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Police Investigations &
Review Commissioner



MEMORANDUM OF UNDERSTANDING

between

THE POLICE INVESTIGATION & REVIEW COMMISSIONER

and

HM INSPECTOR OF CONSTABULARY FOR SCOTLAND

October 2017

Introduction

1. The Police and Fire Reform (Scotland) Act 2012 places a duty on the Police Investigation & Review Commissioner (PIRC) and inspectors of constabulary in Scotland to co-operate and coordinate activity with one another with a view to improving how we carry out our respective functions.¹
2. This Memorandum of Understanding sets out how we intend to fulfil this duty. It describes our respective powers and responsibilities and proposes a framework for collaborative working. This framework is designed to optimise the skills and experience involved in inspections, reviews or investigations, avoid duplication of effort and minimise the burden of scrutiny.

Statutory role of HM Inspectorate of Constabulary in Scotland

3. The statutory role of Her Majesty's Inspectorate of Constabulary for Scotland (HMICS) is set out in Sections 71 to 82 of the Police and Fire Reform (Scotland) Act 2012. The role of HMICS is to make inquiries about any matter relating to the Scottish Police Authority (SPA) or the Police Service (Police Scotland) as they consider appropriate; about the state, efficiency and effectiveness of the Authority and the Police Service.
4. The role of HMICS is to monitor and improve police services in Scotland. HMICS does this independently of the police service, the SPA, local committees and the Scottish Government. HMICS discharges this duty by inspecting and advising the Police Service of Scotland and the Scottish Police Authority and by inspecting how Best Value is achieved in both organisations. HMICS also provides advice to Scottish Ministers.
5. The emphasis of HMICS as an Inspectorate is predominantly on inspection activity, and as a technical inspectorate and repository of technical expertise in relation to policing matters in Scotland. HMICS also has a responsibility to assess and monitor the performance of the police service, the SPA, and local committees.
6. HMICS can be directed or commissioned by Scottish Ministers to undertake research or inspection activity in relation to any aspect of policing in Scotland. HMICS also has the power to do anything which it considers necessary or expedient for the purposes of, or in connection with, the carrying out of their functions. The SPA and Chief Constable have a statutory duty to assist and co-operate with HMICS and must take appropriate action in response to HMICS reports.
7. HMICS must prepare and publish a plan setting out their priorities for inspection and how these will be carried out. This plan must be subject to consultation with relevant stakeholders and must be reviewed regularly.
8. HMICS must provide copies of its reports to Scottish Ministers, the SPA and the Chief Constable, and lay them before Parliament. HMICS must also prepare an annual report which is laid before Parliament.

¹ Police and Fire Reform (Scotland) Act 2012, Section 85.

Statutory role of the Police Investigation & Review Commissioner

9. Sections 61 and 62 of the Police and Fire Reform (Act) 2012 amend the Police Public Order and Criminal Justice (Scotland) Act 2006. The amendments establish the role of the Police Investigations and Review Commissioner (PIRC) and outlines the powers and functions. The general functions of the PIRC as set out in legislation are to:

- secure the maintenance by the Authority and the chief constable of suitable arrangements for the handling of relevant complaints,
- examine the handling of relevant complaints made by the public about Police Scotland, the SPA, or any person serving with the police.,
- investigate, where directed to do so by the appropriate prosecutor, any circumstances in which there is an indication that a person serving with the police may have committed a crime, or the circumstances of any death involving a person serving with the police which the Procurator Fiscal is required to investigate under the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976,
- determine whether to investigate, where requested to do so by the Authority or the chief constable, certain serious incidents involving the police, and
- investigate other matters relating to the Authority or the Police Service where the Commissioner considers that it would be in the public interest to do so.

A framework for collaborative working

10. PIRC and HMICS are committed to ensuring that our inspection, review and investigation work contribute to providing assurance that the SPA and Police Scotland are operating efficiently and effectively and that our recommendations lead to demonstrable improvements in service delivery. We will also work to ensure we deliver our inspections, reviews and investigations efficiently and effectively and that we do not place any unnecessary burdens on the SPA or Police Scotland.

11. In fulfilling our duty to co-operate, we are committed to:

- Maintaining effective communication and liaison,
- Working together where appropriate,
- Sharing knowledge, skills, expertise and experience, and
- Sharing relevant information and respecting confidentiality of shared information.

Maintaining effective communication and liaison: PIRC and HMICS will meet regularly to ensure effective communication between the two organisations. In addition to routine communication, the Commissioner and the Inspector of Constabulary or their nominated representatives will meet at least twice yearly to discuss strategic matters.

Working together where appropriate: Where appropriate, HMICS will follow up on recommendations made as a result of PIRC reviews or investigations. We are also committed to making the best use of our collective skills and expertise in inspection, review or investigative work.

Where appropriate, we will encourage the use of short-term secondments or placements to deliver specific inspections, reviews or investigations, and will provide mutual advice and support as required.

Sharing knowledge, skills, expertise and experience: We believe there is much to be gained by both organisations in sharing our respective knowledge, skills and expertise. We will investigate different approaches for doing this, for example through shared training on inspection or review methodology, work shadowing, and temporary secondments. Sharing knowledge and expertise will contribute to building mutual confidence in the quality of our inspection, review and investigation work.

Sharing relevant information: HMICS and PIRC will share relevant information, including strategic developments relating to the police service, performance and financial information, relevant correspondence, and inspection reports. While PIRC cannot share information relating to investigations directed by the Crown Office and Procurator Fiscal Service, without prior agreement, it will share with HMICS other relevant information when it is able to do so. In terms of section 46 of the Police Public Order and Criminal Justice (Scotland) Act 2006, any information disclosed to HMICS which the PIRC has obtained in connection with the exercise of its functions must not be further disclosed by HMICS except with the PIRC's consent and for a purpose connected with HMICS's functions. The PIRC will also respect the status of any confidential information supplied to it by HMICS and will not disclose this further without further discussion with HMICS.

Resolving disagreements

12. HMICS and PIRC are committed to working together in an environment of mutual trust and respect and in promoting a culture of openness. This approach should minimise the risk of disagreements. Should disagreements arise, they should be resolved amicably between the people concerned, and failing that through discussions between relevant senior managers.

Reviewing the Memorandum of Understanding

13. We will review this Memorandum biennial to ensure both organisations are working within the agreed framework, and consider whether the framework needs to be revised to meet changing circumstances.


Signed

Date

11/1/19
Police Investigations & Review Commissioner for Scotland


Signed

Date

11/1/19
HM Inspector of Constabulary Scotland