



Scottish Police Federation

PO Box 27163, Glasgow, G3 9EZ

**Joint Central Committee
Conduct Subject Committee**

Ref: CS/DK/MF

MINUTES

6 April 2021

1. Attendance and Opening

North Area Committee
North Area Committee
North Area Committee

Nick Clasper
Andrew Horne
David Threadgold

East Area Committee
East Area Committee
East Area Committee
East Area Committee
East Area Committee

Alan Hastings
Andy Malcolm
Craig Menzies
David Reid
Graham Ross

West Area Committee
West Area Committee
West Area Committee
West Area Committee
West Area Committee
West Area Committee
West Area Committee
West Area Committee
West Area Committee

David Carmichael
Gordon Cumming
Stuart Finnie
Lynne Gray
Michael McCaughey
Jennie MacFarlane
Pamela McFarlane
Emma Louise Smith
Christopher Thomson

Deputy General Secretary
Assistant to the General Secretary (Conduct)

David Kennedy (meeting Chair)
Amanda Givan

Administrator
Business Manager

Megan Finnie
Doug Keil

Due to the COVID-19 situation the meeting was carried out via Video Conferencing.

The meeting Chair opened the meeting and thanked everyone for their attendance.

Apologies were received from Lorna Cunningham, Euan Sinclair, Pat Nicoll, and Michele Ritchie. Alan Hastings attended as a substitute.

2. Minutes of Previous Meeting

The Minute of the previous meeting held on 12 January 2021 had been circulated with JCC Circular 5 of 21 and was noted.

3. Criminal Cases

The AGSC reported that she had uploaded a document containing statistics to the 'files' on Teams. Since the last meeting there had been 21 applications for legal advice and assistance relating to criminal allegations. Of those cases, two had resulted in the member being interviewed by the Police but the matter being concluded without any further criminal proceedings. The remaining cases remain under investigation or an SPR has been submitted by COFPS.

She reported that lockdown had caused a backlog in the courts with all decision making, consideration of proceedings, intermediate and trial diets and adjournments all taking longer. She asked members to make sure that subject officers were aware of these delays.

Chris Thomson raised a question in relation to the increase of data protection offences, the ASGC stated that technology used within Police Scotland and working from home were contributing factors in these offences.

Area Leads reported as per the table below:

CRIMINAL CASES			
TYPE NEW	NORTH	EAST	WEST
Legal Applications	1	7	13
Total Criminal Cases	22	18	98
Criminal On Duty	3	6	9
Criminal Off Duty	0	2	8
Criminal Closed	3	32	82

4. Conduct

The ASGC reported that despite the considerable difficulties that the Covid restrictions bring to conduct investigations, the Conduct Unit have continued to assess and investigate misconduct and gross misconduct matters as usual. Due to the same restrictions, representatives were encouraged to utilise Teams to notes statements etc. to avoid unnecessary travel and comply with social distancing. She said we have had only one misconduct meeting since our last meeting. This was an East case where Andy Malcolm represented the member. A satisfactory outcome had been achieved.

She reported that there were several meetings and hearings scheduled to proceed over the next weeks and months. She encouraged all representatives to start the preparation as early as possible. She emphasised the benefits of representatives insisting that the subject officer give them a full account covering the allegations. This would allow proper representation to be given in relation to interviews and written responses. In addition,

subject officers should be discouraged from preparing submissions on the police pnn network.

Area Leads reported as per the table below:

CONDUCT CASES			
TYPE NEW	NORTH	EAST	WEST
On Duty - New Cases Gross	1	1	0
On duty - New Cases Misconduct	2	0	2
Off Duty - New Cases Gross	1	1	2
Off duty - New Cases Misconduct	1	0	2
Total Conduct Cases	8	9	25
Gross On Duty	3	5	6
Misconduct On Duty	2	2	2
Gross Off Duty	2	2	5
Misconduct Off Duty	1	0	12
Gross Closed	0	4	1
Misconduct Closed	2	9	6
Gross Misconduct Hearings held	0	0	0
Misconduct Meetings held	0	1	0
Numbers of Suspensions	7	7	15

David Threadgold provided a brief update for the North Area. He explained circumstances where a representative could have been placed in an awkward situation in relation to commitments to future actions on a specific case. The Deputy General Secretary noted that in these situations the SPF could not be committed to any actions that were contrary to the rules of the reputation of the SPF.

Andy Malcolm provided an update for the East Area and reported a reduction in conduct cases and added that there was a number of successful Regulation 12 interviews due to engagement with PSD. He informed the Committee that there was to be a conduct meeting at the end month in Paisley and advised of a change in portfolio in the East where Graham Ross would take on new cases from June.

The Committee discussed Regulation 12 interviews and highlighted their concerns. The AGSC explained that these interviews were relatively unknown and occurred where the subject officer wished to undergo an interview with PSD or where PSD insisted it take place. They should only be used in gross misconduct cases and members of the committee were advised to ensure the necessity of the interview.

Chris Thomson said he believed that increased numbers of complaints were being referred to the Procurator Fiscal and wondered whether this was satisfactory. The AGSC explained that all allegations of criminality, regardless of sufficiency of evidence, must go to the Procurator Fiscal. She said that 'no pro' decisions had been down to a six month timescale but recently these had been taking longer. The Deputy General Secretary said that this matter, amongst others, were being reviewed meantime. This review included the use of expert police witnesses from OSD and Road Policing. He said these experts were being permitted to give evidence against members but were not being allowed to give evidence in support of members.

The ASGC reported on the West Area figures in Lorna Cunningham's absence. She reported that the West was by some way the busiest area due to its size and officer numbers and highlighted a large number of upcoming cases and hearings.

Members expressed concerns about the length of time cases were taking to complete and the impact this had on individual officers' promotion and transfers. The Deputy General Secretary said he was aware of senior officers being promoted whilst under investigation and felt this matter required attention.

The Deputy General Secretary asked Committee members if they were satisfied that all subject officers were being appropriately dealt with by the SPF and he received an affirmative response.

5. Complaints Against the Police

The AGSC reported that, with effect from 1st May 2021 the frontline resolution and investigation of complaints will be entirely brought in house for PSD to handle. This will see an increase in around 25 posts to PSD but will have the advantage that once those complaints currently being dealt with by local policing divisions are concluded they will all be dealt with by PSD. This was as a result of Recommendation 9 in the Dame Elish Angiolini report, 'Independent Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing. The 25 new posts which comprise inspectors, sergeants and constables would all be attending a week long induction course which was to cover all aspects of the work of PSD (recommendation 6).

The AGSC said she had put a copy off that report on Teams. The Committee discussed various aspects of the report.

The Committee noted that whilst complaints were significantly reduced, issues including irregular procedures, incivility, use of force, disclosure of information and inappropriate associations featured heavily on the list.

6. Performance

The ASGC reported that she had not been made aware of any performance matters since the last meeting.

She reported that the only Police Scotland figures she was able to access confirmed that during the period 1 April 2020 – 31 December 2020, 20 preliminary misconduct assessments were referred back to their divisions for consideration under the Performance Regulations. That was 20 assessments out of the 281 carried out during that period.

Area Leads reported as per the table below:

PERFORMANCE CASES			
TYPE NEW	NORTH	EAST	WEST
New applications	0	0	0
Total Performance Cases	1	0	0
Performance Closed	0	0	0

The Deputy General Secretary highlighted that Conduct Regulations were used far too often when Performance Regulations should have been used instead.

The Committee felt that training, both for PSOS officers and SPF representatives should be provided as a matter of some urgency. They felt this was not a particularly onerous training requirement as the regulations were relatively simple.

7. Post Incident Procedures (PIP)

The ASGC reported that there has been no Post Incident Procedures carried out since the last meeting. In addition, she was not aware of any incident where PIP should have been carried out.

She reported she was looking at the awareness training that would be of benefit for everyone to have and hoped that by the next meeting she would be able to advise when those on the Conduct Committee would be trained.

The Deputy General Secretary highlighted the need for SPF Representatives and PSOS officers to be trained on PIP. He said there were deep concerns about future protests in and around COP26 which was to be held in November 2021 but incidents could occur sometime before that. He hoped appropriate training would begin soon.

8. Police Investigations and Review Commissioner (PIRC)

The AGSC reported that PIRC was publishing significantly reduced information on their website. She was currently discussing this with Police Scotland.

She reported that PIRC was obtaining statements from serving officers by teleconference during COVID 19. This allows anyone nervous or requiring additional support to still have someone from the SPF present by dialing in. Clearly the advice the SPF would be giving was to be wary in respect of agreeing what was read out over the phone without seeing it so they should be requesting that a copy is emailed to them to read and agree.

9. Review of Complaints Handling, Investigations & Misconduct

The ASGC reported that the report was published on the 11th November 2020 and circulated in JCC Circular 68/2020. She has added the report to the files section of the new Teams page where members of the Committee can access.

10. Training

THE AGSC reported that training would restart when lockdown eased. She was to prioritize training on regulations and additional support for representatives dealing with conduct cases, meetings and hearings.

11. Conference 2021

The ASGC reported that since the last meeting, and the announcement that the SPF would be having an online conference to meet our legislative responsibilities, she had been asked to prepare a Conduct input.

She reported that due to a lack of notice, she had not been able to explore the agreed topic and had to change it to Conduct versus Performance. She had arranged inputs from Victor Marshall OBE, a performance expert, Chief Superintendent McDowall from PSD and Professor Peter Watson on the legal aspects.

The Deputy General Sectary added that the Chief Constable had approved days to be used for a traditional conference later in the year.

12. Competent Business

The AGSC said that Chris Thomson and Jennie McFarlane had completed their trials of the tablets and given their feedback. They were now trialling laptops to see if this was a better solution for dealing with conduct related business.

Sheku Bayoh

The ASGC provided an update on preparation for Public Inquiry.

13. Closure

Date of next meeting: **13 July 2021**

The Chair thanked everyone for their contributions and closed the meeting.