Criminal Justice Committee
Wednesday 28 October 2026
9th Meeting, 2026 (Session 7)

Note by the Clerk: negative instruments

Overview

1. At this meeting, the Committee will consider the following Scottish Statutory Instruments (SSIs), which are subject to the negative procedure. The Committee is invited to consider the instruments and decide what, if any, recommendations to make.

2. Further information about each instrument is provided in the Annexes to this paper:

   - Annexe A – The Police Service of Scotland (Conduct) Amendment Regulations 2026 (SSI 2026/276)

   - Annexe B – The Police Service of Scotland (Senior Officers) (Conduct) Amendment Regulations 2026 (SSI 2026/277)

Evidence received

3. The Committee has received written submissions in relation to both instruments. These comprise a submission from a serving police officer and correspondence from Stephen Kerr MSP. The submissions raise concerns about the proposed arrangements for gross misconduct hearings, particularly the different approaches proposed for senior officers and other police officers, and whether the Regulations fully reflect the recommendations made in Lady Angiolini's Independent Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing

4. The concerns raised are relevant to both instruments, although the submission from the serving police officer focuses primarily on the composition of gross misconduct panels for police officers below senior officer rank and compares those arrangements with the independent panel arrangements proposed for senior officer misconduct proceedings.

5. The Scottish Government's Policy Notes state that both instruments implement reforms arising from Lady Angiolini's review and the Police (Ethics, Conduct and Scrutiny) (Scotland) Act 2025.

6. The submissions, and any associated responses, are reproduced at **Annexe C and Annexe D**.

Procedure

7. Under the negative procedure, an instrument is laid after it is made, and is subject to annulment by resolution of the Parliament for a period of 40 days beginning on the day it is laid.

8. Once laid, the instrument is referred to:

   - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and

   - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.

9. Any MSP may propose, by motion, that the lead committee recommend annulment of the instrument. If such a motion is lodged, it must be debated at a meeting of the Committee, and the Committee must then report to the Parliament (by the advisory deadline referred to above).

10. If there is no motion recommending annulment, the lead committee is not required to report on the instrument.

Committee consideration

11. So far, no motion recommending annulment of either instrument has been lodged.

12. Members are invited to consider each instrument and decide whether there are any points they wish to raise. If there are points to raise on an instrument, options include:

    - seeking further information from the Scottish Government (and/or other stakeholders) through correspondence, and/or

    - inviting the Minister (and/or other stakeholders) to attend the next meeting to give evidence on the instrument.

13. It would then be for the Committee, at its next meeting, to consider any additional information gathered and decide whether to make recommendations in relation to the instrument.

14. If members have no points to raise, the Committee should note the instrument (that is, agree that it has no recommendations to make).

15. However, should a motion recommending annulment of one of the instruments be lodged later in the 40-day period, it may be necessary for the Committee to consider the instrument again.

Clerks to the Committee
October 2026

Annexe A: The Police Service of Scotland (Conduct) Amendment Regulations 2026 (SSI 2026/276)

Laid under: sections 48, 55 and 125(1) of the Police and Fire Reform (Scotland) Act 2012

Laid on: 1 October 2026

Procedure: Negative

Deadline for committee consideration: 23 November 2026

Deadline for Chamber consideration: 25 November 2026

Commencement: 26 November 2026

Delegated Powers and Law Reform Committee consideration

The DPLR Committee is due to consider the instrument at its meeting on 3 November 2026.

Purpose of the instrument

These Regulations amend the Police Service of Scotland (Conduct) Regulations 2014, which establish the procedures for dealing with allegations of misconduct and gross misconduct by constables in the Police Service of Scotland.

According to the policy note, the Regulations implement reforms arising from Lady Angiolini's Independent Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing and the Police (Ethics, Conduct and Scrutiny) (Scotland) Act 2025. The changes aim to improve the efficiency, transparency and fairness of misconduct procedures, and strengthen public confidence in how allegations are handled. In particular, the Regulations:

- establish a new accelerated misconduct hearing process for the most serious cases;
- introduce greater transparency through publication of misconduct outcomes;
- strengthen arrangements for complainant engagement and information sharing;
- provide for joint investigations between the Deputy Chief Constable and the Police Investigations and Review Commissioner in cases involving both constables and senior officers;
- introduce procedural reforms intended to improve the effective management of misconduct cases such as pre-hearings and case management timelines; and
- bring conduct matters relating to special constables within the framework of the 2014 Conduct Regulations.

The Policy Note accompanying the instrument is included in the annexe. It includes a summary of consultation undertaken on the instrument and the anticipated financial effects. The following impact assessments have been carried out:

- Child Rights and Wellbeing Impact Assessment
- Data Protection Impact Assessment
- Equality Impact Assessment

Evidence received

Written evidence relevant to this instrument has been received. This is summarised in the main paper and reproduced in **Annexe C and Annexe D**.

Scottish Government Policy Note

THE POLICE SERVICE OF SCOTLAND (CONDUCT) AMENDMENT REGULATIONS 2026

SSI 2026/276

The above instrument was made in exercise of the powers conferred by sections 48, 55 and 125(1) of the Police and Fire Reform (Scotland) Act 2012 ("the 2012 Act") and all other powers enabling them to do so. The instrument is subject to negative procedure.

Summary Box

These Regulations amend the Police Service of Scotland (Conduct) Regulations 2014 ("the 2014 Conduct Regulations"), which establish the procedures for dealing with allegations of misconduct and gross misconduct by constables in the Police Service of Scotland. These Regulations implement reforms to the police conduct system, arising from Lady Angiolini's *Independent Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing* and the Police (Ethics, Conduct and Scrutiny) (Scotland) Act 2025. They update misconduct procedures to improve efficiency, transparency, fairness and public confidence in the handling of misconduct allegations.

In particular, the Regulations:

- establish a new accelerated misconduct hearing process for the most serious cases;
- introduce greater transparency through publication of misconduct outcomes;
- strengthen arrangements for complainant engagement and information sharing;
- provide for joint investigations between the Deputy Chief Constable and the Police Investigations and Review Commissioner in cases involving both constables and senior officers;
- introduce procedural reforms intended to improve the effective

management of misconduct cases such as pre-hearings and case management timelines; and
- bring conduct matters relating to special constables within the framework of the 2014 Conduct Regulations.

Policy Objectives

1. Police constables possess a range of authorised statutory powers that set them apart from ordinary members of the public. It is therefore essential that they uphold the highest ethical and professional standards and act with the utmost integrity. Doing so is crucial to maintaining public trust and confidence in the police service.

2. Public confidence in policing depends on a conduct system which is fair, proportionate, transparent and capable of addressing serious misconduct effectively. The Scottish Government has worked with policing stakeholders to modernise the existing conduct framework and ensure that misconduct procedures reflect modern expectations of accountability, openness and procedural fairness.

3. The existing misconduct framework has been in place since 2014. Experience of operating the system has identified opportunities to improve case management, support witnesses and complainers, strengthen transparency and provide more effective mechanisms for dealing with the most serious cases of alleged gross misconduct.

4. These Regulations therefore make a range of procedural and substantive changes to the conduct framework. The reforms are intended to:

    - improve public confidence in police misconduct processes;
    - support timely and effective resolution of cases;
    - ensure that witnesses and complainers are treated appropriately and in a trauma-informed manner;
    - strengthen procedural safeguards for officers subject to proceedings;
    - increase transparency regarding misconduct outcomes while preserving necessary protections for sensitive information.

Accelerated misconduct hearings

5. The Regulations establish a new accelerated misconduct hearing procedure. This process may be used where there is sufficient evidence to establish, on the balance of probabilities, that a constable's conduct amounts to gross misconduct and where it is in the public interest for the constable to cease to hold office without delay.

6. The accelerated procedure enables such cases to be considered more quickly than would be possible under the standard misconduct hearing process while maintaining procedural safeguards, including legal representation and rights of appeal.

Transparency and publication

7. The Regulations introduce new requirements for reports of misconduct proceedings and accelerated misconduct hearings to be provided to relevant parties and, in most cases, published on the Police Service of Scotland website. Publication may be restricted or dispensed with where necessary to protect criminal proceedings, public safety, personal data, welfare considerations or other important public interests.

8. The Regulations also require notification to certain complainants where a determination is made that there is no case to answer in respect of misconduct or gross misconduct.

Support measures for witnesses

9. The Regulations update the range of measures available to support the effective participation of witnesses in misconduct proceedings, including the use of remote evidence, screens, supporters and private evidence sessions where appropriate and compatible with fairness, allowing vulnerable witnesses or children to participate in misconduct proceedings more appropriately and effectively.

Procedural reforms

10. The Regulations introduce misconduct pre-hearings, a presenting officer role, new case management powers and revised arrangements relating to witness evidence and disclosure. They also provide updated rules regarding suspension, legal representation, investigation notices and the handling of disciplinary warnings.

Joint investigations

11. New provisions permit joint investigations between the Deputy Chief Constable and the Police Investigations and Review Commissioner in cases involving both constables and senior officers. The Regulations provide a framework for information sharing and joint investigative activity while preserving the separate statutory responsibilities of each decision-maker.

12. The Regulations introduce a definition of "trauma-informed practice" in relation to the joint investigations provisions and require trauma-informed approaches to be considered in the conduct of joint investigations involving the Police Service of Scotland and the Police Investigations and Review Commissioner. In particular, the Regulations require consideration of safeguarding and welfare needs and provide that joint witness interviews may only be conducted where the approach is consistent with trauma-informed practice.

Special constables

13. The Regulations bring conduct matters involving special constables within the conduct framework established by the 2014 Conduct Regulations and revoke the separate misconduct provisions currently contained in the Police Service of Scotland (Special Constables) Regulations 2013, subject to transitional arrangements for existing cases.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

14. In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 ("the Act"), the Scottish Ministers certify that, in their view, the Police Service of Scotland (Conduct) Amendment Regulations 2026 are compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

15. This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

16. In accordance with section 54(2) of the 2012 Act, Scottish Ministers have consulted and shared a draft of the Regulations with the persons mentioned in section 54(2)(a)(i) to (vi) and under this section have consulted relevant bodies with an interest in this area of policy, including Police Scotland, the Scottish Police Authority, the Police Investigations and Review Commissioner and staff associations. Scottish Ministers have considered the representations made and drafting changes have been made as a result of those comments.

Impact Assessments

17. An Equality Impact Assessment has been completed for these Regulations and is attached. It identified no equality impact issues due to any protected characteristics.

18. A Child Rights and Wellbeing Impact Assessment has been completed for these Regulations and is attached. The Regulations contain provisions supporting the participation of child witnesses where appropriate.

19. A Data Protection Impact Assessment has been completed for these Regulations and is attached.

Financial Effects

20. The Cabinet Secretary for Justice confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Safer Communities Directorate
24 September 2026

Annexe B: The Police Service of Scotland (Senior Officers) (Conduct) Amendment Regulations 2026 (SSI 2026/277)

Laid under: sections 48, 55 and 125(1) of the Police and Fire Reform (Scotland) Act 2012

Laid on: 1 October 2026

Procedure: Negative

Deadline for committee consideration: 23 November 2026

Deadline for Chamber consideration: 25 November 2026

Commencement: 26 November 2026

Delegated Powers and Law Reform Committee consideration

The DPLR Committee is due to consider the instrument at its meeting on 3 November 2026.

Purpose of the instrument

These Regulations amend the Police Service of Scotland (Senior Officers) (Conduct) Regulations 2013, which establish the procedures for dealing with allegations of misconduct and gross misconduct involving senior officers of the Police Service of Scotland.

According to the policy note, the Regulations implement reforms recommended by Lady Angiolini's Independent Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing and the Police (Ethics, Conduct and Scrutiny) (Scotland) Act 2025. The changes strengthen the role of the Police Investigations and Review Commissioner, introduce accelerated misconduct hearings, improve transparency, and enhance the management of misconduct cases. In particular, the Regulations:

- transfer responsibility for the assessment and investigation of senior officer misconduct allegations from the Scottish Police Authority to the Police Investigations and Review Commissioner;
- introduce accelerated misconduct hearings for the most serious cases of alleged gross misconduct;
- establish new arrangements for joint investigations involving senior officers and other constables;
- increase transparency through public hearings, public notification of proceedings and the requirement of the publication of outcome reports;
- reform the composition of misconduct panels and strengthen the independence of decision-making; and

- introduce new case-management procedures and strengthen procedural safeguards for officers and witnesses.

The Policy Note accompanying the instrument is included in the annexe. It includes a summary of consultation undertaken on the instrument and the anticipated financial effects. The following impact assessments have been carried out:

- Child Rights and Wellbeing Impact Assessment
- Data Protection Impact Assessment
- Equality Impact Assessment

Evidence received

Written evidence relevant to this instrument has been received. This is summarised in the main paper and reproduced in **Annexe C and Annexe D**.

Scottish Government Policy Note

THE POLICE SERVICE OF SCOTLAND (SENIOR OFFICERS) (CONDUCT) AMENDMENT REGULATIONS 2026

SSI 2026/277

The above instrument was made in exercise of the powers conferred by sections 48, 55 and 125(1) of the Police and Fire Reform (Scotland) Act 2012. The instrument is subject to the negative procedure.

Summary Box

These Regulations amend the Police Service of Scotland (Senior Officers) (Conduct) Regulations 2013 ("the 2013 Conduct Regulations"), which establish the procedures for dealing with allegations of misconduct and gross misconduct involving senior officers of the Police Service of Scotland. These Regulations implement reforms to the senior officer police conduct system, arising from Lady Angiolini's Independent Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing and the Police (Ethics, Conduct and Scrutiny) (Scotland) Act 2025. They reform the conduct framework for senior officers by strengthening the role of the Police Investigations and Review Commissioner, introducing accelerated misconduct hearings, increasing transparency and improving the management of misconduct cases.

In particular, the Regulations:

- transfer responsibility for the assessment and investigation of senior officer misconduct allegations from the Scottish Police Authority to the Police Investigations and Review Commissioner;
- introduce accelerated misconduct hearings for the most serious cases of alleged gross misconduct;
- establish new arrangements for joint investigations involving senior officers and other constables;

- increase transparency through public hearings, public notification of proceedings and the requirement of the publication of outcome reports;
- reform the composition of misconduct panels and strengthen the independence of decision-making; and
- introduce new case-management procedures and strengthen procedural safeguards for officers and witnesses.

Policy Objectives

1. This instrument supports implementation of reforms to police conduct, complaints handling and investigations following Lady Angiolini's independent review and subsequent legislative reforms. They are intended to strengthen public confidence in the independence, effectiveness and transparency of senior officer misconduct proceedings.

2. The principal policy objectives of the Regulations are outlined under the following subheadings.

Strengthening the role of the Police Investigations and Review Commissioner

3. A central reform is the transfer of responsibility for the assessment and investigation of misconduct allegations against senior officers to the Police Investigations and Review Commissioner ("the Commissioner"). The Regulations require all misconduct allegations concerning senior officers to be referred to the Commissioner, who is responsible for assessing allegations, determining whether investigations should be undertaken and conducting investigations through investigators appointed by the Commissioner.

4. The Regulations remove the previous preliminary assessment and investigative functions of the Scottish Police Authority in relation to senior officer misconduct allegations and replace them with a framework led by the Commissioner.

Accelerated misconduct hearings

5. The Regulations establish a new accelerated misconduct hearing process for the most serious cases of alleged gross misconduct. A case may be referred to an accelerated misconduct hearing where there is sufficient evidence to establish on the balance of probabilities that the conduct amounts to gross misconduct and, where it is in the public interest for the senior officer to cease to hold office without delay.

6. The accelerated process is intended to enable the timely resolution of the most serious cases while maintaining procedural safeguards, including legal representation, disclosure requirements and rights of appeal to the First-tier Tribunal for Scotland.

Transparency and public confidence

7. The Regulations introduce a presumption that misconduct hearings and accelerated misconduct hearings are held in public, subject to specified powers

to exclude persons, impose attendance conditions or impose reporting restrictions where necessary.

8. The Regulations also provide for public notification of hearings, publication of outcome reports and greater access to information for complainants. Information may be withheld, redacted or anonymised only where necessary for specified purposes, including the protection of criminal proceedings, public safety, personal data or other public interests.

9. Where it is determined by the Commissioner that a senior officer has no case to answer in respect of misconduct or gross misconduct, the Regulations provide that the Commissioner must notify certain complainants of that outcome and the reasons for it, subject to limited exceptions.

Joint investigations

10. The Regulations introduce provisions enabling joint investigations by the Commissioner and the Deputy Chief Constable where allegations concern both a senior officer and a constable subject to the Police Service of Scotland (Conduct) Regulations 2014. The Regulations provide for joint investigation strategies, information sharing and joint witness interviews while preserving separate statutory functions and independent decision-making in regard to each constables actions.

11. The Regulations also introduce a definition of trauma-informed practice and require trauma-informed approaches to be considered in the conduct of joint investigations, particularly in relation to witnesses and victims.

Hearings and case management

12. The Regulations introduce new misconduct pre-hearings and confer case-management powers on the chairing member of the panel to support the fair, efficient and timely conduct of proceedings. Statutory time limits are introduced for commencement of hearings, subject to extensions where required in the interests of justice.

13. The Regulations also strengthen procedural safeguards through expanded rights to legal representation, enhanced disclosure requirements and updated arrangements for witness participation. Witness-support measures include remote attendance, the use of screens, supporters and private evidence sessions where this is compatible with fairness and the interests of justice.

Misconduct panels and appeals

14. The Regulations reform the composition of misconduct panels. Chairing members are to be appointed by the Lord President from among the legal members of the First-tier Tribunal, while the Scottish Police Authority appoints a senior policing expert and an independent lay member. The Regulations also introduce enhanced safeguards concerning conflicts of interest and impartiality. Appeals against disciplinary action imposed following misconduct hearings or accelerated misconduct hearings lie to the First-tier Tribunal for Scotland.

Application of the senior officer conduct regime to certain non-senior officers

15. The Regulations extend the senior officer conduct regime to conduct occurring on or after 26 November 2026 where an individual was either subsequently promoted (permanently or temporarily) to senior officer rank after the conduct occurred, or was temporarily appointed to a senior officer rank at the time of the conduct.

16. Taken together, these reforms ensure that the misconduct framework for senior officers is robust, transparent and aligned with wider reforms to police accountability and public expectations.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

17. In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Police Service of Scotland (Senior Officers) (Conduct) Amendment Regulations 2026 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

18. This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

19. In accordance with section 54(2) of the 2012 Act, Scottish Ministers have consulted and shared a draft of the Regulations with the persons mentioned in section 54(2)(a)(i) to (vi) and under this section have consulted with relevant bodies with an interest in this area of policy, including Police Scotland, the Scottish Police Authority, the Police Investigations and Review Commissioner and staff associations. Scottish Ministers have considered the representations made and drafting changes have been made as a result of those comments.

Impact Assessments

20. An Equality Impact Assessment has been completed for these Regulations and is attached. It identified no equality impact issues due to any protected characteristics.

21. A Child Rights and Wellbeing Impact Assessment has been completed for these Regulations and is attached. The Regulations contain provisions supporting the participation of child witnesses where appropriate.

22. A Data Protection Impact Assessment has been completed for these regulations and is attached.

Financial Effects

23. The Cabinet Secretary for Justice confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

24. The financial implications associated with these policy changes, including independent panel arrangements and potential legal costs for the Police Investigations and Review Commissioner, were assessed at Bill stage and are reflected in the Revised Financial Memorandum published at Stage 2. The Regulations give effect to provisions already considered as part of that assessment.

Scottish Government
Safer Communities Directorate
27 September 2026

Annexe C: Correspondence from a serving police officer, received 1 September 2026

Dear Convener and Committee Members

DRAFT SECONDARY LEGISLATION – NEGATIVE SSI – POLICE SERVICE OF SCOTLAND (CONDUCT) REGULATIONS 2026

Background

I understand that the above SSI is due to be laid before the Scottish Parliament and for scrutiny by the Criminal Justice Committee in September 2026.
I am a serving police officer who has significant concerns around fairness of some provisions in the proposed Regulations.

As you know, the proposed Regulations are secondary to the Police Ethics, Conduct and Scrutiny (Scotland) Act 2025 (PECSS). PECSS was preceded by Dame Angiolini's Report into Police Conduct matters, published in 2020. Recommendation 27 of that report recommended that gross misconduct hearings for all ranks should have

- An independent legally qualified chair (LQC)
- An independent lay member appointed by the Lord President, and - A policing member

Initially, Police Scotland and the Scottish Government publicly supported the recommendations. The vast majority of published consultation responses also publicly supported Recommendation 27, citing independence, transparency and fairness.

The Current Policy Position

The Scottish Government Policy Memorandum on PECCS in June 2023 rejected Recommendation 27, stating (para 107);
'It is felt that the proportionate response is that a LQC of a hearing could properly hold a senior officer to account and also not leave the process open to perceptions of proximity bias between senior officers and SPA (who would currently chair senior officer hearings). This was not the case with non-senior officer cases which would potentially be delayed and incur large costs'.

On 24th August 2026, the Cabinet Secretary for Justice wrote to the Convener of the Criminal Justice Committee about the forthcoming priorities. On page 18, para 2, the letter outlines that there will only be 'independent panels for senior officer misconduct hearings'.

Parity Across Ranks

Interest in the police misconduct system has never been greater. The recent HMICS Assurance Review of Conduct and Discipline recorded significant concerns over how senior officers' misconduct is treated differently to other ranks. The Cabinet Secretary then addressed the annual conference of the Association of Scottish

Police Superintendents (ASPS) and is quoted in the Daily Mail on 17th June 2026 as stating;

'there are concerns over the perception that particularly senior officers might be treated more favourably and that standards are not applied consistently. That perception goes to the heart of confidence, fairness and legitimacy, not only in the eyes of the public, but of policing itself. Where that belief is eroded, it does not just undermine trust in the process, it undermines trust in leadership'.

Presently, and as proposed in the new Regulations, gross misconduct hearings for all ranks below Chief Officer are chaired by a police officer, with no legal training, qualifications or experience. A recent Police Scotland Conduct Report to the Scottish Police Authority (SPA) described the extent of legal challenge to conduct matters as 'significant'. The proportion of officers dismissed under this regime who are then successful in appeal to the Police Appeals Tribunal (PAT) is high. The SPA has noted 'procedures not being followed' leading to successful appeals. The PAT is the only independent and legally qualified aspect of the entire process.

If the new Code of Ethics applies to every officer regardless of rank, then the test for breaching those standards should be equally applied.

Legal Concerns

Every successful PAT appeal successfully argues that the police-chaired system breaches the UK legal test in Porter v Magill (2001) which is
'Whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased'.

Article 6 of the European Convention on Human Rights provides a right to a fair hearing. Being quasi-judicial, the police misconduct hearing is subject to that provision. Where bias, proximity bias, procedural failing and lack of transparency and independence combine under the present and proposed system, there is a significant risk of Article 6 being breached, as warned in this legal opinion piece by a highly experienced KC

https://barristermagazine.com/police-misconduct-hearings-post-2024-are-they-fairtrials/?utm_source=chatgpt.com

Request for Action

The HMICS Conduct Review stated that police officers 'deserve to have confidence in conduct and discipline processes that are fair, proportionate and prompt, enabling the minority of those who fall short of expected standards to be held to account'. That test and the legal ones above, can only be met by the provision of independent and legally qualified panels for all ranks.

I request that you support your police officers and the public expectations to hold them to account by demanding that the Scottish Government makes explicit provision for parity of ranks and provides for independent legally qualified panels for gross misconduct hearings. If this means voting to annul the proposed Regulations in their present format, then I hope that you will do so. Thank you for your attention and action.

Annexe D: Correspondence from Stephen Kerr MSP

The following correspondence, in relation to these instruments, has been published on the Committee's webpage:

- Letter from Stephen Kerr MSP to the Convener, 21 September 2026
- Convener's response to letter from Stephen Kerr MSP on Police Conduct Regulations, 29 September 2026

On 6 October 2026, Stephen Kerr MPS received the following response from the Cabinet Secretary for Justice:

Dear Stephen,

Thank you for your letters of 21 September regarding the forthcoming Police Conduct Regulations and the arrangements for gross misconduct hearings. You also raised these matters at FMQs on 29 September.

It is important to recognise that the framework within which these regulations have been developed was considered by Parliament during scrutiny of the Police (Ethics, Conduct and Scrutiny) (Scotland) Act 2025. In particular, Parliament approved provision for independently chaired misconduct panels in relation to senior officers, whilst not making equivalent provision for other ranks and endorsed a differentiated approach between senior officers and other ranks when enacting the primary legislation. Ministers are taking forward an approach which is consistent with that framework and with the policy position approved in the 2025 Act.

In terms of your question about why we have continued with two sets of regulations, I am aware that the Scottish Government was asked during the Review to consider combining the regulations. However, it was recognised that this was ultimately a matter for the Scottish Government to determine. The substantive position remains that the regulations only diverge where there is a policy justification for doing so.

The regulations themselves will also be subject to parliamentary scrutiny through the established procedures for Scottish Statutory Instruments. As a negative procedure instrument, the regulations will be scrutinised by the Delegated Powers and Law Reform Committee and the Criminal Justice Committee. Parliament will therefore have the opportunity to scrutinise both the regulations and the policy rationale which underpins them. The reforms are intended to modernise and improve police misconduct procedures, strengthening fairness, effectiveness and public confidence whilst ensuring that misconduct cases continue to be dealt with robustly and without undue delay.

While Recommendation 27 and the views expressed through consultation were carefully considered, Ministers were required to balance these alongside a range of other considerations and views. From the introduction of the Police (Ethics, Conduct and Scrutiny) Bill, Ministers were clear about the practical and governance implications of extending independently chaired misconduct panels to all officers. Such a model would introduce additional costs and administrative complexity, risk extending the time taken to conclude misconduct proceedings, and remove an

important element of the Chief Constable's responsibility for the direction, control and discipline of police officers. Extending access to thousands of Constables, including for minor sanctions, would have serious implications for both Police Scotland and the Scottish Courts and Tribunals Service, as noted above.
Ministers therefore concluded that the model provided for in the regulations strikes the appropriate balance between independence, accountability, operational effectiveness and public confidence, while remaining consistent with the framework endorsed by Parliament through the 2025 Act.

I do not agree with the suggestion that Superintendents and Chief Superintendents are not suitable individuals to undertake misconduct hearings. Superintendents and Chief Superintendents are highly experienced officers who routinely exercise significant leadership, management and decision-making responsibilities. They lead complex operational activity, oversee substantial organisational functions and are entrusted with significant responsibilities on behalf of the service and the public. They are therefore well placed to assess allegations of misconduct, apply the Standards of Professional Behaviour and ensure that proceedings are conducted fairly and appropriately. Given the significant responsibilities routinely entrusted to officers of this rank, including operational command over significant geographical areas, strategic leadership and the management of complex and sensitive matters, I believe they are appropriate persons to determine conduct proceedings.

The regulations also contain a range of procedural safeguards, rights of representation and appeal mechanisms which support the overall fairness and robustness of the process.

In relation to your questions regarding the financial implications of these reforms, these matters were considered during the passage of the Police (Ethics, Conduct and Scrutiny) (Scotland) Act 2025. The associated Financial Memorandum, which was provided to Parliament during scrutiny of the Bill and remains publicly available on the Scottish Parliament website, sets out the anticipated costs associated with implementation of the Act, including those arising from the introduction of independently chaired misconduct hearings for senior officers.

Thank you again for taking the time to set out your views and questions on this matter. I hope this response is helpful.

Given the issues raised regarding parliamentary scrutiny, I am copying this letter to the Convener of the Criminal Justice Committee.

Yours sincerely,
Neil Gray