

A guide for the police and
staff on the role of the Police
Investigations & Review
Commissioner

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Police Investigations &
Review Commissioner

| independent and effective investigations and reviews



Who is the Police Investigations & Review Commissioner?

The post of the Police Investigations & Review Commissioner (PIRC) is a Ministerial appointment first established in 2007 by the **Police, Public Order and Criminal Justice (Scotland) Act 2006** ('the Act') and amended by the **Police and Fire Reform (Scotland) Act 2012**.

What is the Commissioner's role?

Under the Act the Police Investigations & Review Commissioner:

- undertakes independent investigations into the most serious incidents involving the police as defined in the Act.
- undertakes complaint handling reviews of the way the police have handled complaints from the public and provides independent scrutiny of the arrangements police bodies operating in Scotland have in place to respond to complaints from the public.

Is PIRC independent of the police?

The PIRC is an independent organisation. It is a condition of the Commissioner's appointment that they must not be, or have been, a member of specific police bodies. Schedule 4 of the Act as amended lists the limitations on appointment of the Commissioner.

Further details can be found at:

www.legislation.gov.uk/asp/2006/10/schedule/4

Why do we need a Police Investigations & Review Commissioner?

Scotland has a single police service and therefore where an independent investigation is required, the Crown can direct the PIRC, as an independent body, to undertake and report on its behalf. Similarly, the Chief Constable or the Scottish Police Authority can ask the PIRC to investigate. It is also essential for maintaining public confidence in the police that there is an independent body which examines the way in which the police deal with complaints.

INVESTIGATIONS

The Police and Fire Reform (Scotland) Act 2012 extended the remit of the Police Complaints Commissioner for Scotland (PCCS) from its complaint review function to include independent investigations into the most serious incidents involving the police.

The Police Service of Scotland (Senior Officers) Conduct Regulations 2013 (“the Regulations”) allow for a member of the PIRC’s staff to carry out investigations in respect of conduct matters relating to senior officers (Assistant Chief Constable and higher ranks). Where the conduct is considered to be gross misconduct the regulations require the PIRC to investigate. The Regulations do not include a provision for the PIRC to investigate conduct matters relating to ranks below Assistant Chief Constable.

What powers do the PIRC investigators have?

Investigators in the PIRC have the powers of a constable, but only while they are carrying out investigations on behalf of the Commissioner. They are not subject to police regulations. This means that they can administer cautions, arrest/detain, search, apply for warrants and make requirements under terms of the Road Traffic legislation.


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What type of investigation does the Commissioner undertake?

The Commissioner may undertake investigations in the following circumstances:

1.	Allegations of a criminal nature (as directed by the Crown Office and Procurator Fiscal Service).
2.	Death in police custody (under direction of the Crown Office and Procurator Fiscal Service).
3.	Death following police contact (at the request of the Chief Constable or Scottish Police Authority).
4.	Police use of firearms and other weapons as specified in regulations (at the request of the Chief Constable or Scottish Police Authority).
5.	Serious injury in police custody or following police contact (at the request of the Chief Constable or Scottish Police Authority).
6.	Complaints made against senior officers (at the request of the Scottish Police Authority).
7.	Relevant police matters where the Commissioner considers it would be in the public interest to do so.



How will the PIRC become aware of a death which falls within the category it will investigate?

The Procurator Fiscal will determine the requirement for the PIRC to investigate certain categories of death. The Procurator Fiscal will notify the PIRC and direct the investigation.

The Senior Investigator (SI) will be expected to liaise with the PIRC at the earliest opportunity to allow the PIRC to deploy or give direction about scene management.

When the PIRC investigators arrive at the scene of an incident which they are investigating, who is in control of the scene?

In the case of a death or alleged criminal act the senior PIRC investigator is under the direct instruction of the Procurator Fiscal.

The senior PIRC investigator will liaise closely with the senior police officer at the scene and it is anticipated that there will always be a spirit of mutual co-operation.

There may be cases where a dual investigation and crime scene management is undertaken, for example at the scene of a robbery where the police have used firearms and there has been a fatality. The CID will be carrying out a criminal investigation into the robbery and PIRC will be investigating the circumstances of the death.

What are investigations involving “death or serious injury following police contact”?

All sudden, suspicious, and unexplained deaths are reported to the Procurator Fiscal who will investigate the circumstances of the death. In certain circumstances the Procurator Fiscal may ask the PIRC to carry out an investigation into the case. Where the death has been explained, enquiries rule out suspicious circumstances and no Fatal Accident Inquiry is necessary the Procurator Fiscal has no further involvement.

There is a requirement in the regulations on the PIRC to investigate serious incidents (referred to it by the Chief Constable or Scottish Police Authority) where a person who has had direct or indirect contact with the police has died. There must be an indication that the contact may have caused or contributed to the death.

Otherwise the decision about whether or not to investigate a serious incident or a matter which is in the public interest will be for the PIRC. The regulations allow the PIRC to decline to investigate and where an incident has been referred by the Chief Constable or the Authority, to make recommendations about how the police service or the Authority might proceed with the case.

If I am to be interviewed by the PIRC, what should I do?

If investigators want to interview you it will normally be because you are a witness to an incident that the PIRC is investigating. If this is not the case and you are a suspect in an investigation, the PIRC will make this clear to you and you will have the same rights as any other suspect. In these circumstances you may wish to consult your staff association for advice and support.

The PIRC's investigators will never conduct a misconduct interview with a person under the rank of Assistant Chief Constable as the PIRC has no power to do so.

REVIEWS

What kind of complaints does the Commissioner review?

The Commissioner looks at the way in which the police handle complaints about themselves. This includes complaints about police officers, whether on or off duty, as well as complaints about members of staff. The Commissioner can also look at complaints about the quality of service given by the police.

After the police body involved has concluded its investigation into a complaint from the public, if the person who made the complaint remains dissatisfied they can then ask the Commissioner to review the way their complaint was handled. The person who made the complaint **must** request a review within three months of the date on which the police body communicated its response to the complaint. If the request is not made within this timescale, the Commissioner may be unable to accept the case.

If the PIRC agrees to conduct a Complaint Handling Review, the Commissioner reviews the evidence and forms a view on whether the complaint was dealt with to a reasonable standard.

Who can make a complaint about me?

Any member of the public who is:

- the person in relation to whom the alleged failing occurred
- any other person who claims to be adversely affected by the alleged failing
- any person who claims to have witnessed the alleged failing

or

- any person acting on behalf of those listed above.

What constitutes a complaint?

A complaint about the police is defined as a statement (whether oral, written or electronic) expressing dissatisfaction about an act or omission by the Scottish Police Authority, Police Scotland or by a person who, at the time of the act or omission, was a person serving with the police.

Are there any complaints that the Commissioner cannot review?

The Commissioner cannot review complaints that include allegations of criminal behaviour by police officers or staff. These complaints are dealt with by the Crown Office and Procurator Fiscal Service (COPFS).

The Commissioner also cannot deal with complaints by persons serving with the police about the terms and conditions of their service.

What kind of penalties or sanctions can the Commissioner impose in relation to his review of complaints from the public?

The PIRC has no punitive functions.

The Commissioner can make recommendations to police organisations, irrespective of the findings of his review.

In some cases the Commissioner may decide to issue a reconsideration direction. This means that the Commissioner has concluded that the complaint must be looked at in full and that someone who has had no previous involvement with the complaint will be appointed to carry out the reconsideration.

In certain circumstances, the Commissioner may decide that the reconsideration should be supervised by the PIRC.

Where a complainer brings a criminal allegation to the attention of the PIRC, and the COPFS has not already dealt with it, PIRC will refer the allegation to COPFS.

What power does the Commissioner have to deal with unjustified complaints?

Where the Commissioner considers that a complaint is, for example, vexatious or wholly lacking in foundation, the Commissioner may decide not to carry out a review.

Relevant police bodies

Police Scotland
PO Box 21184, Alloa FK10 9DE
Tel: 101
www.scotland.police.uk

Scottish Police Authority
1 Pacific Quay, Glasgow G51 1DZ
Tel: 0141 585 8300
www.spa.police.uk


UK police bodies operating in Scotland

British Transport Police
90 Cowcaddens Road, Glasgow G4 0LU
Tel: 0800 405040
www.btp.police.uk

British Transport Police Authority
The Forum, 5th Floor North
74-80 Camden St, London NW1 0EG
Tel: 020 7383 0259
www.btpa.police.uk

Civil Nuclear Constabulary
Culham Science Centre
Abingdon, Oxfordshire OX14 3DB
Tel: 01235 466606
www.cnc.police.uk

Civil Nuclear Police Authority
H280 Hinton House, Birchwood Park Avenue
Risley, Warrington WA3 6GR
Tel: 01925 833300
www.cnpa.police.uk



HM Revenue & Customs
www.hmrc.gov.uk/dealingwith/complain.htm

Ministry of Defence Police
Wethersfield, Braintree, Essex CM7 4AZ
Tel: 01371 854000
www.mod.police.uk

The National Crime Agency
Units 1-6 Citadel Place, Tinworth Street
London SE11 5EF
Tel: 0370 496 7622
www.nationalcrimeagency.gov.uk/

In addition, the Commissioner may review complaints from the public and undertake investigations of any serious incidents involving an immigration officer, general customs officials, customs revenue official or other relevant individual acting in the exercise of specified enforcement functions in Scotland.

The Home Office
2 Marsham Street
London
SW1P 4DF
Tel: 020 7035 4848
www.gov.uk/government/organisations/home-office



Accessibility

We may be able to provide materials in other formats, please contact us if you wish to discuss your requirements.

This leaflet is intended as a guide and does not cover every detail. It sets out in broad terms how the Commissioner fulfils the investigations and complaint review responsibilities under the Act and should not be regarded as a comprehensive statement of practice, procedure or of the law.

This leaflet is also available on the PIRC website:
www.pirc.scotland.gov.uk. The website contains more detailed information on the role of the Police Investigations & Review Commissioner.

Freephone: 0808 178 5577

Tel: 01698 542900

Email: enquiries@pirc.gsi.gov.uk

Web: www.pirc.scotland.gov.uk

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