

Procedure for reporting on investigations

Purpose

To set out procedures that the Police Investigation and Review Commissioner (PIRC) will follow when reporting on non-criminal matters. These procedures do not apply to reports submitted to the Crown Office and Procurator Fiscal Service (COPFS) or to reports resulting from investigations into allegations of misconduct by a senior officer¹.

Legislative basis

As required by section 41E of the Police, Public Order and Criminal Justice (Scotland) Act 2006 as amended by the Police and Fire Reform (Scotland) Act 2012, the Commissioner must prepare a report of:

- investigations of serious incidents involving the police that the Police Scotland (PS) or the Scottish Police Authority (SPA) have requested the Commissioner to investigate, and
- investigations of matters relating to the PS or SPA that the Commissioner has decided to carry out in the public interest.

Legislation requires the PIRC to provide a copy of the report to the person (if any) who requested the investigation and to the SPA. In addition, it enables the PIRC to provide a copy to any other person the Commissioner considers appropriate and to publish the report in such a manner as the Commissioner considers appropriate.

Apart from identifying the SPA or PS, a report must not:

- mention the name of any person or
- contain any particulars which, in the Commissioner's opinion, are likely to identify any person and can be omitted without impairing the effectiveness of the report, unless the Commissioner determines that it is necessary to do so (having taken into account the public interest).

Feedback on findings

The purpose of any PIRC investigation is to assess the appropriateness of actions taken by the PS or SPA at an organisational and/or individual level. Should significant areas for improvement emerge during the course of an investigation, it is incumbent on PIRC to provide an early indication of this to the relevant organisation to afford it the opportunity to take remedial action.

This is particularly vital if the investigation identifies:

- systemic weaknesses in procedures or the application of procedures that could have a negative impact on the delivery of policing in Scotland
- or*
- behaviours of individual members of staff that may present a risk to the organisation and which the PSS or SPA may consider require the suspension of the officer or a variation in duties

Should such serious issues emerge, the PIRC will arrange to provide verbal feedback to the relevant organisation.

It is not within the scope of the investigation report to comment on actions the relevant organisation proposes to take to address issues identified.

¹ The Police Service of Scotland (Senior Officers) (Misconduct) Regulations 2013.

Decision to publish: report format

There is a presumption that the Commissioner will publish the report unless in exceptional circumstances. Published reports must meet the needs of varying audiences including any injured parties, the general public (including the media) and those organisations subject to investigation. PIRC will meet these needs by preparing:

- A report for publication summarising the findings of its investigations, including recommendations
- A more detailed technical record of its investigation findings to assist the organisation subject to investigation to address fully any identified areas for improvement

Freedom of Information exemptions are likely to apply to any requests for access to the record of investigation findings (see relevant section below).

Published report

Reports published on the website will normally be no longer than one to two pages and consist of:

- summary of the background to the investigation
- summary of findings
- recommendations

In some instances, due to the complexity of the investigation, a longer report may be required. In such cases, the website will publish a paragraph summarising the key points of the investigation and will embed the longer report at the end of this summary.

Record of investigation findings

The PIRC will provide a copy of its record of investigation findings (RIF) to the organisation subject to investigation. The RIF will include: consist of:

- A description of the legislative basis for the investigation.
- A detailed chronology of events
- Technical details of the investigation's findings

Decision not to publish: report format

Should the Commissioner determine not publish a report, the report provided to the PS or SPS should be as concise as possible and consist of:

- A description of the legislative basis for the investigation
- Summary of background to the investigation
- A detailed chronology
- Technical details of findings
- Recommendations

Freedom of information requests

Requests for unpublished reports or for RIFS will be considered by PIRC's Freedom of Information Officer who will consider whether relevant legislative exemptions to providing this information in whole or in redacted form apply².

²

Freedom of Information Act Section 34 – Investigations By Scottish Public Authorities, and Section 35 – Law Enforcement

Pre-publication procedure

Prior to publication, the PIRC will forward a restricted draft copy of the report and the RIF to the Chief Constable and Chair of the SPA, as appropriate. This affords the PIRC an opportunity to check that there are no factual inaccuracies in the reports. The PIRC will not accept challenges to his assessment and conclusions unless such conclusions are based on inaccurate evidence. The PIRC will normally allow the organisation(s) five working days in which to respond but may extend this to 10 working days if the report is particularly complex.

The PIRC will, where appropriate, arrange to provide verbal feedback to victims or relatives on the outcome of the investigation.

Scottish Government and HMICS

Two days prior to finalising a report (whether to be published or unpublished) the PIRC will forward an embargoed copy of the final report to Police Division, Scottish Government and to HMICS.

The PIRC will issue a media statement simultaneous to the publishing a report. Where there is an identified victim or victim's family, the PIRC will provide them with a verbal summary of the findings prior to issuing the media statement. Where relevant and appropriate, it will provide them with an embargoed copy of the report.

Version control

Prior to publication of the report, PIRC will destroy all draft copies both of the report and the RIF.

Document security

All draft reports sent to other bodies or individuals should be in a secured PDF format clearly marked with the name of the recipient body.

Reports on COPFS-directed investigations and on misconduct investigations

Following submission of a report to COPFS or the Scottish Police Authority (SPA), the update the PIRC website will be updated to reflect the fact of submission.