Justice Committee
Post-legislative scrutiny of the Police and Fire Reform (Scotland) Act 2012
Written submission from Karen Harper

Background
I have personal experience of Police Scotland’s internal complaints handling process. I wish to focus my evidence on chapter 10 of the Police and Fire Reform (Scotland) Act 2012: complaints and investigations.

Police and Fire Reform (Scotland) Act 2012
My submission focusses on Chapter 10 of the Police and Fire Reform (Scotland) Act 2012, and whether the internal complaints handling process available to police officers is fit for purpose. The SPA and PIRC did not investigate my complaint and, in my view, the SPF did not provide me with any support throughout the process. This situation left the only option of Police Scotland investigating itself. The Committee should consider the accountability of the bodies established to consider complaints by police officers and how to ensure that police officers have confidence in their ability to handle complaints effectively in terms of the provisions in the 2012 Act and the expectations of police officers.

The role of Police Scotland – Professional Standards Department and the Chief Constable

- I have a concern about the impartiality and independence of the Professional Standards Department (PSD) within Police Scotland in their role of investigating internal complaints. For example, if the PSD is investigating the CCU/ACU and those involved in undertaking the investigation are ex-members of that area, this may lead to a conflict of interest and a lack of confidence in the process. It is essential that police officers have confidence in the impartiality and transparency of the internal complaints process.

- The Committee should consider what recourse there is for police officers when the PSD/Police Scotland do not follow the internal complaint handling procedures, and the role of the SPA in scrutinising that these are followed.

- There should be greater protection and support for the welfare of ‘whistleblowers’, as this is a stressful position for an employee to be in. The complaints process takes too long and this can also have an impact on the health of a person making a complaint.

The role of the Scottish Police Authority (SPA)

- The process takes too long. It can take several months from lodging a complaint with the SPA to getting it discussed at a Complaints and Conduct Committee meeting.

- Minutes of the Complaints Handling Committee meetings seem not always to be published. There is also not always an agenda published, which can mean there is no public record of a meeting having taken place (for example the meeting of 22 November 2016). As these meetings are often held in private, in the interests of transparency all agendas and minutes of the SPA’s
Complaints and Conduct Committee should be published. This would give complainants confidence that their complaint has been considered and an understanding of the decisions taken.

- In circumstances where Police Scotland refer to a complainant’s case in public, there should be some method for the complainant to challenge the information provided, if they disagree with the detail of the public comment. This might be a role for the SPA or PIRC.

The role of the Police Investigations and review Commissioner (PIRC)

- The Committee should consider how complaints are handled and the reasons given by PIRC when deciding not to investigate a complaint. For example, whether PIRC can investigate employment matters, where part of the complaint relates to gross misconduct.

The role of the Scottish Police Federation (SPF)

- The Committee should scrutinise the Scottish Police Federation’s role in supporting police officers, who are their members, who have made a complaint. For example, the grounds for refusal to provide financial or legal assistance, and the transparency and consistency of the decision making process.
- The single most effective way of challenging the culture of fear within Police Scotland and improving officer wellbeing and morale is to reform the SPF. This in turn will promote a more transparent and fair complaint handling system where officers feel they are protected from subsequent victimisation.

Issues:

**Transparency**

- Police Scotland, the SPA and PIRC should have a duty to provide complainants with regular updates on the progress of their complaints and the procedures being followed.
- Police Scotland, the SPA and PIRC should have a duty to respond to requests for information timeously and with complete information.
- The Committee should consider how to tackle the culture of secrecy within Police Scotland and how to ensure such a culture does not also exist within the SPA, PIRC and the Scottish Government.
- The SPA established a reference group to review whistle-blowing procedures. I understand that its membership is not publicly available. This means that complainants will be unaware of who might be considering their complaint and whether the review group would do so.

**The time taken to consider and conclude complaints**

The complaints process takes too long.

- Complaints lodged with the Chief Constable, SPA and PIRC should be acknowledged within a certain time period to give an assurance to the complainants that it has been received and is being actioned.
• It can take several months before an officer who is the subject of a complaint is informed. There should be a set time period within which officers who are the subject of lodged complaints are informed.

• It can take several months before witnesses are interviewed. There should be a set time period within which witnesses are interviewed, following a complaint.

• If there is a delay in considering a complaint by Police Scotland, the SPA or PIRC, this should only happen in exceptional circumstances and the reasons should be explained to the complainant and a new timescale for consideration provided.

• There is an increased financial impact on complainants when the process takes an unnecessarily long time to complete. This should be taken into consideration.

My solicitor and I would be delighted to give evidence at any subsequent Justice Committee hearings.

Karen Harper
May 2018