

Response ID ANON-THU2-ARJU-N

Submitted to Police (Ethics, Conduct and Scrutiny) (Scotland) Bill - Call for views
Submitted on 2023-12-04 14:51:44

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3 What is your name?

Name:
kevin chase

4 What is your email address?

Email:
kevin.chase@scsn.org.uk

5 Are you responding as an individual or on behalf of an organisation?

Organisation

About your organisation

6 Name of organisation

Please use this textbox to provide your answer:
Scottish Community Safety Network

7 Information about your organisation

Please use this textbox to provide your answer:

Scottish Community Safety Network brings together representatives from across the community safety sector to achieve a shared vision of safer, healthier and happier communities. We are the strategic voice for community safety in Scotland.

Section 2: Code of ethics

8 What are your views on the proposals to establish a statutory Code of Ethics for Police Scotland, the requirement for police officers to have regard to the Code, and the procedures for producing the Code?

Please use this textbox to provide your answer:

At the Scottish Community Safety Network we support a statutory Code of Ethics for Police Scotland with the critical point that it is reviewed every 5 years to ensure that it is consistent with the changes in communities. The Code of Ethics should be created by Police Scotland without favour and be free of any political interference.

Section 3: Duty of candour

9 What are your views on the proposal to introduce a duty of candour for constables as set out in section 3?

Please use this textbox to provide your answer:

We support the duty of candour with some reservations. We support the principle for the duty of candour and evidence the current Fatal Accident Inquiry in relation to the Sheku Bayoh investigation with the effect this is having on the family of Sheku. The reservations we have with the duty of candour would be to ensure that the duty of candour remains within the scope of the law to protect the legal rights of witnesses and the subject officer.

Section 4: Liability of the Scottish Police Authority for unlawful conduct of the Chief Constable

10 Do you have any views on the proposal for the SPA to be liable for the unlawful conduct on the part of the Chief Constable in the carrying out of their functions?

Please use this textbox to provide your answer:

We support the proposal for the SPA to be liable for the unlawful conduct for the Chief Constable this would provide checks and balances for the Chief Constable role.

Section 5: Misconduct procedures: functions of the Police Investigations and Review Commissioner

11 What are your views on the proposal to broaden the functions of the PIRC to include any aspect of the regulatory disciplinary procedures, not just misconduct investigations?

Please use this textbox to provide your answer:

We are generally supportive of the broadening of the functions of the PIRC with some reservations. We support the proposal for an independent body to investigate complaints against the police however would like to see more information with regards to the auditing of the PIRC and how their findings are assessed and the weight of evidence that leads them to their conclusions. We also believe that their needs to be clear boundaries drawn between the PIRC and HMIC(S) which the proposed legislation does not address.

Section 6: Procedures for misconduct: former constables

12 What are your views on the proposals to continue disciplinary procedures for gross misconduct, should an officer retire or resign?

Please use this textbox to provide your answer:

Scottish Community Safety Network are supportive of the disciplinary procedures to continue however would like to understand what this would mean in practice. There would be no requirement for the subject officer to attend a gross misconduct trial and with the proposal for members of the public to attend gross misconduct cases, there needs to be suitable safeguards in place for the subject officer. Our other for the disciplinary procedures to continue is what would the sanctions be if any complaint is upheld. We do support the procedures to continue as we understand that this would provide closure for the families concerned.

13 Do you have any views on the proposed time period after which no steps, or only certain steps in the misconduct procedures would be applied unless additional criteria were met?

Please use this textbox to provide your answer:

We support the proposal as it is commensurate with a suitable balance in place for what would be appropriate in terms of investigations after the subject officer has retired / resigned. We have considered the impact of a significant event whereby police have been the subject of a subsequent investigation several years later, for example the Hillsborough enquiry and the allegations of collusion within the South Yorkshire Police. We would like to see in exceptional similar circumstances and clearly in the public interest that a gross misconduct allegation not to be subject of a time bar especially as the criminal threshold test may not have been met.

Section 7: Scottish police advisory list and Scottish police barred list

14 What are your views on the proposals to establish Scottish police barred and advisory lists and the criteria for the inclusion of an officer to either list?

Please use this textbox to provide your answer:

Scottish Community Safety Network are fully supportive of this approach to close any potential loophole that exists.

Section 8: Procedures for misconduct: senior officers

15 What are your views on the proposal to have an independent panel determine misconduct cases against senior officers?

Please use this textbox to provide your answer:

We are broadly in favour of this proposal as it will provide transparency for the process for senior officers. We could not find a definition for "senior officer" within the associated papers and this would need further clarity. A "senior officer" may not just be by a rank, it may be the "senior officer" on duty at the time of the incident which could be a Sergeant or Inspector therefore clarity around this definition will be required.

Section 9: Investigations into possible offences by persons serving with the police

16 What are your views on the proposals to clarify the PIRC's investigatory powers in relation to criminal conduct and incidents involving deaths of serving police officers, as set out in section 9?

Please use this textbox to provide your answer:

We support the approach of the PIRC investigating alleged criminal conduct by new, current, or former police serving individuals. This would provide an independent investigative body to submit all available evidence to the Procurator Fiscal. There are former serving police officers within Scottish Community Safety Network who understand that all allegations of criminal conduct against current police officers are reported to the Procurator Fiscal who would make a judgement based on an evidential threshold whether to proceed with the case. We note that the PIRC would be directed by the Procurator Fiscal / Lord Advocate therefore maintaining the independence chain from Police Scotland.

Section 10: Investigations of complaints made by persons serving with the police

17 What are your views on the proposals to clearly define who can make a “relevant complaint” to the PIRC and in what circumstances?

Please use this textbox to provide your answer:

We understand the need for this approach to support police officers / police staff to make complaints against others who they believe are failing in their duty and the Code of Ethics and are generally supportive. There are a couple of points that have not been addressed within this proposal which need clarity. By raising a complaint would this mean that any “whistleblowing” service would be disbanded? Or is this to enhance the options available for any member of police staff? Would this new approach mean any possible differences between team members be no longer the remit of an internal solution if the matter has been referred to the PIRC?

There is a need to define who can make a “relevant complaint” and this point is supported.

Section 11: Complaint handling reviews

18 What are your views on the proposals to enable the PIRC to carry out complaint handling reviews of its own volition and make recommendations in relation to complaints in a review report?

Please use this textbox to provide your answer:

We are supportive of this approach especially with the caveat of “if it was in the public interest to do so”. There will need to be clear guidelines and boundaries to ensure that this threshold is met to prevent numerous requests being received by Police Scotland from the PIRC.

Section 12: Call-in of relevant complaints

19 What are your views on the proposal to give the PIRC a statutory power to take over investigation of complaints being dealt with by the Chief Constable or the SPA under the circumstances set out in section 12?

Please use this textbox to provide your answer:

We understand the need for transparency in relation to the investigation of misconduct by the subject officer and welcome the proposal. We are also pleased to see that the powers of the PIRC have now expanded in terms of their ability / powers. Previously the PIRC could only investigate the quality of the misconduct investigation by the Police Scotland Investigating Officer. The ability to seek further information or call in the complaint is welcome. There also needs to be a recognition for the following two points. Firstly, in terms of the PIRC requests, what is the threshold level for their requests? Secondly, from experience, there are members of the community who habitually complain about the police. What procedures will the PIRC have to ensure their requests are commensurate?

Section 13: Review of investigation of whistleblowing complaints

20 What are your views on the proposals for the PIRC to audit and have oversight of the SPA and Chief Constable’s arrangements for handling whistleblowing complaints and to report and make recommendations on the arrangements?

Please use this textbox to provide your answer:

We fully support this approach. There is a need to have an independent body to be able to assess the whistleblowing arrangements. With an independent body handling the auditing and reviewing it should also provide a level of comfort to those individuals that use this form of service.

Section 14: Investigations involving constables from outwith Scotland

21 What are your views on the proposals to allow the PIRC to investigate serious incidents, potential criminal offending and some deaths involving English, Welsh and Northern Irish constables who are carrying out policing functions in Scotland?

Please use this textbox to provide your answer:

We are supportive of this proposal but note that this does not include police officers who may serve within other jurisdictions, for example the British Transport Police and the Civil Nuclear Constabulary. We would also request that the respective Police Trade Unions for the rest of the UK are made aware of this proposal if it becomes a legislative power.

Section 15: Review of, and recommendations about, practices and policies of the police

22 What are your views on the proposals for the PIRC to review and make recommendations on the practices and policies of Police Scotland or the SPA, either in relation to a specific complaint or more generally?

Please use this textbox to provide your answer:

We have some reservations in respect of this new power for the PIRC. The nature of policing and enforcement of legislation creates sections of the community who are deeply affected by the actions of those entrusted to impose these powers. The difficulty with recommendations by the PIRC to Police Scotland is that these are taken in isolation of the dynamics of the incident under review and the PIRC have very little policing experience to understand the thought process behind the policy. Any recommendation made by the PIRC needs to be fully explained and the subject of an assessment to see whether the proposal will work in practice.

We note that the Chief Constable can decline the recommendation with an explanation however any recommendation by the PIRC also needs to be fully explained, evidenced and have an understanding of what the wider impact of the recommendation is likely to be.

Section 16: Provision of information to the Commissioner

23 What are your views on the proposal to allow the PIRC to have remote access to Police Scotland's complaints management database?

Please use this textbox to provide your answer:

We support this proposal for the PIRC to have remote access to Centurion with the caveat of appropriate security measures and limited access to the database. There will be extremely sensitive investigations undertaken by Police Scotland that should not be available for the PIRC until any investigation has concluded or if the Procurator Fiscal has asked for the PIRC to be involved in such investigations.

Section 17: Advisory board to the Commissioner

24 What are your views on the proposal to establish a statutory advisory board for the PIRC?

Please use this textbox to provide your answer:

We fully support the appointment of this Board and would also ask for consideration to extend their powers to carry out an audit of individual investigations. This would then provide further accountability of the PIRC.

Recommendations made by Lady Elish Angiolini

25 What are your views on the implementation of these recommendations?

Please use this textbox to provide your answer:

The progress of the recommendations is commendable. Out of the 72 recommendations 58 are now complete with 12 being progressed. There is no doubt that Police Scotland have made efforts to make their complaint handling more transparent and with the proposals under this legislation this will be supported with more powers for an independent body to monitor complaint progress. This will provide the person making the complaint with confidence that their concerns are being taken seriously.

26 Are there provisions which are not in the Bill which you think should be?

Please use this textbox to provide your answer:

The only provision we have identified is to strengthen the powers of the statutory advisory board for the PIRC. Another function should include the ability to review a PIRC investigation by an independent board to ensure that the investigation meets ethical and legal requirements enshrined in Scottish legislation.

27 Do you have any additional comments on the Bill?

Please use this textbox to provide your answer:

In addition to these new powers, there are some concerns with regards to the capacity of the PIRC to be able to deliver on the proposals. The Financial Memorandum suggests that the financial impact of the proposed legislation is approximately £500,000. With all the new powers and ability to investigate current investigations, we believe that this is a significant underestimate. The proposed financial impact proposed would be the equivalent of 16 new members of staff. We do not believe that this would be an accurate cost to the PIRC.