

Police Complaints, Investigations and Misconduct: A Consultation on Legislation

Response from Scottish Women's Aid

Introduction

Scottish Women's Aid ("SWA") is the lead organisation in Scotland working towards the prevention of domestic abuse and plays a vital role in campaigning and lobbying for effective responses to domestic abuse. SWA is the umbrella organisation for 34 local Women's Aid organisations across Scotland; they provide practical and emotional support to women, children and young people who experience domestic abuse. The services offered by our members include crisis intervention, advocacy, counselling, outreach and follow-on support and temporary refuge accommodation.

We appreciate the opportunity to comment on this important issue. In their role as "first responders", and as the first contact with the criminal justice system women and children experiencing domestic abuse have, the necessity of Police Scotland's conduct, operational and professional being of the highest standard cannot be overstated. When officers fail in this, they fail women and children. A poor, inappropriate and/or careless professional response, to any degree and at any time, increases the likelihood that women will not report further abuse. Consequently, there must be a robust and transparent oversight, monitoring complaint and conduct assessment process, with criminal offending timeously referred to the COPFS.

In terms of the process, it may not be immediately obvious to the public that there is a "complaint process" and also a separate "conduct process", with different, distinct assessment and recording processes. It may also not be obvious that not every complaint allegation, or police officer subject to a complaint, will also be scrutinised under a separate conduct assessment. Therefore, we agree with Dame Elish Angiolini's statements made in page 282 of her Independent Review ¹ ("*the Angiolini Review Report*") that "(paragraph 18.1) ...it should be easy to complain, easy to get a response and easy to learn the lessons' para. 18.1) and (paragraph 18.4) that "... Police Scotland should simplify and streamline systems to make it as straightforward as possible for members of the public to navigate the rather opaque landscape and as easy as possible for them to access and understand information on how to make a complaint."

We have heard from our local Women's Aid network, and from women using their services, about women's experiences of making complaints which often results in frustration and dissatisfaction around the process and information provision on the progress. Women are reluctant to make a complaint about the police response to domestic abuse and/or failures to progress or adequately investigate the abuse, particularly stalking and harassment, while the investigation or prosecution process is ongoing. This is because they are concerned that doing so could impact on the outcome of the police investigation or influence police responses if they subsequently call the police again.

The process surrounding how Police Scotland deals with police officers, or civilian staff who have perpetrated gender-based abuse, particularly domestic abuse, (whether the partner is a police officer or employee or not) is another critical concern for SWA. We note the outcome of FOI IM-FOI-2022-0705 of 27 April 2022.²

Dame Elish's observations on page 10 of her Angiolini Review Report are therefore particularly relevant in relation to how Police Scotland must address this, namely

- "*Where the complaint against an officer is made by another officer or member of staff of Police Scotland the internal mechanisms for investigating and dealing with the complaint also need to move swiftly, proportionately and fairly. The complaint*

¹ <https://www.gov.scot/publications/independent-review-complaints-handling-investigations-misconduct-issues-relation-policing/pages/0/>

² <https://www.scotland.police.uk/spa-media/fndja0rr/22-0705-response.pdf>; <https://www.scotland.police.uk/access-to-information/freedom-of-information/disclosure-log/2022/april/22-0705-officer-staff-complaints-criminality-domestic-abuse-2021-td/>

must also be subject to prompt independent investigation when any inference of criminality is present.

- *How members of Police Scotland behave towards each other in their professional context has an important public interest dimension.*
- *The culture and behaviours of those in supervisory positions is particularly critical in setting the tone and character of the culture of the department or station in question.”*

Given the length and high number of questions in the consultation, we have not answered all the questions, nor have we provided extensive explanations of our answer choices.

Section 1: Rights and Ethics

1.1 Code of Ethics

(1) ‘Police Scotland’s Code of Ethics should be given a basis in statute. The Scottish Police Authority and the Chief Constable should have a duty jointly to prepare, consult widely on, and publish the Code of Ethics, and have a power to revise the Code when necessary’ (Recommendation 1, p. 455)

Questions:

A. Do you agree that there should be a statutory requirement for Police Scotland to have a Code of Ethics?

Yes/ No/ Don’t know

B. Please explain your answer using the free text box below.

C. Should it be possible to amend and/or update any statutory Code of Ethics when required?

Yes/ No/ Don’t know

D. If Police Scotland is required by law to have a Code of Ethics, who should be responsible for preparing that Code of Ethics? Please select all that apply.

Chief Constable of Police Scotland/Scottish Police Authority (SPA)

The Chief Constable and SPA jointly/Other (please specify)/Don’t know

E. If Police Scotland is required by law to have a Code of Ethics, should whoever is responsible for its preparation (as per question 1.1D above) be required to consult on it?

Yes/ No/ Don’t know

Please specify how the responsible party should consult.

A full and extensive public consultation,

F. If there were a requirement for a Code of Ethics to be consulted upon who should be consulted?

The Scottish Parliament, Scottish Human Rights Commission, the public, specifically engaging and people who have previously complained, victims of crime and, their support organisations must be undertaken. This would include specialist support organisations such as SWA and our local Women’s Aid groups in order to represent the experiences of women, children and young people experiencing domestic abuse.

G. If Police Scotland is required by law to have a Code of Ethics, should the body (or bodies) responsible for its preparation (as per question 1.1D above) be responsible for publishing that Code of Ethics?

Yes/ No/ Don't know

H. Do you have any further comments you wish to make in relation to a Code of Ethics?

1.2 Duties of candour and co-operation

(10) 'The Scottish Government should propose amendment of the Police and Fire Reform (Scotland) Act 2012 to the following effect: There should be an explicit duty of candour on the police to co-operate fully with all investigations into allegations against its officers' (Recommendation 10, p. 456)

(12) 'The Scottish Government should consult on a statutory duty of co-operation to be included in both sets, or any future combined set, of conduct regulations as follows: "Constables have a duty to assist during investigations, inquiries and formal proceedings, participating openly, promptly and professionally in line with the expectations of a police officer when identified as a witness"' (Recommendation 12, p. 456)

(PR15) 'Where a serious incident is being investigated by the PIRC, the investigators should also have a power, where it is necessary and proportionate, to compel police officers to attend within a reasonable timescale for interview.' (Preliminary Recommendation 15, p. 474 of final report)

Questions:

A. To what extent do you agree or disagree that there should be an explicit statutory duty of candour on the police to co-operate fully with all investigations into allegations against its officers?

Strongly agree/ Agree/Neither agree nor disagree/Disagree/Strongly disagree

B. If an explicit statutory duty of candour is to be placed on the police, should this be on the police as an organisation or on individual officers?

Police Scotland as an organisation/Individual officers

Both Police Scotland as an organisation and individual officers

Don't know

C. If an explicit statutory duty of candour is to be placed on the police (either as an organisation or on individual officers), should this relate specifically to incidents involving on duty officers only?

Yes/ **No/** Don't know

D. If an explicit statutory duty of candour is to be placed on individual police officers, should that duty only apply when an officer's status as a witness has been confirmed?

Yes/ **No /** Don't know

E. Should police officers have a statutory duty of co-operation to assist during investigations, inquiries and formal proceedings?

Yes/ No/ Don't know

F. If a statutory duty of co-operation should apply to police officers as per question 1.2E, should this also apply to former officers?

Yes/ No/ Don't know

- G. If a statutory duty of co-operation should apply to police officers as per question 1.2E, should this also apply to police staff (or former police staff)?

Yes, for both police staff and former police staff

Yes, for current police staff but not former police staff/ No / Don't know

- H. Do you think any of the following should be required if officers have a statutory duty to co-operate during investigations, inquiries and formal proceedings? Please select all options that apply.

Yes, officers should be required to participate openly

Yes, officers should be required to participate promptly

Other (please specify) / No / Don't know

- I. If a statutory duty of co-operation is to be placed on the police, should that duty relate specifically to incidents involving on duty officers only?

Yes/ **No/** Don't know

- J. Should the Police Investigations and Review Commissioner (PIRC) have a statutory power, where it is necessary and proportionate, to compel police officers to attend within a reasonable timescale for interview?

Yes/ No/ Don't know

- K. If the PIRC is to be provided with a power to compel police officers to attend within a reasonable timescale for interview, how should a reasonable timescale for interview be determined? Please select one option only.

PIRC to determine timescales/**Timescales to be set in legislation**

Other (please specify) / Don't know

- L. In light of questions 1.2A-1.2K above, should the Scottish Government consider possible amendments to the constable's declaration to reflect an obligation to assist with investigations, where appropriate?

Yes/ No / Don't know

- M. In light of questions 1.2A-1.2K above, should the Scottish Government consider possible amendments to the Standards of Professional Behaviour to reflect an obligation to assist with investigations, where appropriate?

Yes/ No/ Don't know

N. Do you have any further comments you wish to make in relation to statutory duties of candour and co-operation?

C- Supervising officers must be included also

D- An officer's status in an investigation may be important regardless as to whether they have "witness status" or not.

J- the definition of what constitutes "*necessary and proportionate*" circumstances and a "*reasonable timescale*" will be important in this process and must be consulted on, as referred to above

1.3 Whistleblowing

(20) 'The Police Investigations and Review Commissioner should be added to the list of prescribed persons in The Public Interest Disclosure (Prescribed Persons) Order 2014 in order that people working in Police Scotland and in the

Scottish Police Authority are able to raise their concerns with an independent third-party police oversight organisation' (Recommendation 20, p. 458)

Questions:

- A. Should people working in Police Scotland be able to raise their concerns about wrongdoing within that organisation (“whistleblowing concerns”) with an independent third-party police oversight organisation? Please select one option only.

Yes, with the PIRC/ Yes, with another body/ No / Don't know

- B. Should people working in the Scottish Police Authority be able to raise their concerns about wrong doing within that organisation (“whistleblowing concerns”) with an independent third-party police oversight organisation? Please select one option only.

Yes, with the PIRC/ Yes, with another body/ No /Don't know

- C. Should concerns raised about wrongdoing within policing in Scotland (“whistleblowing concerns”) be audited by an independent third-party police oversight organisation? Please select one option only.

Yes, with the PIRC/ Yes, with another body/ No /Don't know

- D. Do you have any further comments you wish to make in relation to an independent third-party police oversight organisation?

1.4 Legal aid in Article 2 cases

(74) 'In Article 2 cases, in order to facilitate their effective participation in the whole process, there should be access for the immediate family of the deceased to free, non-means tested legal advice, assistance and representation from the earliest point following the death and throughout the Fatal Accident Inquiry' (Recommendation 74, p. 468)

Questions:

- A. Should legal aid be available to all families of people who die in police custody or following police contact, regardless of their ability to pay?

Yes/ No/ Don't know

- B. Are there any other factors that you think should be taken into account when assessing applications for civil legal aid in Article 2 cases?

- C. Should there be an opportunity in Article 2 cases, where appropriate, for family and common interest groups to receive civil legal aid funding on a group basis?

Yes/No/Don't know

- D. Do you have any further comments you wish to make in relation to the provision of civil legal aid to families in Article 2 cases?

1.5 Death of a serving police officer (investigation)

Questions:

- A. Should the existing law be clarified regarding PIRC's powers to investigate an incident involving the death of a serving police officer?

Yes/ No/ Don't know

- B. Please explain your answer using the free text box below.

1.6 Definition of “person serving with the police” and “member of the public”

(8) ‘The Scottish Government should amend the relevant provisions of the Police, Public Order and Criminal Justice (Scotland) Act 2006 at the earliest opportunity to put beyond doubt the definition of a “person serving with the police”’ (Recommendation 8, p. 456)

Questions:

A. Should the term “person serving with the police” be more clearly defined?

Yes/ No/ Don’t know

B. Should the definition include clarity on PIRC powers to investigate the following people? Please select all options that apply.

Officers who have since retired from the service

Officers who have since resigned from the service

Officers who were off duty at the time of the incident (“act or omission”)

Other (please specify) _____

C. **Do you have any further comments you wish to make in relation to clarifying the definition of “person serving with the police”?**

This should cover officers employed by the police at the time of the incident regardless as to whether they were on or off duty.

D. Should the term “member of the public” be more clearly defined, to make clear who may make a relevant complaint?

Yes/ No/ Don’t know

E. If “member of the public” is to be defined, should any definition make clear that it includes a serving police officer who is off duty at the time of the incident? **Yes/** No/ Don’t know

F. Do you have any further comments in relation to defining a “member of the public”?

Section 2: Governance, Jurisdiction and Powers

1.7 PIRC governance

-(34) ‘The 2006 Act should be amended to re-designate PIRC as a Commission comprising one Police Investigations and Review Commissioner and two Deputy Commissioners, to create a statutory Board and to provide for the necessary appointment arrangements. Given the sensitivity of the office of the Commissioner, the role should be strengthened by the appointment of two Deputies with relevant legal expertise or other relevant experience who are not former senior police officers’ (Recommendation 34, p. 461)

-(35) ‘The Police Investigations and Review Commissioner should be appointed by Her Majesty The Queen on the nomination of the Scottish Parliament and should be made accountable to the Scottish Parliament through the Scottish Parliamentary Corporate Body and the committees of the Parliament, but not for criminal matters, for which the Commissioner is accountable to the Lord Advocate, and not for operational matters or decisions in which she acts independently. This in accordance with the 2009 opinion of the Council of Europe’s Commissioner for Human Rights that each Police Ombudsman or Police Complaints Commissioner should be appointed by and answerable to a legislative assembly or a committee of elected representatives that does not

Questions:

- A. Should PIRC should be re-designated as a Commission? Yes/No/Don't know
- B. If PIRC is re-designated as a Commission, do you agree that two Deputy Commissioners should be appointed? Yes/ No/ Don't know
- C. Please explain your answers using the free text box below.
- D. If Deputy Commissioners are to be appointed, should they be required to have any particular expertise? For example, should a Deputy be required to have legal knowledge? Please provide details using the free text box below.
- E. If Deputy Commissioners are to be appointed, should any categories of person be precluded from being appointable? For example, do you think former senior police officers should be able to apply? Please provide details using the free text box below.
- F. If Deputy Commissioners are to be appointed (as per question 2.1B), who in your view should be responsible for appointing them? Please provide details using the free text box below.
- G. Do you agree that a statutory Board should be created?
Yes/No/Don't know
- H. Please explain your answer using the free text box below.
- I. How do you think that the Police Investigations and Review Commissioner (PIRC) should be appointed? Please select one option only.
- Remain a Scottish Ministerial appointment
 - Or the appointment be made on nomination of the Scottish Parliament
 - Don't know
- J. Please explain your answer using the free text box below.
- K. Do you agree that PIRC should be appointed by Her Majesty the Queen?
Yes/No/Don't know
- L. Please explain your answer using the free text box below.
- M. Where do you think that accountability arrangements for PIRC should sit? Please select one option only.
Remain with the Scottish Ministers/Transfer to the Scottish Parliament/Don't know
- N. Please explain your answer using the free text box below.

1.8 Increased investigative and audit powers for PIRC

(13) ‘The Scottish Government should consider the case for giving the PIRC a specific legislative power that would enable staff to access the Centurion database from its own offices so that contemporaneous audit is possible. Providing a basis in law for accessing any information relevant to the PIRC’s statutory functions should ensure compatibility with GDPR and any other relevant data protection legislation’ (Recommendation 13, p. 457)

- A. Should PIRC be able to access the Police Scotland complaints and conduct database remotely?

Yes/ No/ Don't know

B. Please explain your answer using the free text box below.

We note that "...Both the preliminary and final Angiolini reports identify the importance of complaints being subject to regular monitoring through internal and meaningful audits as well as the critical role of external audit. Police Scotland maintains a complaints and conduct database, currently Centurion, in which both complaints against the police and conduct issues are recorded. Due to the current system retaining information on both conduct and complaints which cannot be separated, Police Scotland had data protection concerns about providing PIRC with remote access to the whole database." In allowing PIRC such access, sensitive details of victims and those making complaints and conduct issues must be dealt with, and stored, appropriately, subject to robust data protection compliance. This necessitates development of guidance or a Code of Practice and that process and ongoing implementation must be subject to ongoing Parliamentary and public scrutiny and consultation .

C. If PIRC is to have access to Police Scotland's complaints and conduct database, are there any safeguards or limits which should be put in place? Please provide details using the free text box below.

See answer above and this should include scrutiny by appropriate external regulators in relation to the information accessed.

D. Do you have any further comments you wish to make in relation to PIRC being given access to the complaints and conduct database?

See answer above and this should include scrutiny by appropriate external regulators in relation to the information accessed.

(37) 'The PIRC should be given a statutory power to call in an investigation of a complaint if there is sufficient evidence that Police Scotland has not dealt with a complaint properly, where the complainer provides compelling evidence of a failure on the part of Police Scotland and where the Commissioner assesses that it would be in the public interest to carry out an independent re-investigation' (Recommendation 37, p. 461)

E. Do you agree that the PIRC requires this additional power to call in an investigation of a complaint?

Yes/ No/ Don't know

F. Should the PIRC be able to investigate a complaint against Police Scotland in certain circumstances? Please select all options that apply.

- Yes, if there is sufficient evidence that Police Scotland has not dealt with a complaint properly
- Yes, if the complainer provides compelling evidence of a failure on the part of Police Scotland
- Yes, if the Commissioner assesses that it would be in the public interest to carry out an independent re-investigation

Yes, other (please specify) / No / Don't know

G. Do you have any further comments you wish to make in relation to the possibility of the PIRC being able to investigate complaints against Police Scotland?

(38) 'The PIRC should have an additional power, similar to the PONI's, to investigate a current practice or policy of Police Scotland if she believes that it would be in the public interest to do so; this power should be used to focus on broad themes or trends, or practices which might be of particular public concern' (Recommendation 38, p. 462)

H. Noting HMICS' role, should the PIRC be able to investigate a current practice of Police Scotland if the Commissioner believes it would be in the public interest?

Yes/ No /Don't know

I. Noting HMICS' role, should the PIRC be able to investigate a current policy of Police Scotland if the Commissioner believes it would be in the public interest?

Yes/ No/ Don't know

J. If the PIRC is to be given a new power enabling them to investigate current practices or policies of Police Scotland, should the power to investigate be restricted or limited in any way?

Yes/ No/ **Don't know**

K. Do you have any further comments in relation Questions 2.2A-H on increased investigative and audit powers for PIRC?

(PR22) 'The Commissioner, or potentially a Deputy Commissioner, should be vested with a statutory power to make recommendations in addition to the existing powers to direct reconsideration of complaints. The corollary to that is that there should be a statutory duty, subject to a public interest test, on the Chief Constable to comply with recommendations unless there are sound overriding operational or practical reasons for not complying with a PIRC recommendation and an obligation on PSD to report progress back to the PIRC. Those statutory arrangements should be supported by agreement between the PIRC and Police Scotland on how the PIRC will be kept advised of progress' (Preliminary Recommendation 22, final report pp. 475-6)

L. Should recommendations from the PIRC be put on a statutory footing similar to current reconsideration directions following a review and/or audit of police complaints handling?

Yes, following a review / Yes, following an audit

Yes, following both a review and an audit/ No/ Don't know

M. Following a complaint handling review or audit of complaint handling reviews, should Police Scotland or other policing bodies be required to act on those recommendations if it is in the public interest?

Yes, with no restrictions

Yes, unless there is an overriding operational or practical reason not to

Yes, except for another reason (please specify) _____

No/ **Don't know**

N. Should Police Scotland have to respond to recommendations made by the PIRC following a review of police complaints handling?

Yes/ No / Don't know

O. Should Police Scotland have to respond to recommendations made by the PIRC following an audit of police complaints handling?

Yes / No / Don't know

P. Do you have any further comments you wish to make in relation to the PIRC making recommendations following a complaint handling review or audit of police complaints handling; or in relation to Police Scotland or other policing bodies acting on any such recommendations?

The recommendation above mentions “a public interest test”. Noting that such a test would have to be clearly defined, it is not discussed in the questions above. Similar questions arise as to what would constitute “...sound overriding operational or practical reasons for not complying with a PIRC recommendation ...” as this requires a clear and transparent definition and explanation, again subject to ongoing Parliamentary and public scrutiny and consultation.

1.9 Cross-jurisdictional issues

(81) ‘The Scottish Government should agree with the UK Government and the Northern Ireland Executive how best to amend the primary legislation to give the PIRC the power, in clearly defined circumstances, to investigate the actions of officers from PSNI and English and Welsh police forces or services, and the other three reserved police forces, when they are undertaking a policing function in Scotland; and explore with the other administrations how reciprocal powers could be put in place for the IOPC and the PONI in respect of the actions of Police Scotland officers when they are operating in England, Wales or Northern Ireland’ (Recommendation 81, pp. 469-70)

A. If you have views to share in relation to cross-jurisdiction investigations, please outline them in the free text box below.

Section 3: Conduct and Standards

1.10 Misconduct and gross misconduct proceedings

-(52) ‘Police officer gross misconduct hearings should be held in public. The Chair should have discretion to restrict attendance as appropriate but the aim should be to ensure that as much of a hearing is held in public as possible’ (Recommendation 52, p. 464)

-(53) ‘In addition to the existing protections for witnesses, the Chair of the gross misconduct hearing should consider whether the evidence of any vulnerable witnesses should be heard in private and they should also be under an obligation to consider any other reasonable adjustments that they believe to be necessary to ensure the protection of such vulnerable witnesses. This may include the officer who is the subject of the proceedings’ (Recommendation 53, pp. 464-5)

-(58) ‘The outcome of gross misconduct proceedings should be made public. The Chair’s report, subject to any necessary redactions, should be published by the Scottish Police Authority on its website for a period of no less than 28 days’ (Recommendation 58, p. 465)

Questions:

A. Should police officer gross misconduct hearings be held in public?

Yes/ No / Don't know

B. Please explain your answer using the free text box below.

Subject to robust protection being in place to protect adult and children victims of gender based abuse, particularly domestic abuse and sexual offending where this is part of the misconduct.

C. If gross misconduct hearings are to be held in public, should these hearings be for officers of all ranks who are being investigated for gross misconduct, or senior officers only?

All ranks of officers / Senior officers only / Don't know

D. If gross misconduct hearings are to be heard in public, should the Chair of a hearing have discretion to restrict attendance as they see appropriate?

Yes / No / Don't know

E. If you answered "Yes" to question D, under which circumstances should attendance be restricted? Please provide details using the free text box below.

The sensitivity of the subject matter, must be considered; this is important where the gross misconduct occurred in relation to an investigation involving gender based abuse, particularly domestic abuse and sexual offending.

-The complainer should not be retraumatised by information about this becoming public, especially if she has already participated, or is participating, as a witness in separate criminal proceedings against a perpetrator and the Chair must consider the impact on the complainer of this information being rehearsed again in public. - - Vulnerability of witnesses including their physical and mental health; disability access; the need for provision of interpreters and translators; the involvement of any children and /or young person; the welfare of any other third party

F. To what extent do you agree or disagree that in addition to the existing protections for witnesses, the Chair of the gross misconduct hearing should consider whether the evidence of any vulnerable witnesses should be heard in private to ensure the protection of such vulnerable witnesses (this may include the officer who is the subject of the proceedings)?

Strongly agree/Agree/Neither agree nor disagree/Disagree/Strongly disagree

G. In addition to the existing protections for witnesses, to what extent do you agree or disagree that the Chair of the gross misconduct hearing should be obliged to consider any other reasonable adjustments that they believe to be necessary to ensure the protection of such vulnerable witnesses (this may include the officer who is the subject of the proceedings)?

Strongly agree/Agree/Neither agree nor disagree/Disagree/ Strongly disagree

H. If you agree the Chair of gross misconduct hearings should be obliged to consider other reasonable adjustments to ensure protection of vulnerable witnesses, what reasonable adjustments should be considered? Please provide details using the free text box below.

-The adult, child or young person complainer or witness giving evidence must **automatically** be allowed to use the equivalent of special measures available to victims and witnesses under the Vulnerable Witnesses (Scotland) Act 2004, particularly complainers where the matter under consideration involves a complaint

involving domestic abuse or sexual offending, as per the Victims and Witnesses (Scotland) Act 2014.

- Children and young people must have a support worker, parent or guardian present if they so choose.
- For adults, provision of a supporter of their choice, giving evidence behind a screen and/or giving evidence via CCTV. Good practice as suggested by Lady Dorrian's Review should be considered.
- Anonymity for the complainer and witnesses must be assured

I. To what extent do you agree or disagree the outcome of gross misconduct proceedings should be made public?

Strongly agree/Agree/Neither agree nor disagree/Disagree/Strongly disagree

J. If you do not agree that the outcome of gross misconduct hearings should be made public, is there more that Police Scotland (for non-senior officers) or the relevant body responsible in future for holding misconduct hearings for senior officers, can do within current practices to increase transparency around gross misconduct proceedings?

K. To what extent do you agree or disagree that an illustrative, publicly available list of matters likely to be considered by a gross misconduct hearing would be useful?

Strongly agree/ Agree/ Neither agree nor disagree/ Disagree/Strongly disagree

L. If a publicly available list of matters to be considered by a gross misconduct hearing were to be available who should be responsible for its publication?

M. If a publicly available list of matters to be considered by a gross misconduct hearing were to be available, should a finding of gross misconduct always result in dismissal, unless there are exceptional circumstances to justify an alternative sanction?

Yes/ No/ Don't know

N. If the outcome of gross misconduct proceedings is to be made public, should the Chair's report, subject to any necessary redactions, be published by the Scottish Police Authority on its website?

Yes/ No/ Don't know

O. If the Chair's report is to be published by the Scottish Police Authority on its website as per question 3.1N, what type of details, if any, should be redacted? Please provide details using the free text box below.

Clear, transparent guidance is needed as to what would constitute "exceptional circumstances" justifying an alternative sanction to dismissal. This must be subject to Parliamentary and public consultation and scrutiny. Any details that could identify the complainer or witnesses must be redacted, as should details of offences mentioned above that could similarly identify them.

P. If the outcome of gross misconduct hearings is to be published by the Scottish Police Authority on its website, how long should the report be available online?

- Made available online for at least 28 days
- Made available online for a different time period (please specify)

☐ **Don't know**

Q. Dame Elish highlighted a number of areas where amendments to the conduct regulations should be considered or regulations could be clarified. Do you agree that these further recommendations should be considered as policy is further developed?

Yes/ No / Don't know

R. If you have any further views to share in relation to changes to the regulations that should be considered as part of this work, please outline them in the text box below.

(27) 'Gross misconduct hearings for all ranks should have 1) an independent legally qualified chair appointed by the Lord President, 2) an independent lay member appointed by the Lord President and 3) a policing member. This means in senior officer cases the role of Chair should transfer from the SPA to the independent legally qualified person. The policing member in senior officer cases should be appointed by the Lord President; in all other cases the policing member should be appointed by the Chief Constable'
(Recommendation 27, p. 459)

S. From which category of person should the appointment of the Chair of any misconduct hearing which is considering allegations against senior officers be made? Please select one option only.

- ☐ An independent legally qualified person
- ☐ A member of the SPA
- ☐ HM Chief Inspector of Constabulary
- ☐ A senior expert in policing (other than HM Chief Inspector)
- ☐ An independent lay person
- ☐ An HR professional
- ☐ Other (please specify) _____

T. In addition to an appointed Chair (as per question 3.1S above), should any misconduct hearing which is considering allegations against senior officers include members made up of any of the following categories of person? Please select all options that apply.

- ☐ An independent legally qualified person
- ☐ A member of the SPA
- ☐ HM Chief Inspector of Constabulary
- ☐ A senior expert in policing (other than HM Chief Inspector)
- ☐ An independent lay person
- ☐ An HR professional
- ☐ Other (please specify) _____

U. Please explain your answers to questions 3.1S-3.1T using the free text box below.

V. From which category of person should the appointment of the Chair of any gross misconduct hearing which is considering allegations against an officer of the rank of Chief Superintendent be made? Please select one option only.

- An independent legally qualified person
- A member of the SPA
- A senior expert in policing
- An independent lay person
- An HR professional
- Other (please specify) _____

W. In addition to an appointed Chair, should any gross misconduct hearing which is considering allegations against an officer of the rank of Chief Superintendent include members made up of any of the following categories of person? Please select all options that apply.

- An independent legally qualified person
- A member of the SPA
- A senior expert in policing
- A senior officer from another police service
- A retired senior officer
- An independent lay person
- An HR professional
- Other (please specify) _____

X. Please explain your answers to questions 3.1V-W above using the free text box below.

Y. From which category of person should the appointment of the Chair of any gross misconduct hearing which is considering allegations against non-senior officers below the rank of Chief Superintendent be made? Please select one option only.

- An independent legally qualified person
- A member of the SPA
- A serving officer of the rank of superintendent or above who is at least two ranks higher than the subject officer
- An independent lay person
- An HR professional
- Other (please specify) _____

- **In addition to an appointed Chair (as per question 3.1Y above), should a gross misconduct hearing which is considering allegations against non-senior officers below the rank of Chief Superintendent include members made up of any of the following categories of person? Please select all options that apply.**

- An independent legally qualified person
- A member of the SPA
- A serving officer of the rank of superintendent or above who is at least two ranks higher than the subject officer
- An independent lay person
- An HR professional
- Other (please specify) _____

Z. Please explain your answers to questions 3.1Y-Z above using the free text box below.

AA. Do you agree that the Lord President should appoint the Chair of a misconduct hearing which is considering allegations against officers? Please select all options that apply.

- Yes, for senior officers
- Yes, for Chief Superintendents
- Yes, for non-senior officers below the rank of Chief Superintendent
- No, not for any police officer
- Don't know

BB. Do you agree that the Lord President should appoint the panel of a misconduct hearing which is considering allegations against officers? Please select all options that apply.

- Yes, for senior officers
- Yes, for Chief Superintendents
- Yes, for non-senior officers below the rank of Chief Superintendent
- No, not for any police officer
- Don't know

CC. Please explain your answers to questions 3.1BB and CC above using the free text box below.

DD. Do you have any further comments you wish to make in relation to questions regarding misconduct and gross misconduct proceedings?

1.11 Continuation of gross misconduct proceedings

(22) 'The Scottish Government should develop proposals for primary legislation that would allow, from the point of enactment, gross misconduct proceedings in respect of any police officer or former police officer to continue, or commence, after the individual ceases to hold the office of constable' (Recommendation 22, p. 458)

(23) 'In gross misconduct cases, for all ranks, the Police Investigations and Review Commissioner should determine if it is reasonable and proportionate to pursue disciplinary proceedings in relation to former police officers after the twelve month period, taking into account the seriousness of the alleged misconduct, the impact of the allegation on public confidence in the police, and the public interest' (Recommendation 23, pp. 458-9)

(24) 'The Scottish Government should engage with the UK Government with a view to adopting Police Barred and Advisory Lists, to learn from experience south of the border and to ensure compatibility and reciprocal arrangements across jurisdictions.' (Recommendation 24, p. 459)

Questions:

A. Should it be possible to continue, or begin, gross misconduct proceedings against former officers? Please select one option only.

- Yes, for all ranks of police officers

- Yes, but only for senior officers
- Yes, but only for rank of Chief Superintendent and above
- No, not for any police officer
- Don't Know

B. If it is to be possible to continue, or begin, gross misconduct proceedings against former officers, under what circumstances should this be done? Please provide details using the free text box below.

C. If it is possible to continue, or begin, gross misconduct proceedings after an officer has left the service, who should be responsible for making that decision (to continue or begin proceedings)? Please select all options that apply.

- Chief Constable
- The Police Investigations and Review Commissioner (PIRC)
- The Scottish Police Authority (SPA)
- Other (please specify) _____
- **Don't know**

D. Please explain your answer using the free text box below.

E. In deciding whether to continue with, or begin, gross misconduct proceedings after an officer has left the service, should the relevant authority be required to take into account the wishes of a complainer?

Yes / No / Don't know

F. Do you think any of the following changes to gross misconduct hearings would have altered how you answered the above questions (3.2A-E)? Please select all options that apply.

- Yes, if gross misconduct hearings were to be held in public
- Yes, if gross misconduct hearings were to be chaired by a legally qualified chair
- **No**
- Don't know

G. Please explain your answer using the free text box below.

In relation to Question E, the wishes of the complainer should certainly be taken into account when the complainer feels aggrieved that no action had previously been taken against an officer whilst in the service and wants action taken otherwise this will not be in the interests of justice. It should not be possible for officers to avoid action simply by resigning from the service or retiring.

H. Should it be possible for gross misconduct proceedings to be taken forward where allegations came to the attention of the relevant authority (as per question 3.2.C above) more than 12 months after the person ceased to be an officer, and the following conditions are met:

- a) the case is serious and exceptional,
- b) the case is likely to damage public confidence in policing, and
- c) the PIRC has determined disciplinary proceedings reasonable and proportionate?

Yes/ No/ Don't know

I. Please explain your answer to the question above.

Whilst supporting this proposal, care must be taken that the imposition of the three conditions above do not, in fact, create too high a threshold and simply present a barrier to taking these proceedings; “*Serious and “exceptional”* will require clear and transparent definition. The position of the complainer in any assessment of the “*likely damage to the complainer’s confidence in policing*” should be a consideration, not simply the “*public confidence*”, however, noting that in relation to “*public confidence*” gross misconduct and failings involving the investigation of gender-based abuse, the impact on women’s confidence in reporting, or otherwise, such abuse, must be given serious consideration.

J. If gross misconduct proceedings are to begin more than 12 months after a person ceased to be an officer, should these proceedings be for officers of all ranks? Please select one option only.

- **Yes, for all ranks of police officers**
- Yes, but only for senior officers
- Yes, but only for rank of Chief Superintendent and above
- No, not for any police officer
- Don’t Know

K. Should the Scottish Government work with the UK Government to adopt Barred and Advisory lists and other potential models?

- Yes, by using the Barred and Advisory Lists model
- Yes, by adopting other measures (please specify)
- No
- **Don’t know**

L. Do you have any further comments you wish to make in relation to continuation of gross misconduct proceedings?

1.12 Appeals against determinations of gross misconduct

(28) ‘There should be one route of appeal against a determination of a gross misconduct hearing or the disciplinary action to be taken and that should be to a Police Appeals Tribunal, as at present. This recommendation is subject to the Police Appeals Tribunals being transferred into the [Scottish Tribunals]’ (Recommendation 28, pp. 459-60)

Questions:

A. Do you agree that, given the transfer of the Police Appeals Tribunal to the Scottish Tribunals, senior officer conduct regulations should be revised to ensure that for all gross misconduct hearings where there has been a finding of gross misconduct, there should be only one route of appeal i.e. the Police Appeals Tribunal?

- Yes, for senior officer regulations
- No, the regulations should not be revised

B. Do you agree that the same route of appeal to the Police Appeals Tribunal should be included in regulations for findings of misconduct against senior officers or should the appeal process be managed by the independent legally chaired panel?

- Yes, to the Police Appeals Tribunal
- No, by the independent legally chaired panel

- Don't know

C. Please explain your answer using the free text box below.

1.13 Accelerated misconduct hearings

(51) 'Provision equivalent to that in England and Wales for accelerated misconduct hearings should be included in Scottish conduct regulations for all ranks of constable to deal with circumstances where the evidence is incontrovertible and where that evidence means that without further evidence it is possible to prove gross misconduct, or where the subject officer admits to their behaviour being gross misconduct' (Recommendation 51, p. 464)

Questions:

- A. Should accelerated gross misconduct hearings be able to take place when the evidence is incontrovertible and can prove gross misconduct without any additional evidence being needed?
Yes/ No Don't know
- B. Should accelerated gross misconduct hearings be able to take place to deal with circumstances where the subject officer admits to their behaviour being gross misconduct?
Yes / No Don't know
- C. If accelerated gross misconduct hearings are to be a possibility, in cases involving non-senior officers, who should decide what evidence is considered to be incontrovertible? Please select one option only.
- Police Scotland's Professional Standards Department
 - Assistant Chief Constable (ACC) responsible for conduct matters
 - Deputy Chief Constable (DCC) responsible for conduct matters
 - Chief Constable
 - Other (please specify) _____
 - Don't know
- D. If accelerated gross misconduct hearings are to be a possibility, in cases involving senior officers, who should decide what evidence is considered to be incontrovertible? Please select one option only.
- Chief Constable
 - The Police Investigations and Review Commissioner
 - The Scottish Police Authority
 - Other (please specify) _____
 - Don't know
- E. What type of evidence would you expect to be considered incontrovertible? Please provide details using the free text box below.
- F. If accelerated gross misconduct hearings are to be a possibility, in cases involving non-senior officers, who should decide if expedited proceedings would be appropriate in each circumstance? Please select one option only.
- Police Scotland's Professional Standards Department
 - ACC responsible for conduct matters
 - DCC responsible for conduct matters
 - Chief Constable
 - Other (please specify) _____

- Don't know
- G. If accelerated gross misconduct hearings are to be a possibility, in cases involving senior officers, who should decide if expedited proceedings would be appropriate in each circumstance? Please select one option only.
- Chief Constable
 - The PIRC
 - The SPA
 - Other (please specify) _____
 - Don't know
- H. Should an investigation into allegations take place in circumstances where evidence is deemed to be incontrovertible, but the subject officer does not admit to their behaviour being gross misconduct?
Yes/ No / Don't know
- I. Should the Scottish Ministers consider (either in legislation or guidance) applying indicative timescales to the investigation of misconduct allegations?
Yes/ No / Don't know
- J. Where an officer is convicted of a criminal offence which would constitute gross misconduct, should the Charing Panel or Charing Constable be able to move to dismiss that officer immediately, without separate misconduct proceedings?
Yes/ No / Don't know

1.14 Senior officer misconduct cases

-(25) 'The statutory preliminary assessment function should be transferred from the SPA to the PIRC in order to enhance independent scrutiny of allegations, remove any perception of familiarity, avoid any duplication of functions or associated delay, and give greater clarity around the process. The preliminary assessment should be carried out by the Commissioner or a Deputy Commissioner' (Recommendation 25, p. 459)

-(39) 'The PIRC should take on responsibility for the key stages of the senior officer misconduct proceedings (both misconduct and gross misconduct) i.e. the functions of receipt of complaints/allegations, preliminary assessment, referral to COPFS of criminal allegations and, where appropriate, referral to an independent legally chaired panel' (Recommendation 39, p. 462)

(PR19) 'Any process for preliminary assessment of senior officer misconduct should require the relevant authority both to take into account whether the allegation is made anonymously, is specific in time and location, or whether it appears, on the face of the allegation, to be either vexatious or malicious. Scottish Government should consider amending the conduct regulations to reflect this process' (Preliminary Recommendation 19, pp. 474-5 of the final report)

-(40) 'The PIRC should be given a new statutory function and power to present a case at a senior officer gross misconduct hearing where the case would be

determined by a three-person panel comprising an independent legally qualified chair, a lay person and an expert in senior policing'
(Recommendation 40, p. 462)

Questions:

A. To what extent do you agree or disagree that the preliminary assessment of misconduct allegations made against senior police officers should be carried out by the PIRC?

Strongly agree/Agree/Neither agree nor disagree/ Disagree/ Strongly disagree

B. If the PIRC is to carry out the preliminary assessment of misconduct allegations made against senior police officers, should the preliminary assessment of an allegation or complaint be decided on by the Commissioner or their Deputy?

Yes/ No/ Don't know

C. Should the PIRC take on responsibility for key aspects of misconduct and gross misconduct proceedings for senior officers? Please select all options that apply.

- ☐ **Yes, for receipt of complaints and allegations, where appropriate, referral to**
- ☐ **an independent legally chaired panel.**
- ☐ **Yes, for preliminary assessment**
- ☐ **Yes, for referral to COPFS of criminal allegations**
- ☐ **Yes, for referral to an independent legally chaired panel where appropriate if**
- ☐ **there is a disciplinary hearing subsequent to referral to COPFS**
- ☐ **No**
- ☐ **Don't know**

D. When the relevant body is deciding whether an investigation into an allegation against a senior officer or non-senior officer should be carried out, should that body take into consideration whether an allegation is made anonymously? Please select one option only.

- ☐ **Yes, for senior officers only**
- ☐ **Yes, for non-senior officers only**
- ☐ **Yes, for both senior officers and non-senior officers**
- ☐ **No, not for any police officers**
- ☐ **Don't know**

E. When the relevant body is deciding whether an investigation into an allegation against a senior officer or non-senior officer should be carried out, should that body take into consideration whether an allegation is sufficiently specific in time and location? Please select one option only.

- ☐ **Yes, for senior officers only**
- ☐ **Yes, for non-senior officers only**
- ☐ **Yes, for both senior officers and non-senior officers**
- ☐ **No, not for any police officers**
- ☐ **Don't know**

F. When the relevant body is deciding whether an investigation into an allegation against a senior officer or non-senior officer should be

undertaken, should that body take into consideration whether an allegation is malicious? Please select one option only.

- ☐ Yes, for senior officers only
- ☐ Yes, for non-senior officers only
- ☐ Yes, for both senior officers and non-senior officers
- ☒ No, not for any police officers
- ☐ Don't know

G. When the relevant body is deciding whether an investigation into an allegation against a senior officer or non-senior officer should be undertaken, should that body take into consideration whether an allegation is vexatious? Please select one option only.

- ☐ Yes, for senior officers
- ☐ Yes, for non-senior officers
- ☒ No, not for any police officers
- ☐ Don't know

H. Please explain how, in your view, it can be ensured that genuine complaints are not misrepresented as "vexatious" or "malicious".

We note that in the Police Scotland SOP "Unacceptable, Persistent or Unreasonable Actions by Complainers" <https://www.scotland.police.uk/spa-media/oslldmae/unacceptable-actions-by-complainers-sop.pdf>

paragraphs 4.3 to 4.4.4 refer to "Unreasonable Demands" and "Unreasonable Persistence."

This paper is now five years old and in the spirit of "trauma-based practice" in the criminal justice response to victims and witnesses and this review of police complaints procedure requires, it requires revisiting and this done via a public consultation.

Great care must be exercised before rushing to label a complainer vexatious or malicious because they repeatedly complain against a particular officer or officers or because they are persistent in the pursuit of their complaint.

I. Do you agree that the PIRC should be able to present a case at a senior officer gross misconduct hearing?

Yes/ No / Don't know

J. Do you agree that the independent legally chaired panel should have the capacity to hold a preliminary hearing to identify any evidence that is not in dispute and can be agreed, as well as any other matters that can be resolved ahead of the formal hearing?

Yes/ No / Don't know

K. Do you have any further comments you wish to make in relation to senior officer misconduct cases?

(41) 'The PIRC should have the power to recommend suspension of a senior officer if she or he believes that not suspending the officer may prejudice an effective misconduct investigation. The PIRC should provide supporting reasons when they make such a recommendation to the SPA that a senior officer should be suspended' (Recommendation

L. Should the PIRC have the ability to recommend the suspension of a senior officer?

Yes/ No/ Don't know

M. If the PIRC is to be able to recommend the suspension of a senior officer, to what extent do you agree or disagree that suspension should only be recommended in circumstances when not suspending the officer may prejudice an effective misconduct investigation?

Strongly agree/ Agree/ Neither agree nor disagree/ Disagree/ Strongly disagree

N. Please explain your answer using the free text box below.

O. If the PIRC is to be able to recommend the suspension of a senior officer, should the PIRC be required to provide supporting reasons when they make such a recommendation to the SPA?

Yes/ No / Don't know

1.15 Vexatious complainers

(PR13) 'The Scottish Government should consider the case for amending the legislation to include a provision to deal with vexatious complainers' (Preliminary Recommendation 13, p. 473 of final report)

Questions:

A. Given the work that is already underway to align processes and policies on vexatious complainers across policing bodies, should the Scottish Government also consider amending legislation to deal with vexatious complainers?

Yes/ **No**/ Don't know

B. What safeguards should be put in place in relation to vexatious complainers to ensure anyone complaining to policing bodies in Scotland is treated appropriately and fairly? **Please provide details using the free text box below.**

We note that the consultation paper states, on page 66, "The Angiolini report recommends that the Scottish Government should consider the strengthening of the legislation to deal with vexatious or malicious complainers. The report recommended that in order to deal effectively with vexatious or malicious complaints, there should be a policy in place to ensure consistency in handling allegations and to prevent reputational damage as a result of false allegations. Equally, the system needs to remain open to members of the public with genuine complaints, even where they have previously been deemed to behave in a vexatious manner regarding other issues." It is not clear, however, why this legislation requires to be strengthened as there is no suggestion that there has been an increase in vexatious or malicious complainers and that this is a particularly egregious issue.

The consultation goes on to say, that "Since publication of the preliminary report, Police Scotland, PIRC and the SPA have been working collaboratively to align their processes and policies for dealing with vexatious and malicious complaints. A revised [SPA Complaints Policy](#) and [Unacceptable, Persistent or Unreasonable Actions by Complainers Policy](#) was [approved for publication](#) at its Complaints and Conduct Committee in August 2021."

Great care must be exercised before rushing to label a complainer vexatious or malicious because they repeatedly complain against a particular officer or officers or because they are persistent in the pursuit of their complaint

Any work to “align” processes and policies on vexatious complainers across policing bodies cannot be undertaken without public consultation and the input of those who have had negative and unsatisfactory experiences of making complaints against the police. It is unacceptable that such policies should be revised without any such input; consequently, these documents cannot be published until such public scrutiny and comment on their content has been undertaken. Given the development of “trauma-based practice” in the criminal justice response to victims and witnesses and this review of police complaints procedure, this done via a public consultation.

1.16 Additional statutory provisions relating to conduct

(54) ‘The 2012 Act should be amended to confer on Scottish Ministers a power to issue statutory guidance in respect of conduct and a duty to consult on any such guidance, and confer a duty on policing bodies to have regard to any such guidance. Scottish Ministers should use that power at the earliest opportunity to issue guidance in respect of a new Reflective Practice Review Process. That guidance should build on the spirit of existing Scottish guidance and take into account any valuable elements of English and Welsh best practice’ (Recommendation 54, p. 465)

Questions:

A. Should the Scottish Ministers be able to issue statutory guidance in respect of conduct?

Yes/ No/ Don’t know

B. If the Scottish Ministers are to be able to issue statutory guidance, should they be required to consult on any such guidance?

Yes/ No / Don’t know

C. If the Scottish Ministers are to be able to issue statutory guidance, then should a duty to have regard to any such guidance be placed on policing bodies?

Yes/ No/ Don’t know

D. If the Scottish Ministers are to be able to issue statutory guidance, then should any such guidance be used to bring forward guidance in respect of a new Reflective Practice Review Process?

Yes/ No / Don’t know

E. If statutory guidance on conduct is to be prepared, should the Scottish Ministers consider using this to make clear where matters relate to conduct and where they do not (i.e. where they may relate to performance or grievance matters instead)?

Yes/ No / Don’t know

F. Do you have any further comments you wish to make in relation to the issuing of statutory guidance

G. To what extent do you agree or disagree that regulations governing police conduct in Scotland should be reviewed in order that consideration can be given to bringing them into line with Acas' latest code of practice on disciplinary and grievance procedures?
Strongly agree/Agree/Neither agree nor disagree/Disagree/Strongly disagree

(55) 'Subject to safeguards needed to protect the rights of each individual officer, the regulations should make provision for the possibility of joint misconduct proceedings to deal with any number of officers, including senior officers' (Recommendation 55, p. 465)

H. Should it be possible for joint misconduct proceedings to be held to deal with any number or rank of officers?

Yes/ No / Don't know

I. If joint misconduct proceedings are to be possible when appropriate as per question 3.7H, what should be taken into account in making the decision to hold joint proceedings? Please provide details using the free text box below.

J. If joint misconduct proceedings are to be possible when appropriate, what safeguards should be put in place to protect the rights of each individual officer? Please provide details using the free text box below.

K. If joint misconduct proceedings are to be possible when appropriate, who should make the decision as to whether joint proceedings are appropriate in each circumstance? Please select one option only.

- ☐ Police Scotland's Professional Standards Division
- ☐ Assistant Chief Constable responsible for conduct matters
- ☐ Deputy Chief Constable responsible for conduct matters
- ☐ Chief Constable
- ☐ Other (please specify) _____
- ☐ Don't know

L. Do you think any of the following changes to gross misconduct hearings would have altered how you answered the above questions (3.7H-3.7K)?

- ☐ Yes, if gross misconduct hearings were to be held in public for senior officers only
- ☐ Yes, if gross misconduct hearings for senior officers were to be chaired by a legally qualified chair
- ☐ No
- ☐ Don't know

M. Please explain your answer using the free text box below.

(56) 'The regulations governing probation (the Police Service of Scotland Regulations 2013) should be amended so that a fair and speedy consideration of any allegation of misconduct can be dealt with during the probation period' (Recommendation 56, p. 465)

N. Given that the speed of an investigation and its perceived fairness and rigour can be considered to trade off against one another, to what extent

do you agree or disagree that any allegation of misconduct should be dealt with more speedily during an officer's probation period?

Strongly agree/ Agree/ Neither agree nor disagree/ Disagree/ Strongly disagree

O. If allegations of misconduct are to be dealt with during an officer's probation period, how should these be dealt with? Please select one option only.

- ☒ **Through the conduct regulations which all other officers are subject to when allegations of misconduct are made**
- ☐ Through the regulations which govern probation
- ☐ Other (please specify) _____
- ☐ Don't know

P. Would your answer to either N or O be different if timescales relating to the investigation stages of misconduct allegations were set out in legislation to say how quickly an investigation should be conducted (as discussed at question 3.4I)?

Yes/ No / **Don't know**

Q. Please explain your answer using the free text box below.

(57) 'A statutory suspension condition in England and Wales that temporary redeployment to alternative duties or an alternative location should have been considered as an alternative to suspension should be replicated in Scottish regulations in relation to all ranks of constable. Provision should also be made for regular

R. Should there be a condition which must be met before an officer is suspended? Please select all options that apply.

Yes, that temporary redeployment to alternative duties has been considered

Yes, that a temporary alternative location to operate from has been considered

Yes, other (please specify) _____

No

Don't know

S. If a condition must be met before it is recommended that an officer is suspended, which officers should this relate to?

All ranks of officers/ Senior officers only/ Don't know

T. Should all suspended officers have the terms of their suspensions reviewed regularly? Please select one option only.

- ☐ Yes, suspension should be reviewed every 4 weeks
- ☐ Yes, suspension should be reviewed on another time frame (please specify)
- ☐ No
- ☐ Don't know

1.17 Special constables conduct regulations

'[...] a revision of the Police Service of Scotland (Special Constables) Regulations 2013 in respect of special constable misconduct to align them with The Police Service of Scotland (Conduct) Regulations 2014. The intention would be to ensure consistency in assessment and investigation of

Questions:

A. Do you agree that conduct regulations for special constables should be revised to bring them in line with those for regular police officers?

Yes/ No / Don't know

B. Do you have any further comments you wish to make in relation to changes to conduct regulations for special constables?

C.

Section 4: Liability for unlawful conduct

1.18 Clarifying the liability for unlawful conduct, in relation to the Chief Constable

Questions:

A. Should liability for unlawful conduct, provided to all other constables when carrying out their functions, be extended to cover the rank of Chief Constable?

Yes/ No/ Don't know

B. Please explain your answer using the free text box below.