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Criminal Justice Committee

Police Conduct Regulations



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Criminal Justice Committee

To consider and report on matters relating to criminal justice falling within the responsibility of the Cabinet Secretary for Justice, and functions of the Lord Advocate other than as head of the systems of criminal prosecution and investigation of deaths in Scotland



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Introduction

1. The Police Service of Scotland (Conduct) Amendment Regulations 2026 (SSI 2026/276) and the Police Service of Scotland (Senior Officers) (Conduct) Amendment Regulations 2026 (SSI 2026/277) were laid before the Scottish Parliament on 1 October 2026 and referred to the Criminal Justice Committee as lead committee.

2. Both sets of regulations are subject to the negative procedure. Under that procedure, instruments are "subject to annulment" by resolution of the Parliament for a period of 40 days after they are laid (Rule 10.4 of the Scottish Parliament Standing Orders).

3. Both instruments amend police conduct regulations to implement reforms arising from Lady Angiolini's Independent Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing [1] .

   - The Police Service of Scotland (Conduct) Amendment Regulations 2026 (SSI 2026/276) amend the Police Service of Scotland (Conduct) Regulations 2014, which set the procedures for misconduct and gross misconduct allegations against constables.

   - The Police Service of Scotland (Senior Officers) (Conduct) Amendment Regulations 2026 (SSI 2026/277) amend the Police Service of Scotland (Senior Officers) (Conduct) Regulations 2013, which cover the same matters for senior officers.

   - Both are made under sections 48, 55 and 125(1) of the Police and Fire Reform (Scotland) Act 2012 and are due to commence on 26 November 2026.

4. According to the Scottish Government's policy notes [2] [3] , both instruments aim to improve the efficiency, transparency and fairness of misconduct procedures and to strengthen public confidence in how allegations are handled. Reforms that both instruments have in common are:

   - accelerated misconduct hearings for the most serious cases of alleged gross misconduct, where there is sufficient evidence on the balance of probabilities and it is in the public interest for the officer to cease to hold office without delay, with legal representation and rights of appeal retained;

   - greater transparency, including publication of outcome reports and notification of certain complainants where there is no case to answer, with provision to restrict or withhold information where necessary;

   - joint investigations between the Deputy Chief Constable and the Police Investigations and Review Commissioner (PIRC) where allegations involve both a senior officer and a constable, with a requirement to consider trauma-informed practice;

   - new case-management arrangements, including misconduct pre-hearings, and updated support measures for witnesses, such as giving evidence remotely or using screens; and

- updated procedures for suspension, warnings and representation, including consideration of temporary redeployment as an alternative to suspension, participation by live television link, the removal of verbal warnings and revised periods for written and final warnings.

Differences between instruments

5. According to the Scottish Government's policy notes [2] [3] , the instruments also differ in the following ways.

- The Police Service of Scotland (Conduct) Amendment Regulations 2026 (SSI 2026/276) introduce a presenting officer, appointed by the Deputy Chief Constable, to present the case against the constable; strengthen complainant engagement and information sharing; and bring conduct matters involving special constables within the 2014 framework, revoking the separate provisions in the Police Service of Scotland (Special Constables) Regulations 2013.

- The Police Service of Scotland (Senior Officers) (Conduct) Amendment Regulations 2026 (SSI 2026/277) transfer responsibility for assessing and investigating senior officer misconduct allegations from the Scottish Police Authority to PIRC, which also presents the case at hearings; create a presumption that hearings are held in public, with public notification of proceedings; reform the composition of misconduct panels, with chairs appointed by the Lord President from the legal members of the First-tier Tribunal for Scotland, and a senior policing expert and independent lay member appointed by the Scottish Police Authority; provide for appeals to the First-tier Tribunal; and extend the senior officer regime to certain conduct by officers who are later promoted, or temporarily appointed, to senior rank.

Recommendations from Lady Angiolini's Review

6. The following relevant recommendations from Lady Angiolini's Review Independent Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing [1] are listed below.

27. Recommendation: Gross misconduct hearings for all ranks should have 1) an independent legally qualified chair appointed by the Lord President, 2) an independent lay member appointed by the Lord President and 3) a policing member. This means in senior officer cases the role of Chair should transfer from the SPA to the independent legally qualified person. The policing member in senior officer cases should be appointed by the Lord President; in all other cases the policing member should be appointed by the Chief Constable.

51. Recommendation: Provision equivalent to that in England and Wales for accelerated misconduct hearings should be included in Scottish conduct regulations for all ranks of constable to deal with circumstances where the evidence is incontrovertible and where that evidence means that without further evidence it is possible to prove gross misconduct, or where the subject officer admits to their behaviour being gross misconduct.

52. Recommendation: Police officer gross misconduct hearings should be held in public. The Chair should have discretion to restrict attendance as appropriate but

the aim should be to ensure that as much of a hearing is held in public as possible.

7. There was also discussion in the Angiolini review about combining the 2014 conduct regulations and the 2013 senior conduct regulations into one set covering all officers:

> There is a strong case for combining these two sets of regulations into one. That is a matter for the Scottish Ministers to consider but combined legislation would in my view be more straightforward and user-friendly [1] .

However, this did not constitute one of the formal recommendations (listed from page 455 of the report).

Delegated Powers and Law Reform (DPLR) Committee consideration

8. The DPLR Committee considered the instruments on 3 November 2026 and reported on them in its 16th Report, 2026 (Session 7). The DPLR Committee draws both instruments to the attention of the Parliament under the general reporting ground, in respect of a drafting error in regulation 8 (suspension) in both instruments. The substitution of “at least one of” for “following” appears to leave a misplaced “the” in the sentence.

9. The Committee also noted that the error is relatively minor and indicated it is therefore content with the Scottish Government's proposal to correct the wording at the next suitable legislative opportunity, which it expects to arise next year. In this response to the DPLR Committee, the Scottish Government stated:

> The timing of such a correction will depend on the availability of an appropriate amending instrument in which the amendment can be included. We expect such an instrument to be available so that the correction can be made next year.

Criminal Justice Committee consideration

10. At its meeting on 28 October 2026, the Committee considered the instruments and agreed to take evidence from stakeholders and the Cabinet Secretary for Justice before reaching a view.

11. The Committee received the following written evidence in relation to the instruments:

- Correspondence from a serving police officer, received 1 September 2026, contained within Annexe C of this Note by the Clerk.
- Correspondence from the Scottish Police Federation, 27 October 2026
- Correspondence from the Cabinet Secretary for Justice, 27 October 2026
- Correspondence from the Scottish Chief Police Officers Staff Association, 19 October 2026
- Correspondence from Calum Steele, 29 October 2026
- Correspondence from Police Scotland, 2 November 2026
- Correspondence from the Police Investigations and Review Commissioner, 3 November 2026
- Correspondence from the Scottish Police Federation, 6 November 2026
- Correspondence from Police Scotland, 13 November 2026
- Correspondence from the Cabinet Secretary for Justice, 13 November 2026
- Correspondence from the Scottish Police Federation, 17 November 2026
- Correspondence from the Cabinet Secretary for Justice, 19 November 2026

12. Also relevant to the Committee's scrutiny is the following correspondence:

- Correspondence from Stephen Kerr MSP to the Convener, 21 September 2026
- The Convener's response to letter from Stephen Kerr MSP on Police Conduct Regulations, 29 September 2026
- Correspondence from the Cabinet Secretary for Justice in reply to Stephen Kerr MSP, 6 October 2026, contained within Annexe D of this Note by the Clerk.

13. At its meeting on 4 November 2026, the Committee took oral evidence on the instruments from the following witnesses:

- Chris Brown, Chief Executive, Scottish Police Authority
- Rob Hay, President, Association of Scottish Police Superintendents

- David Kennedy, General Secretary, Scottish Police Federation
- Craig Naylor, Chief Inspector of Constabulary in Scotland.

14. On 11 November 2026, the Committee heard from serving and former police officers in a series of individual, confidential private meetings.

15. On 18 November 2026, the Committee took oral evidence on the instrument from:

- Neil Gray, Cabinet Secretary for Justice, and accompanying officials
- Chief Constable Jo Farrell, and Assistant Chief Constable Lynn Ratcliff, Professionalism, Police Scotland

Evidence from stakeholder organisations

16. Evidence from stakeholder organisations has been summarised under the following themes:

- Conduct arrangements for senior officers and other officers
- Transfer of senior officer conduct functions to the Police Investigations and Review Commissioner (PIRC)
- Independent, legally qualified chairs
- Gross misconduct proceedings
- Legal representation
- Timeliness of investigations
- Public confidence and accountability

Conduct arrangements for senior officers and other officers

17. The Committee discussed whether separate conduct arrangements for senior officers and officers below chief officer rank remained appropriate. Witnesses expressed differing views on whether separate regulations should continue to apply. David Kennedy told the Committee:

> You would need absolute independence, because one of the issues with the senior officers regulations is about who could complete the investigations, carry out the inquiries and chair the meetings of an independent panel. If we combined the regulations and both panels had that independence, particularly for gross misconduct, that would be a very good and fair approach that our members would accept [4] .

18. Rob Hay argued that a single set of regulations would be “most likely to generate fair and just outcomes” [4] . He suggested that some Association of Scottish Police Superintendents (ASPS) members viewed the current police conduct arrangements as creating a two-tier experience of misconduct and system of accountability. He noted that this “is potentially exacerbated by some of the provisions of the new

regulations" [4] .

19. In contrast, Craig Naylor considered that separate processes would still be required given the different responsibilities and governance arrangements applicable to senior officers, if there was one set of regulations. He argued that it was "slightly performative to have separate sets of regulations but, within a single set of regulations, you would have to have two different processes" [4] . He noted that:

> You would have to deal with chief officers separately from officers up to the rank of chief superintendent. What I mean by that is that you would have a separate body investigating conduct and gross misconduct of chief officers, yet Police Scotland would be investigating conduct of officers up to chief superintendent and police staff discipline matters [4] .

However, he argued that the system should be capable of demonstrating fair and timely processes. Chris Brown agreed with this, stating:

> The substantive issue is more about having consistency, fairness and parity across both sets of regulations, rather than necessarily forcing them into a single document [4] .

Transfer of senior officer conduct functions to the Police Investigations and Review Commissioner (PIRC)

20. The Committee heard evidence on the proposal to transfer responsibility for handling complaints and misconduct matters relating to senior officers from the Scottish Police Authority to the PIRC. Witnesses were generally supportive of the proposal and considered that it could strengthen confidence in the handling of senior officer conduct matters.

21. Rob Hay stated that concerns had been raised by ASPS members regarding arrangements for dealing with complaints involving senior officers and suggested that the transfer of responsibilities to PIRC would improve confidence in the system:

> The failure to administer the processes in a manner that commands the confidence of our membership leads us to conclude that the PIRC is the more appropriate organisation to take up this responsibility [4] .

22. Chris Brown confirmed that the Scottish Police Authority supported the transfer, noting a "perception that there is some degree of proximity bias between the SPA and Police Scotland" [4] . Craig Naylor described the proposal as a "significant and positive step", given that the SPA appoints chief officers and that it would be "very difficult for the SPA to run a process involving a chief officer. [4] "

23. However, Craig Naylor also identified that while the regulations for senior officers allow for a small number of gross misconduct investigations, it would be a "resource demand on them" [4] . Members also noted previous evidence that the PIRC had expressed concerns about assuming responsibility for conducting such assessments because of the resource implications involved. Craig Naylor agreed that this had been a concern and added that undertaking such responsibilities for other officers would require additional resources and training

Independent, legally qualified chairs

24. The Committee explored the proposal to introduce independent, legally qualified chairs for gross misconduct proceedings involving senior officers. Witnesses generally welcomed the proposal.

25. A provision made by section 10(2) of the Police (Ethics, Conduct and Scrutiny) (Scotland) Act 2025 Act will require the regulations to provide for:

    (a) the Scottish Police Authority to determine any case which relates to the standard of performance of a senior officer,

    (b) a panel independent of the Authority to determine any case which relates to the standard of behaviour of a senior officer or a person who has ceased to be a senior officer.

    This relates to senior officers only, whereas recommendation 27 of the Angiolini review [1] proposed that gross misconduct hearings for all ranks should have an independent legally qualified chair appointed by the Lord President. The Policy Memorandum for the Bill argued that it was proportionate to provide for such chairs in senior officer cases only, to avoid perceptions of proximity bias between senior officers and the SPA, and not to do so in the much larger number of non-senior officer cases, which could be delayed and incur large costs.

26. Craig Naylor welcomed the introduction of legally qualified chairs for senior officer cases and noted that additional safeguards in the regulations, including the use of legally qualified advisers, would strengthen fairness and decision-making within the conduct system more broadly.

27. According to Rob Hay, "...misconduct hearings are overwhelmingly chaired by our members, but the complexity and challenge of doing that is outside their wheelhouse, because it is not part of the normal work of a police officer. [4] " He further argued that ensuring that hearing chairs are demonstrably impartial is both essential for the public, and necessary for victims of abuse to have confidence, as advocated for by the Women's Rights Network Scotland. He later added:

    > The one thing that has been consistent throughout my 26 years as a police officer is the accusation that the police mark their own homework. The introduction of an independent legally qualified chair would kill that dead [4] .

28. However, witness views differed on whether this should be extended more widely, with David Kennedy arguing that independent legally qualified chairs should be used in gross misconduct proceedings involving officers of all ranks. He subsequently suggested that "there could be a halfway house, where the lower end of misconduct cases could be dealt with internally, while gross misconduct cases were heard externally. [4] "

29. Concerns around training arose in relation to the role of chair under the current system. Rob Hay told the Committee that a two-day training course was provided for chairs of misconduct hearings and indicated that this was insufficient, as those hearings are "quasi-judicial proceedings that could cost someone their career" [4] . David Kennedy shared this view, stating that there is not "the training that you would

expect" [4] for superintendents and chief superintendents who chair such hearings.

Gross misconduct proceedings

30. A significant portion of the evidence focused on the operation of the current gross misconduct process. David Kennedy and Rob Hay argued that the threshold for categorising behaviour as gross misconduct was too low and suggested that some matters were being escalated unnecessarily to gross misconduct proceedings.

31. Craig Naylor cautioned against all gross misconduct cases being investigated by PIRC, noting that fewer than a quarter of allegations of gross misconduct go to a gross misconduct investigation and that PIRC would need significantly increased resources and different training.

32. The Committee also considered the operation of the appeals process in gross misconduct cases. David Kennedy referred to a number of recent appeal cases in which officers had been reinstated following dismissal and argued that this indicated shortcomings within the current system. He suggested that successful appeals demonstrated that decisions taken at earlier stages were not always proportionate or robust. In response, Craig Naylor emphasised that appeals are an important safeguard within the conduct system and noted that findings of gross misconduct do not automatically result in dismissal. He also highlighted the importance of distinguishing between the outcome of an appeal and the conduct findings reached in a case.

Legal representation

33. The Committee heard evidence regarding access to legal advice and representation in misconduct proceedings. David Kennedy raised concerns regarding differences in arrangements for officers below chief officer rank and senior officers, noting that many federated officers[i] relied on legal support funded through staff association subscriptions. Chris Brown outlined the arrangements currently applicable to senior officer cases and explained how the proposed regulations would affect the provision and funding of legal representation in future proceedings.

Timeliness of investigations

34. The Committee also heard evidence regarding the length of misconduct investigations and proceedings. Witnesses highlighted the importance of resolving cases as quickly as possible while ensuring that investigations remain thorough and fair.

35. David Kennedy outlined the harm of lengthy investigations on officers stating that "if someone goes through a gross misconduct process, it absolutely destroys them and can destroy their family, because the process is more of a punishment than what comes at the end of it. [4] " Rob Hay, President of ASPS, had similar concerns:

> The sense of humiliation and isolation is extreme, along with the fear of losing your job and your income. Suicidal ideation is not uncommon in these situations [4] .

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i Federated officers are police officers represented by the Scottish Police Federation.

36. Chris Brown acknowledged concerns regarding delays and stated that criminal investigations, court proceedings and resource pressures can contribute to lengthy timescales. He noted that roughly half of current gross misconduct investigations relate to criminal matters, and that the professional standards department is "probably under-resourced" [4] . Craig Naylor and Rob Hay also emphasised the importance of timely investigations in maintaining confidence in the conduct system and ensuring fairness for all parties involved.

Public confidence and accountability

37. Throughout the evidence session, witnesses emphasised the importance of maintaining public confidence in policing and in the conduct system. The Committee heard that accountability arrangements must not only be fair, but must also be seen to be fair by police officers and members of the public.

38. Witnesses generally agreed that the conduct framework should provide clear, independent and transparent processes capable of demonstrating that officers at all levels are held accountable for their actions. Evidence to the Committee suggested that confidence in the system will depend on perceptions of fairness, consistency and independence across all aspects of the conduct process.

Evidence from serving and former police officers

39. On 11 November 2026, the Committee heard from serving and former police officers in a series of individual, confidential private meetings.

40. Across the sessions, concerns were raised about the independence, fairness and transparency of the police misconduct system. There were discussions around whether current arrangements separate investigators, decision-makers and disciplinary processes enough, how consistent decisions are, and what evidence cases progress on.

41. Concerns were expressed around the distinction between misconduct and gross misconduct, with this being considered unclear and subjective. Participants had concerns about proportionality and the escalation of cases. Suggestions were made that the process for misconduct proceedings should vary depending on the seriousness of the allegations, with misconduct being dealt with in a more straightforward way than gross misconduct. Reference was also made to differences in the procedures and safeguards available to officers of different ranks, with some suggesting that these factors can affect confidence in the system.

42. Accountability and oversight were raised as another concern, including the mechanisms available to challenge decisions, review evidence and address alleged procedural failings. Questions were also raised about the training, experience and expertise of those responsible for investigations, hearings and key disciplinary decisions.

43. Participants described the significant personal impact that misconduct proceedings can have on officers. Common themes included the length of investigations and hearings, prolonged periods of uncertainty, suspension or restricted duties, and concerns about communication and welfare support during the process.

Participants highlighted the impact on mental health, wellbeing and family life, and emphasised the importance of processes that are timely, evidence-based, transparent and fair.

Evidence from Police Scotland and the Scottish Government

Correspondence

44. In advance of giving evidence, the Cabinet Secretary for Justice, and the Chief Constable of Police Scotland, wrote to the Committee setting out their views on the proposed regulations and their intended impact on the police conduct system. These can be viewed here:

- Correspondence from the Cabinet Secretary for Justice, received 13 November 2026
- Correspondence from Police Scotland, received 13 November 2026

45. In his correspondence, the Cabinet Secretary told the Committee that the regulations had been developed following extensive consultation and engagement and sought to balance procedural safeguards, operational effectiveness, transparency and the timely resolution of cases. He stated:

> The regulations strike an appropriate balance between robust procedural protections for officers and stronger safeguards for complainers and witnesses, ensuring that misconduct is addressed fairly, transparently and in a way that commands public confidence [5] .

Evidence session

46. Evidence from the session on 18 November 2026 has been summarised under the following themes:

- Misconduct panels and independent chairs
- Fairness, impartiality and safeguards
- Training and implementation
- Support for victims, witnesses, complainers and informants
- Public confidence, transparency and accountability
- Timeliness and efficiency of proceedings

Misconduct panels and independent chairs

47. The Committee raised differences between the two sets of regulations, which mean that there would be legally qualified, independent chairs in senior officer proceedings but not in proceedings involving other officers of other ranks.

48. Members questioned the panel on previous evidence highlighting that recommendation 27 of the Angiolini review proposed independent legally qualified chairs for gross misconduct proceedings across all ranks. Members also referred to evidence from the Association of Scottish Police Superintendents and the Scottish Police Federation, whose representatives argued that independent chairs should apply across all ranks. Several members repeatedly questioned the rationale for limiting the use of independent legally qualified chairs to senior officer proceedings and whether this would create a two-tier system. Members further questioned whether officers facing allegations of gross misconduct, particularly where proceedings could result in dismissal, should have access to the same procedural safeguards regardless of rank.

49. The Cabinet Secretary told the Committee his view that the regulations do not create a new policy direction but instead implement the framework approved by the Parliament through the 2025 Act. He argued that the differentiated model reflects distinctions contained in the Police and Fire Reform (Scotland) Act 2012, under which senior officers hold different statutory responsibilities and are employed by the Scottish Police Authority, while other officers are employed by Police Scotland.

50. He further argued that extending independent legally qualified chairs across all ranks would require further primary legislation, would have significant implications for legal resources and would require additional provision for both hearings and appeals.

51. Members put it to the Chief Constable that public confidence would be strengthened if all gross misconduct proceedings were chaired independently. The Chief Constable responded that the proposed regulations contain a range of other safeguards intended to ensure fairness and independence.

52. In support of the differentiated approach taken in these regulations, the Cabinet Secretary referred to developments elsewhere in the United Kingdom. He noted that the UK Government had moved away from legally qualified chairs for non-senior officers in England and Wales and had concluded that chief officers should retain responsibility for disciplinary decisions within their organisations.

Fairness, impartiality and safeguards

53. Members raised concerns regarding fairness, impartiality and both actual bias and perceived bias within current misconduct proceedings. The Cabinet Secretary stated that fairness must be considered from the perspective of officers, victims, witnesses, complainers and informants and argued that it should not be assessed solely from the perspective of officers who are subject to proceedings.

54. The Chief Constable and Assistant Chief Constable told the Committee of a number of safeguards intended to address concerns regarding impartiality. These included the use of a national pool of chief superintendents, the ability of officers to challenge the appointment of a chair where concerns regarding impartiality arise, and requirements for chairs to formally declare their impartiality. Assistant Chief Constable Ratcliff also stated that hearings are supported by legally qualified assessors and legal advisers.

55. The Committee questioned the panel on the disclosure of evidence within misconduct proceedings to officers subject to proceedings. The Assistant Chief

Constable stated that officers are informed of allegations at the outset of investigations. She told the Committee that if other allegations or matters came to light as the investigation proceeds, the officer would be served with amended allegations. She further told the Committee that the investigating officer would compile a full report setting out all the documentary evidence at the end of the investigation.

56. Members referred to evidence received from serving and former officers suggesting that disclosure had not always operated effectively in practice under the current system. In response, Assistant Chief Constable Ratcliff stated that the proposed regulations create an additional pre-hearing discussion process through which legal and procedural concerns could be addressed at an earlier stage. She argued that this represented an additional safeguard that is not available under the existing regulations and that if officers have previously raised this issue as a concern, the new regulations would address it.

57. The Committee also discussed concerns regarding conflicts of interest and perceptions of bias. The Cabinet Secretary argued that the introduction of presenting officers would provide a clearer separation between investigation, presentation of evidence and decision making, which he considered would strengthen perceptions of fairness and independence.

Training and implementation

58. Members raised concerns regarding whether the training provided to officers who chair misconduct proceedings was sufficient, particularly given the seriousness of proceedings and the potential consequences for officers involved. Members referred to evidence previously given to the Committee that officers chairing hearings receive two days of specific training and that different chairs may approach hearings differently. The Committee questioned whether officers had confidence in the proposed arrangements.

59. The Cabinet Secretary accepted that training was an important issue but noted that operational responsibility for training arrangements rests with Police Scotland. He further indicated a willingness to work with the Committee on the issue.

60. The Chief Constable emphasised that officers selected to chair misconduct hearings are chief superintendents with significant operational and managerial experience. She stated that chief superintendents are responsible for large numbers of officers and staff, routinely make complex operational decisions, and bring substantial professional experience to the role before undertaking any specific misconduct training.

61. The Assistant Chief Constable further argued that the training provided to hearing chairs extends beyond two days of instruction on the regulations alone. She stated that the wider training programme includes input from senior counsel, the Scottish Police Federation, solicitors representing subject officers and experienced chairs. She also highlighted ongoing continuing professional development and support from legally qualified assessors during hearings.

62. Members questioned whether additional training would be required to support the implementation of the new regulations. The Assistant Chief Constable stated that, if the regulations came into force, Police Scotland intended to design a new training

programme and had already begun discussions with senior counsel regarding what that programme should contain.

63. The Committee heard that this preparatory work had already begun in anticipation of the regulations coming into force. The Assistant Chief Constable stated that Police Scotland had originally been working towards implementation following parliamentary consideration and was operating on the basis of a subsequent three-month period to develop, finalise and begin delivery of revised training arrangements. She further indicated that Police Scotland would be happy to participate in any process examining that training, including looking at what is included and how it is scrutinised.

Support for victims, witnesses, complainers and informants

64. During the session, the Cabinet Secretary and Chief Constable both emphasised the importance of considering the interests of victims, survivors, witnesses, complainers and informants within the conduct system. The Cabinet Secretary argued that those perspectives had featured less prominently during scrutiny than the experiences of subject officers and argued that fairness should be considered from all perspectives.

65. The Chief Constable argued that the regulations would introduce new protections for victims and witnesses participating in misconduct proceedings. She cited provisions that would allow vulnerable witnesses to provide evidence remotely and argued that the regulations support a more trauma-informed approach. She also noted that, in a number of misconduct cases, police officers themselves are victims.

66. The Cabinet Secretary stated that annulment of the instruments would remove a number of measures intended to improve support for victims, witnesses, complainers and informants. He referred to improved communication requirements, stronger rights to be kept informed of proceedings and new arrangements intended to increase participation and accessibility.

67. Members acknowledged the importance of these reforms while questioning whether other aspects of the regulations struck the correct balance between support for victims and fairness for officers subject to proceedings.

Timeliness and efficiency of proceedings

68. Members questioned the timeliness of misconduct proceedings, referring to evidence that officers subject to proceedings can face lengthy periods of uncertainty before cases are concluded. Members also explored whether the proposed accelerated hearing process struck the appropriate balance between improving timeliness and maintaining procedural fairness.

69. The Chief Constable stated that the existing regulations require Police Scotland to undertake a further conduct process following a criminal conviction, describing a situation in which evidence must effectively be revisited before misconduct sanctions can be imposed. She argued that the accelerated hearing provisions in the new regulations would allow Police Scotland to act more quickly in the most serious cases.

70. The Assistant Chief Constable gave a detailed description of the current process following conviction. She explained that, following conviction and sentencing, Police

Scotland must wait for appeal periods to expire, appoint an investigating officer, complete an investigation, compile reports and complete a number of procedural stages before the 35-day hearing timetable begins. She argued that references to a 35-day dismissal process do not reflect the full process currently required.

71. Members further questioned the fairness of accelerated misconduct hearings in cases that do not involve criminal convictions. The Assistant Chief Constable stated that accelerated proceedings could also be used where the evidence supported allegations of gross misconduct on the balance of probabilities. The Chief Constable outlined circumstances in which conduct proceedings may proceed despite criminal proceedings not resulting in conviction.

72. The Chief Constable also referred to the financial and operational consequences of delays within the current system. In correspondence to the Committee on 13 November [6] , she stated that approximately 80 officers are currently suspended and estimated the annual cost of those suspensions at approximately £4.5 million.

Public confidence, transparency and accountability

73. Throughout the session, the Cabinet Secretary and the Chief Constable both emphasised the importance of maintaining public confidence in policing and in the police conduct system. The Chief Constable stated that the regulations would support a "fair, effective and timely process" while maintaining trust and confidence in policing by consent. The Cabinet Secretary similarly argued that the regulations would strengthen transparency, accountability and public confidence in police misconduct arrangements.

74. Members suggested that differing arrangements for senior officers and other officers could undermine public confidence in the system. In response, the Cabinet Secretary argued that senior officers have different statutory responsibilities, accountability arrangements and employment status, and as such are subject to greater public scrutiny through public hearings.

75. The Chief Constable stated that the proposed arrangements in the new regulations would enhance transparency in relation to senior officer misconduct proceedings through the publication of outcomes, public hearings and an increased role for the Police Investigations and Review Commissioner. She argued that these measures would help address concerns regarding perceived bias and accountability.

76. The Cabinet Secretary also emphasised that public confidence must be considered alongside the interests of victims, witnesses, complainers and informants. He argued that fairness should be viewed from all perspectives rather than solely from that of officers who are subject to proceedings.

Motions recommending annulment

77. Under Rule 10.4, "any member (whether or not a member of the lead committee) may, by motion within the 40-day period, propose to the lead committee that the committee recommend that the instrument be annulled".

78. On 26 October 2026, Stephen Kerr MSP lodged motions S7M-01724—

That the Criminal Justice Committee recommends that the Police Service of Scotland (Conduct) Amendment Regulations 2026 (SSI 2026/276) be annulled.

and S7M-01725—

That the Criminal Justice Committee recommends that the Police Service of Scotland (Senior Officers) (Conduct) Amendment Regulations 2026 (SSI 2026/277) be annulled.

79. In moving the motions, Stephen Kerr MSP stated that he supported reform of the conduct system and welcomed elements of the regulations intended to improve standards and address misconduct. However, he argued that concerns remained regarding fairness within the proposed arrangements. He referred to evidence received by the Committee from serving and former police officers and highlighted concerns regarding prolonged investigations, the personal impact of lengthy misconduct proceedings on officers and their families, and the proposed use of different arrangements for senior officers and other ranks.

80. He further argued that the proposal for legally qualified chairs in senior officer gross misconduct proceedings, but not in proceedings involving other ranks, created a two-tier system. He also referred to Dame Elish Angiolini's report, in which it stated that independent legally qualified chairs should apply across all ranks.

81. Other Members of the Committee raised a range of concerns during the debate, including the use of independent chairs, the balance between fairness and public confidence, the operation of accelerated misconduct hearings, training arrangements, publication of misconduct outcomes, support for officers subject to proceedings, legal representation arrangements and the extent of stakeholder agreement on the regulations.

82. Several members acknowledged that changes to the current system were required and highlighted elements of the regulations intended to improve victim support, transparency and accountability. However, concerns continued to be expressed regarding consistency, fairness and the perception of independence within misconduct proceedings. During the debate, the Convener noted that no witness had supported retention of the current system and observed that the Scottish Police Federation, the Association of Scottish Police Superintendents, the Scottish Police Authority and His Majesty's Inspectorate of Constabulary in Scotland had all identified a need for reform, albeit differing on approaches on how to do that.

83. In responding to the debate, the Cabinet Secretary reiterated the Scottish Government's position that the regulations implement the framework established through the 2025 Act and argued that annulment would result in the loss of a significant package of reforms intended to improve timeliness, transparency, victim

support and accountability. He stated that, if the regulations were annulled, the existing conduct system would remain in place. The Cabinet Secretary also restated his view that the proposed arrangements are fair and argued that differing arrangements for senior officers and other ranks reflect existing statutory differences in responsibilities, accountability and employment status. In doing so, he responded to concerns raised by members regarding fairness, the operation of the proposed arrangements and evidence concerning the impact of lengthy investigations and proceedings on officers' wellbeing, family life and mental health. He further reiterated his view that extending legally qualified chairs to all ranks would require further primary legislation and additional resources. In a follow up letter to the Cabinet Secretary, Members have also sought clarification of the legal basis for the Scottish Government's position that extending legally qualified chairs to all ranks would require primary legislation.

84. During the evidence session and debate, the Cabinet Secretary committed to :

- pursuing a review of the operation of the regulations following implementation. He stated that he would approach Craig Naylor, His Majesty's Chief Inspector of Constabulary in Scotland, regarding such a review and committed to writing to the Committee setting out proposals and a timetable for that work. Subsequent to the meeting, the Cabinet Secretary wrote to the Committee confirming that he had written to HMICS to take that commitment forward and that he intended to use the power of direction available under section 74(1) of the Police and Fire Reform (Scotland) Act 2012 to commission an independent assurance review of the wider package of conduct and vetting reforms. He also indicated that HMICS and the Police Investigations and Review Commissioner would work together in considering the operation of the senior officer provisions;

- engaging with concerns regarding training for officers involved in misconduct proceedings. The Cabinet Secretary advised he would take these concerns to the Chief Constable and stated that the Scottish Government would engage with Police Scotland on the issue, including discussions on revised training arrangements and their implementation. He specifically referred to the Convener's view that two days' training was inadequate and stated that the Government would come back to the Committee on the matter;

- considering whether further guidance was required in relation to bias, impartiality and conflicts of interest. He stated that he was happy to look at the guidance to determine whether additional transparency could be provided regarding the formation of conflict-free panels and the operation of the safeguards within the regulations, and

- providing the Committee with further information on the interaction between vetting and misconduct processes.

85. Following debate, the Committee was divided on both motions recommending annulment.

- Motion S7M-01724 was disagreed to: For 3; Against 3; Abstentions 1[ii]. The motion was disagreed to on the casting vote of the Convener.

- Motion S7M-01725 was disagreed to: For 3; Against 4; Abstentions 0[iii].

The Committee therefore did not recommend annulment of either instrument.

[ii] For: Amanda Bland, Stephen Kerr, Pauline McNeill. Against: David Linden, Ben McPherson, Marie McNair. Abstention: Maggie Chapman.

[iii] For: Amanda Bland, Stephen Kerr, Pauline McNeill. Against: David Linden, Ben McPherson, Marie McNair, Maggie Chapman.

Conclusion

86. Although the Committee has not recommended annulment of these Regulations, it wishes to draw to the Parliament's attention the important issues that have been raised in its scrutiny.

87. The Committee notes that concerns were expressed during scrutiny regarding training arrangements, perceptions of independence and fairness, the operation of accelerated misconduct proceedings, and the consistency of safeguards available to officers across different ranks. The Committee expects these matters to be considered as part of the review and wider implementation work described by the Cabinet Secretary.

88. The Committee notes the commitments given by the Cabinet Secretary during the evidence session and debate, including the steps already taken to progress an independent assurance review of the regulations, and expects to receive updates on progress in delivering those commitments. The Committee looks forward to receiving further information on the proposed review arrangements, training developments, guidance relating to impartiality and conflicts of interest, and work relating to the interaction between vetting and misconduct processes. The Committee will continue to scrutinise the implementation and operation of the regulations in light of that information.

[1] Angiolini, E. (2020). Independent Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing - Final Report. Retrieved from https://www.gov.scot/publications/independent-review-complaints-handling-investigations-misconduct-issues-relation-policing/

[2] Policy Note: The Police Service Of Scotland (Conduct) Amendment Regulations 2026 SSSI 2026/276. (2026, October 1). Retrieved from https://www.legislation.gov.uk/ssi/2026/276/pdfs/ssipn_20260276_en_001.pdf

[3] Policy Note: The Police Service of Scotland (Senior Officers) (Conduct) Amendment Regulations 2026 SSI 2026/277 . (2026, October 1). Retrieved from https://www.legislation.gov.uk/ssi/2026/277/pdfs/ssipn_20260277_en_001.pdf

[4] Scottish Parliament. (2026). Official Report, Criminal Justice Committee, 4 November 2026. Retrieved from https://www.parliament.scot/chamber-and-committees/official-report/search-what-was-said-in-parliament/CJC-04-11-2026?meeting=20322

[5] Scottish Parliament. (2026). Correspondence from the Cabinet Secretary to the Convener of the Criminal Justice Committee regarding police conduct regulations, 13 November 2026. Retrieved from https://www.parliament.scot/-/media/files/committees/session-7/criminal-justice-committee/correspondence/2026/police-conduct-regulations-letter-from-cab-sec-for-justice.pdf

[6] Correspondence from Police Scotland to the Convener of the Criminal Justice Committee regarding police conduct regulations, 13 November 2026. (2026, November 13). Retrieved from https://www.parliament.scot/-/media/files/committees/session-7/criminal-justice-committee/correspondence/2026/police-conduct-regs-letter-from-police-scotland.pdf

