Justice Committee
Police and Fire Reform (Scotland) Bill
Supplementary written submission from the Police Complaints Commissioner for Scotland

At the close of my evidence to the Justice Committee on 6 March, the Convenor advised that any further points the panel wished to raise should be communicated to you in writing. I have summarised below a number of issues I had intended to raise during my oral evidence.

1. I mentioned briefly in my oral evidence the need for PIRC to be given protection from defamation proceedings. Over the course of the last two years, the PCCS has been subject to the threat of such proceedings on a number of occasions in respect of case reports published on our website. Unlike many other complaints oversight bodies (e.g. the Scottish Public Services Ombudsman) the PCCS has no privilege in respect of such actions. I therefore seek an amendment to the Bill providing PIRC with absolute privilege, or at the very least, qualified privilege to protect it from defamation proceedings.

2. Section 69 of the Bill allows PIRC to petition the Court of Session where it is believed that a person is obstructing an investigation. I seek an extension of that provision so that it covers the current functions of the PCCS. In other words, where PIRC believes that a person is obstructing its review of a relevant complaint, it may petition the Court of Session in exactly the same manner as it would where a person is believed to be obstructing an investigation.

3. Section 68 of the Bill requires PIRC to publish the findings of certain types of investigation. I mentioned in my written evidence that this required to be subject to a public interest exception. However, I also believe there is a strong case for extending the obligation to publish to the reports which the PCCS currently produces. Since 2007, the PCCS has published reports of complaint handling reviews on its website. This is done in order to promote transparency and is instrumental in holding the police service to account. However, there are concerns that, in the absence of a statutory obligation to publish these reports, their publication, even in anonymised form, breaches the Data Protection Act 1998. In order to remove any doubt over the legitimacy of the publication of these reports, I seek a statutory obligation to do so, subject to a public interest test.

4. I also believe there is a strong case for imposing some form of time limit for cases to be investigated by PIRC. The establishment of PIRC will in all likelihood lead to an increase in expectation on the part of many of those who believe that their cases were not properly investigated under the previous regime. If PIRC is to avoid being inundated with requests to investigate incidents which occurred many years ago, there must be some time limit imposed for investigations. The terms of such a time limit would require to be carefully worded in order not to exclude those cases where there is justified concern over previous investigations.
5. With regard to the question posed by John Finnie MSP towards the end of the session, I believe that the proposals for amending the constitution of the Police Appeals Tribunal are sensible.

I very much welcomed the opportunity to address the Justice Committee directly. I hope these additional issues can also be considered by the Committee.

John McNeill
Police Complaints Commissioner for Scotland
12 March 2012