for this is that we are aware of victims who are involved in criminal investigations who have not become aware that the previous officers in their case acted wrongfully until some considerable time after they have left. This is particularly the case for long-running investigations that continue once officers have left the force.