



Independent review of complaints handling, investigations and misconduct issues in relation to policing

Further evidence and recommendations from the Scottish Women's Rights Centre

In March 2019, the Scottish Women's Rights Centre (SWRC) submitted a response to the call for evidence on Police Complaints Handling, Investigations and Misconduct Issues. Since then, the SWRC have continued to provide support to survivors of Gender Based Violence (GBV) to submit complaints to Police Scotland and to the Police Investigations and Review Commissioner (PIRC). In our view, the points that we raised and submitted in March 2019 are still relevant. However, in the intervening time additional aspects of the process have been brought to our attention and we have sought further feedback from women who have engaged with the complaints process.

The SWRC has extensive experience supporting women survivors of GBV to undertake the police complaints process, this submission is informed directly by the feedback of women we are currently working with. Both our advocacy and legal services work in conjunction with survivors to progress complaints where there are concerns around responses to reports. This is an area in which we are seeing increasing calls for representation on and which is regularly presented at SWRC helplines and surgeries. We believe that a robust complaints process is a key aspect of the Justice System in Scotland and welcome the opportunity to submit further evidence.

COMPLAINTS PROCESS

SWRC supports the recommendations made in the 2019 report in relation to structural changes across the complaints process. We would like to draw attention to particular areas where we have received direct feedback from survivors engaging in this process.

Accessibility

The basic process for submitting a complaint is detailed on Police Scotland's website. In our response from March 2019, we note that this process is fairly straightforward; however, our more recent experiences suggest this is not as clear as it could be, with little information available about how to make serious conduct complaints, or criminal complaints about Police officers. Further to this, guidance about what would be considered a serious complaint or criminal matter is largely absent from the literature. Resultantly, the process in relation to the above is not always experienced as straightforward, especially when complainers are also dealing with trauma. One survivor commented that:

“Without help from SWRC I would have been lost in and overwhelmed by the process. In fact, I wouldn't have dared to challenge Authority, especially in an already terrorised state. I was already trying to process and heal from serious psychological, sexual and physical abuse, along with false accusations and [I was] still being stalked. It's not easy making [a] complaint when so overwhelmed.”

In order to request information about the complaints process in a different language or format, women are required to contact 101. This limits accessibility for members of the public who may not wish to speak to Police Scotland before progressing with a complaint and who may struggle to engage with the information available online. It may present a further barrier to reporting for communities who already experience difficulties when interacting with Police Scotland.

We regularly speak with survivors who do not feel able to complain to Police Scotland. There can be a variety of reasons for this, including:

- The ongoing nature of their involvement with Police Scotland
- Receiving poor responses to previous complaints
- Concerns that submitting complaints before a case has been heard in court could unduly influence the outcome
- Complexity around cases involving dual and malicious reporting
- Distress at complaining to a state body that they may rely on in further matters
- Lack of trust that the complaints process will address the systemic issues they have faced.

Recommendations

- Further work is required to ensure the complaints system is clear and accessible, particularly for serious misconduct and criminal complaints against Police Scotland officers. Clear pathways, timescales and milestones would improve the access to the complaints process.
- Having alternative information formats readily available on the website would make this process more accessible.

- The complaints process should clearly explain where to access independent support to submit a complaint. Police Scotland should provide signage to relevant support and legal services.
- Concrete reassurance that complaints will not impact the handing of cases is required to make this process accessible.

Heads of complaints – The process of formalising the complaint

The content of a complaint is often drawn out through the Heads of Complaints Process. In relation to the process for capturing heads of complaints, survivors of GBV in contact with the SWRC have expressed dissatisfaction at how this is undertaken. Several women we have supported commented that they feel their complaints have not been recorded accurately when providing further information to Police, that they encountered disbelief or misinterpretation (from officers) and a downplaying of behaviours.

Victims/survivors gave the following examples of how this process has impacted them (we are sharing these experiences with their consent):

1. Survivor A felt overwhelmed when a police officer attended her home, uninvited, to complete the Heads of Complaints form. Survivor A had specifically requested for correspondence and discussion to go through her advocacy worker at the SWRC and for her to have access to support at meetings. She was alone at home when the officer attended without prior notice. She felt this was poor practice and exacerbated her feelings of confusion, anxiety and disempowerment. She felt that her words were misinterpreted during the meeting and that this changed the course of the investigation into her complaint. Given that part of her complaint focused on inappropriate behaviour by another serving police officer, she felt that this course of action caused her further anxiety and trauma.
2. Survivor B received a phone call to discuss her complaint after its initial submission. When she requested a face-to-face meeting to discuss the heads of complaint, with support from an advocacy worker, she felt that the officer who had called was dismissive and rude, and she felt he opposed her having support to complete this stage. Survivor B felt pressured into resolving the complex complaint she had submitted quickly and informally, and this, in turn, impacted on how she felt her complaint was recorded and handled.
3. Survivor C explained that the Heads of Complaint Process was not undertaken at all despite having submitted a long and complex complaint. Instead, she received a final police response without having been further consulted.

The differences in how these processes are applied regionally and on a case-by-case basis indicates that the complaints process is not uniform. Members of the public should expect a process that is followed routinely and have support to undertake the process should they wish it.

Recommendations

- Officers taking Heads of Complaints should receive training as recommended in the 2019 report, this should also include trauma-informed practice to ensure complaint handlers are alert to the barriers complainers may experience. Training should provide clarity on the process for taking complaints and the accuracy required to ensure that the complaint reflects the full scope of concerns raised and the impact on both the complainer and the criminal investigation.
- A uniform process for making and progressing complaints is required, and complainers should be given advance notice as well as the option to invite a support person or advocacy worker.
- The potential positive outcomes to the police service in terms of accountability and promoting best practice should be embedded in the complaints process.

COMPLAINTS OUTCOMES

Timescales

In our experience of supporting victims/survivors with Police and PIRC complaints, there have been significant delays. A woman we are currently working with has waited over a year for a response to her complaint to Police Scotland, with limited progress being made only after she contacted a senior officer herself. The delay has caused her additional anxiety and distress, and she has yet to receive the final outcome of her complaint. It is our experience that PIRC do attempt to keep complainers up to date on delays, and when they do, the delays are attributed to workloads and the demands of the service.

In recent months, impact on service provision due to Covid-19 has been given as a reason for delay. For one woman that the SWRC currently supports, a PIRC complaint resulted in several points to be referred to Police Scotland for redress. Police Scotland had 2 months to respond to the points and then return to her. Six months later an update was received from PIRC advising that this had been delayed due to Covid-19. The woman felt this was inappropriate as the response was a month overdue before Covid-19 lockdown measures had begun. Despite being involved in the complaints processes since early 2018, she has not yet had resolution. The SWRC understand the pressure that PIRC complaint handlers are under; nevertheless, this does point to an issue in resourcing the handling of complaints and can leave complainers feeling that their issues are not important. Unpredictable communication can undermine trust in the process and, importantly, a

trauma-informed response ensuring complainers are kept fully informed of progress would help to ensure trust is kept.

Recommendations

- Adequate resourcing for progressing complaints is required to maintain confidence in the process. Clear timescales and communication should be established on submission of a complaint.
- Officers investigating complaints about the police should be required to undertake specialist training in relation to GBV (such as that undertaken by Senior Investigating Officers), to ensure they can accurately assess whether the original processes and procedures were as prescribed by internal and multi-agency guidance and protocols.
- PIRC complaint handlers should receive training on providing trauma-informed responses to complaints.

Accountability

When making a complaint to Police Scotland, survivors advise that they do not always feel that the response is robust or fair and they question the ability of Police Scotland to be objective and unbiased. SWRC is aware of concerns over the internal nature of the complaints handling: that it is police investigating themselves during the initial stages and that there is a lack of clarity as to who they should complain to about different issues. This is evident in feedback received from survivors whose complaints about initial investigations and case handling involve a serving or retired Police officer, or a person with close connections to Police Scotland. Survivors find it difficult to trust that the process will be fair and dealt with impartially. One woman the SWRC is working with commented that she felt that PIRC was much better at handling the issues in her complaint as they were a separate organisation, but that the information received from Police Scotland was incomplete and different to the information she had received in her initial complaint. This impacted what PIRC was able to decide in relation to the complaint and she felt that the transparency of the process was diminished significantly.

Many survivors have commented that their motivation to complain is to ensure that the same experiences do not happen to others. However, in our experience, and as highlighted in the 2019 initial report, when Police Scotland and PIRC address complaints, they do not always respond to the underlying issues in overall practice and policy, instead they focus on the individual issues that may be highlighted. This can mean that survivors do not feel the complaints have been meaningfully examined, that the point of the complaint has been missed and the potential for positive change is lost. One woman who submitted a complex complaint commented that by the end “*the investigations have felt like pointless paper exercise...*”. She

did not feel that she had received any justice throughout her experiences which had lasted several years and change in overall policy had still not occurred.

As the SWRC already highlighted in March 2019, the complaints process appears set up to deal with individual complaints rather than appropriately identify, track and target systemic issues. The 2019 report makes reference to improving the audit and collation of complaints, as well as thorough examination of thematic issues, which we support. Having this information gathered, examined and published on a regular basis would allow complainers to feel that there is further accountability in how their complaints are handled. This would ensure that policy and overall policing issues are identified, which would potentially lead to development and resolution of these issues.

Recommendation

- The mechanism in place to ensure that complaints have meaningful impact on policy and practice where they relate to systemic issues should be given adequate resources and focus to ensure systemic issues are addressed.
- Staff handling complaints should have significant experience of investigating the crime type reported in order to understand the complexities both of the investigation and the potential impacts on the complainer.

Complaints review

There is little recourse for mistakes in policing or conduct to be re-addressed after the complaints process has been undertaken. One survivor that the SWRC has worked with commented that *“I am bitterly disappointed that the complaint procedure makes no space for wrongs to be corrected and justice to be served.”* Whilst an apology may be issued in some cases, this does not always result in further action being taken to rectify the problem or re-examination of the initial case. This remains true if a complaint is escalated to PIRC. PIRC may advise that the Complaint has not been dealt with to a reasonable standard; however, a referral back to Police Scotland to re-address the complaint does not always result in a re-examination of the underlying issue and behaviour or in the issue of a different response. In our March 2019 response we noted that, in our experience, responses to complaints do not acknowledge the impact the problems may have had (or indeed may not have had) on the initial criminal investigation that led to the complaint. After pursuing a complaint through Police Scotland and PIRC, complainers can be left feeling that they still have no resolution and nowhere else to turn.

Survivors advise us that they would like to see further consideration given to creating a mechanism that allows cases to be re-examined if police complaints are upheld or re-examined by PIRC. Whilst it is understood that this may not lead to a change in overall outcome for every case, a re-examination may go towards building trust after

poor experiences and creating a robust process which acknowledges the difficult experiences complainers have faced.

Recommendation

- A mechanism should be developed and implemented to allow cases to be re-examined if police complaints are upheld or re-examined by PIRC.

Trauma-informed process

Several survivors have mentioned feeling that the complaints process is not trauma-informed and that instead it leads them to feel further distress and anxiety. Many feel disbelieved and that they are facing a significant power imbalance in trying to engage in the complaints process. When complaining about sensitive issues involving GBV, it can be particularly challenging to engage with male officers, but survivors tell us they do not feel that they have a choice in who deals with the complaint. Further, it is unclear if those who are examining complaints from survivors of GBV have specialised training in sexual violence or domestic abuse. We have been advised by survivors that the language that Police Scotland and PIRC use in some responses could be more sensitive and should have acknowledged the deeply traumatic experiences that they have faced. Many survivors do not feel that the complaint responses are tailored to them as individuals and that, after such a long process, the outcome does not do enough to redress wrongs, especially when complaints have been upheld.

Recommendations

- Access to adequate support throughout the process is vital for survivors of GBV (even where they are already engaged with services) and should be made available on receipt of a complaint to ensure their needs are considered during the process. As a matter of course, survivors should be offered the opportunity to have a support person or advocacy worker with them during any interview that relates to the complaint.
- Officers and PIRC staff responding to complaints from survivors of GBV should have prior knowledge and experience of working with survivors and should receive training on trauma-informed practice.
- The complaints process should be simplified as far as possible, with clear communication and timescales for each stage.