



Victim Support Scotland response to pre-consultation on 'Independent Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing'

The following is a response put forward by Victim Support Scotland to the consultancy on the "Independent Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing" by The Rt. Hon. Dame Elish Angiolini submitted in November 2020.

The report thoroughly details barriers faced both by police officers and members of the public surrounding complaints procedures and investigations, however it doesn't specifically cover the barriers faced by victims and witnesses of crime. Victim Support Scotland therefore calls for a more trauma-informed complaints procedure within Police Scotland.

As part of the response to this pre-consultation, Victim Support Scotland gathered input from the VSS Victims' Reference Group. The group is made up of people who have directly been affected by crime (victims, witnesses, and their families) who volunteer to share their feedback, views, and lived experiences of the criminal justice system to impact change. This helps to inform internal and external projects and ensure that their voices and experiences are heard.

Delays

The report details that a *"major issue for complainers, as it was for police officers who had made internal complaints or who had been the complained about, was the time taken to reach a conclusion. A recurring concern for the members of the public was that they weren't properly updated on progress and had to chase up Police Scotland or the PIRC on more than one occasion, with some complaints taking more than two years to complete (pg 72)."*

Similarly, a recurring theme emerging from victim and witness feedback at Victim Support Scotland shows that re-traumatisation occurs due to the length of time taken to process complaints, with many people we are supporting saying that it de-legitimised their experiences and prolonged their attempts at moving forward with their lives after the crime.

As one person put it: *"A dreadful and unpleasant experience on every occasion as I have been forced to make complaints not by choice but to try and get answers. Which in my case has escalated to more complaints over years, not months or weeks."*

Victim Support Scotland has been vocal in its concerns about any delays to proceedings within the justice system and the impact this can have on the health and wellbeing of people impacted by crime: [VSS warns of impact of trial delays on victims across the country - Victim Support Scotland](#).

The consultation deals with cases in which complaints are specifically surrounding what is considered “gross misconduct”. The majority of the time when VSS is supporting a victim, witness or family members who have had trouble with a police complaint, it would not fall under the remit of what Police Scotland would define as “gross misconduct”. People affected by crime have reported being ignored by the police, having the police dismiss their concerns or to not behave in a trauma-informed manner, as well as failure to properly inform them about their case. Delays fall into these types of complaints, and, though these would not be deemed gross misconduct, they nevertheless have detrimental effects on victims, witnesses, and their families. Therefore, we stress the importance of having such complaints be considered seriously by the PIRC (Police Investigations and Review Commissioner).

Victim Support Scotland would also like to highlight Recommendation PR13—that “the Scottish Government should consider the case for amending the legislation to include a provision to deal with vexatious complainers”. Firstly, it is important to define what Police Scotland would consider a vexatious complaint, as different sources take different angles, but many definitions highlight that it is falsely made complaint that is not supported by evidence, or complaints that unreasonably interfere with police operations. Though these are definitely matters of importance, victims who make continuous complaints to the police—including about delays—do so due to a lack of response from the police over an extended period of time and the frustration to have their voice heard. It would be helpful to ensure that what Police Scotland considers a “vexatious complainer” does not include this.

Apologies

The consultancy goes into detail about the importance of sincere apologies from the police when misconduct has taken place, as well as the vocalisations of ‘Lessons Learned’ from officers and Police Scotland.

Despite the importance of this, there have been many victims of crime who have vocalised to Victim Support Scotland that apologies and lessons learned is not their preferred outcome from complaints made; what they want is tangible change. Many want to see evidence that the same mishaps they experience during the complaints procedure would not happen again to other vulnerable victims and witnesses of crime, and felt that apologies were a way of *“sweeping their concerns under the rug,”* as one Reference Group member put it. *“The ideal outcome would be an apology but mainly an assurance that they put policy or training in place so that the error is not repeated. The complaints procedure is also too lengthy. Meaning more than one officer is often involved in the complaint. There should be one officer, one point of contact.”*

Written Records

The consultancy briefly touches upon the aspect of digital poverty, specifically in the context of how digitised the complaints procedure is at Police Scotland and not everyone having access to digital. It is important to bear in mind that digital poverty adds even more barriers to victims of crime having their voices heard by Police Scotland surrounding their complaints - if there is a victim of crime who is homeless, for example, and does not own a phone or has regular access to a computer or laptop, that puts them at a greater disadvantage. It would also be beneficial for Police Scotland to take into consideration the importance of literacy levels of victims and witnesses who are complaining; particularly because the language used within the system is full of jargon and legalistic language that is not accessible to most.

Through our Victims' Fund, we have been able to provide people with access to digital, including Chromebooks and WiFi, to address the issue of digital poverty.

Communication and Language

"Whether face to face or in e-mail correspondence, the use of jargon or legalistic language was unhelpful, and in some cases added to their distress, especially when things were not clearly explained to them. It was suggested that clear guidance and instruction on process and on what they needed to do should be offered as the majority of members of the public would not be familiar with the process and may well be in a distressed state. [pg 70]"

Something that comes up a lot when talking to people accessing Victim Support Scotland services, is the language used within the criminal justice system, including language used within Police Scotland and the complaints procedures. Many feel that the use of jargon and legalistic language is cold, mechanical and unhelpful, and, as stated in the consultancy, *"in some cases added to their distress, especially when things were not clearly explained to them. [pg 71]"* VSS agrees with the suggestion put forth in the report about developing clear guidance and instruction on complaint processes. It is also imperative for Police Scotland to adopt more trauma-informed, victim-centred language as we have detailed in our newly created VSS Language Guide to be used when dealing with victims and witnesses of crime.

One Reference Group member describes: *"My experience complaining to the police has been unsatisfactory. I feel they are not impartial. My complaint was against an officer whose line manager came out to interview me about the complaint, telling me my complaint had caused distress to the officer and his family. How is this impartial language?"*

A specific example of how the complaints procedure is not trauma-informed regarding communication methods is highlighted in the following victim's experience. A victim brought up an instance where Police Scotland sent her an unscheduled, automated text message asking her to take part in a survey: *"You recently made a complaint to Police Scotland. Please leave feedback on the complaints process by clicking here [link to survey]."*

The victim was upset by this; she pointed out that many victims, especially those experiencing domestic violence, still live with their abusers who could have seen the text message. Additionally, even for victims who no longer have active cases, to receive that text, sometimes years down the line of them making the complaint, can lead to re-traumatisation. However, when she went on to raise these concerns with Police Scotland, no response was given: *"There are many more trauma-informed ways to ask for feedback on the police via victim support organisations, so even though sending out this survey doesn't go against data protection rules, morally it isn't trauma-informed."*

On the note of communication, Victim Support Scotland welcomes and encourages Recommendation 53, proposing to give vulnerable witnesses the opportunity to give evidence in a private setting, and for the Chair of Gross Misconduct hearings to consider any other special measures necessary to ensure the protection of said witnesses. Additionally, as per Recommendation 74 and in Article 2 of the ECHR, Victim Support Scotland believes it is absolutely imperative to provide support to family members of individuals who have died in police custody or at the hands of the state. This includes free legal advice, assistance and representation.

Complaints in the context of inclusion, diversity and discrimination (specifically regarding community relations and attitudes to the police)

“Many minority communities in Scotland originate from jurisdictions where the police have low accountability and there have been significant instances of brutality and corruption. It is understandable therefore that mistrust exists, not borne out of the experience of communities with Police Scotland but deriving from individuals’ experiences in their country of origin, often meaning that they do not want to deal with the police in Scotland. Against that kind of background and perception, it is all the more important that police officers demonstrate through day-to-day community engagement the different policing culture that exists here and what policing by consent means in practice. The benefits of community policing to public confidence, building relationships, reporting of crime and helping the police keep communities safe cannot be overstated. [pg 133]”

Despite the importance of community engagement to build trust in the police; it is imperative to acknowledge that there may be some individuals and communities who will either never trust nor want to go to the police. The report itself mentions on numerous occasions that the system as a whole is flawed and leads to setbacks and barriers; because of this, there also needs to be an emphasis on officers spreading awareness about other organisations during these community engagement events, such as Victim Support Scotland (we also provide third party reporting) and mental health organisations, so that victims of crime have other options on resources to access.

Increasing Public Confidence

When asked what would increase their confidence in Police Scotland, members from the Victim Support Scotland National Reference Group responded with the following:

“My confidence in the police Scotland complaints procedure would improve if they used an independent body. The police cannot and should not police themselves.”

“The only ideal outcome would be if Police Scotland Complaints were investigated independently by separate organisations.”

“The only improvement that would be beneficial for Police Scotland Complaints process and improve my confidence would be if all complaints against Police Scotland were taken from them and handed over to PIRC or another independent organisation. That way the person making the complaints would have some reassurance that their complaints are being assessed independently by someone who is impartial and without favouritism or discrimination.”

“Once you make complaints to Police Scotland initially, and if your successful with those complaints either by getting some upheld or recommendations made, then you instantly become a target from that station or Police Division. Your complaints are initially submitted to Police Scotland's Professional Standards Department, and are then directed back to the Station you have complained about and allocated to that local Area Inspector to deal with your complaints. How is that deemed to be Independent or impartial?”

“The Professional Standards Department got involved, again I believe there's a conflict there because these officers may well have worked with, known or will work with the officer they're investigating in future. Again it's not in their interest to fully investigate and even if they do fully investigate, again they leave themselves open to accusations of non impartiality.”

Keeping in mind the importance to victims that an independent body should look into complaints, VSS agrees to the complaints investigated by the PIRC. We also agree with The Rt. Hon Dame Elish Angiolini that “in order to ensure a collegiate approach to decision-making in the most serious cases and appropriate supervision of decision-making in such cases, PIRC should be re-designated as a Commission comprising one Police Investigations and Review Commissioner and two Deputy Commissioners. None of these offices should be held by a former police officer.”

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