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Police (Ethics, Conduct and Scrutiny) (Scotland) Bill: Consideration prior to Stage 3

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Stage 3 proceedings for the Police (Ethics, Conduct and Scrutiny) (Scotland) Bill are scheduled to take place on Wednesday 15 January 2025. This briefing outlines the main issues considered during Stages 1 and 2.



6 January 2025
SB 25-01

Contents

Summary	3
Introduction	5
Stage 1 scrutiny	6
Criminal Justice Committee	6
Sections 2 and 3 - Ethics of the police	7
Sections 4 to 8 - Police conduct	8
Sections 9 to 16 - Functions of the Police Investigations and Review Commissioner (PIRC)	9
Further suggested legislative changes	9
Finance and Public Administration Committee	10
Delegated Powers and Law Reform Committee	11
Stage 1 debate	12
Stage 2 scrutiny	14
Sections 2 and 3 - Ethics of the police	15
Sections 4 to 8 - Police conduct	16
Sections 9 to 16 - Functions of the Police Investigations and Review Commissioner (PIRC)	17
Section 17 - Governance of the Police Investigations and Review Commissioner (PIRC)	18
Stage 3 timetable	19
Bibliography	20

Summary

The overarching policy objective of the Police (Ethics, Conduct and Scrutiny) (Scotland) Bill (“the Bill”) is to ensure there are robust, clear and transparent mechanisms in place for investigating complaints, allegations of misconduct, or other issues of concern in relation to the conduct of police officers in Scotland.

While the aim is stated in respect of ‘police officers’, sections 2, 3 and 9 to 13 of the Bill also apply, to some extent, to civilian staff of policing bodies as well as police officers.

Sections 2 and 3 of the Bill cover the ethics of the police. These sections:

- create a statutory obligation for Police Scotland to have a code of ethics
- place a statutory duty of candour on individual police officers and Police Scotland as an organisation.

Amendments agreed to at Stage 2 included:

- adding further sources to be referred to, and persons to be consulted, by the Chief Constable when preparing the code of ethics
- clarifying that the duty of candour applies to all investigations, and is subject to the assertion against self-incrimination in criminal cases
- introducing mandatory requirements for the ongoing vetting of police officers and staff, failure of which could result in demotion or dismissal.

Sections 4 to 8 of the Bill cover aspects of police conduct. These sections:

- clarify that the Scottish Police Authority (SPA) is liable for the unlawful conduct of the Chief Constable
- allow the functions that can be conferred on the Police Investigations and Review Commissioner (PIRC) to be amended
- provide a power to allow misconduct procedures to be applied to former police officers
- introduce an advisory list for former police officers under investigation for alleged gross misconduct, and a barred list for officers dismissed, or who would have been dismissed had they not already left the force, due to gross misconduct
- amend the misconduct procedures for senior police officers, including requiring an independent panel to determine such cases.

Amendments agreed to at Stage 2 included:

- ensuring that regulations introduced in secondary legislation must include a time limit, beyond which a public interest test must be applied to enable gross misconduct proceedings to be commenced or continued against former officers
- allowing those who are dismissed for a failure of vetting to be included on the barred list

- including a list of organisations who must consult the advisory and barred lists
- that Scottish Ministers must by regulations make provision for notice to be given to a person who is to be entered in or removed from the advisory list or the barred list.

Sections 9 to 16 of the Bill refer to functions of the PIRC. These sections:

- provide clearer definitions of a “person serving with the police” in relation to PIRC investigations and “member of the public” in relation to the making of complaints
- clarify the PIRC’s role in investigations of the deaths of police officers
- provide the PIRC with additional powers, including extra functions in the complaint handling review process; being able to call in complaints; being able to audit whistleblowing complaints; reviewing practices and policies of Police Scotland and the SPA; and having a role in investigating police officers from outwith Scotland who are carrying out policing functions in Scotland
- enable the PIRC to have direct access to Police Scotland's complaints database.

Amendments agreed to at Stage 2 included:

- ensuring the PIRC notifies complainers where they have carried out a complaint handling review of their own volition
- that the PIRC must, rather than may, publish the responses to their recommendations made in complaint handling reviews or where they have called in a complaint, subject to certain conditions.

Section 17 of the Bill covers the governance of the PIRC and requires there to be a statutory advisory board to the Commissioner.

This section of the Bill was not amended at Stage 2.

Introduction

The [Police \(Ethics, Conduct and Scrutiny\) \(Scotland\) Bill](#) ("the Bill") was introduced on 6 June 2023 ¹.

The [Policy Memorandum](#) ², [Explanatory Notes](#) ³, [Financial Memorandum](#) ⁴ and [Delegated Powers Memorandum](#) ⁵ were published alongside the Bill.

The [SPiCe briefing](#) ⁶ on the Bill provides detailed consideration of its provisions and policy context.

Eight Stage 1 evidence sessions took place between 17 April and 29 May 2024. The [Stage 1 report](#) ⁷ was published on 2 July 2024 and the [Stage 1 debate](#) took place on 10 September 2024.

Stage 2 scrutiny took place at a meeting of the Criminal Justice Committee on [2 October 2024](#).

Stage 3 proceedings (final consideration) are scheduled to take place on Wednesday 15 January 2025.

Stage 1 scrutiny

The Parliament's Criminal Justice Committee was designated as lead committee for parliamentary consideration of the Bill. The Financial Memorandum was considered by the Finance and Public Administration Committee, while the Delegated Powers Memorandum was considered by the Delegated Powers and Law Reform Committee. Details of these separate processes are outlined below.

Criminal Justice Committee

The Criminal Justice Committee ran a call for views from 26 September to 8 December 2023. There were [45 published responses](#) to the call for views. Seven evidence sessions were held with stakeholders. These took place on:

- [17 April 2024](#) ([note from Informal Meeting](#) on this date)
- [24 April 2024](#)
- [8 May 2024](#)
- [15 May 2024](#)
- [16 May 2024](#)
- [22 May 2024](#)
- [23 May 2024](#).

An evidence session with the Cabinet Secretary for Justice and Home Affairs, Angela Constance MSP, and Bill Team officials was held on [29 May 2024](#).

The [Committee's Stage 1 report](#) ⁷ was published on 2 July 2024. The [Scottish Government provided a written response to the Stage 1 report](#) ⁸ on 3 September 2024. Written responses to the Stage 1 report were also received from [Police Scotland](#), the [Police Investigations and Review Commissioner \(PIRC\)](#) and the [Scottish Police Authority \(SPA\)](#).

In relation to the general principles of the Bill, the Stage 1 report stated:

“ The Committee is content to support the general principles of the Bill and recommends to the Parliament that they be agreed to. However, there are two members of the Committee, Katy Clark and Pauline McNeill, for whom their support at stage 1 is dependent on the provision of an updated Financial Memorandum at stage 1.”

Overarching conclusions and recommendations of the Committee's Stage 1 report included a wish to see a revised Financial Memorandum at Stage 2 or sooner, with a request to be kept updated if there were further significant changes to the expected costs of the Bill.

The Scottish Government responded to this point as follows:

“ The Scottish Government acknowledges the Committee's views on the financial aspects of this Bill and wishes to reiterate that it takes seriously the need to provide a robust articulation of the potential financial impact of the Bills it brings forward [...] The approach we have taken to inform the Scottish Parliament of the revised costs in this Bill - by way of letter rather than by an apparent revised FM - is therefore one of form only. The Scottish Government will provide a revised FM if the Bill is amended at Stage 2 so as to substantially alter any costs, savings etc.”

The Stage 1 report also noted that the Committee was unsure whether the provisions in the Bill would sufficiently improve the experience of officers and members of the public.

The sections below include key conclusions and recommendations made by the Committee, the related Scottish Government response, and organisational response where relevant, under each part of the Bill.

Sections 2 and 3 - Ethics of the police

The Criminal Justice Committee welcomed the introduction of a statutory obligation for Police Scotland to have a code of ethics, and the introduction of a duty of candour. The Committee did, however, make recommendations and request clarity from the Scottish Government on certain aspects of the duty of candour.

Firstly, the Committee recommended that the individual duty of candour was extended to police staff who undertake roles which provide them with statutory powers and duties. The Cabinet Secretary for Justice and Home Affairs, Angela Constance MSP, responded that she had "asked [her] officials to discuss with Police Scotland and the SPA how best this could be progressed".

The Committee also requested clarification on the reasons for not introducing a duty of cooperation in the Bill along with the duty of candour.

The Cabinet Secretary responded, stating that:

“ My view is that there is no clear divide between the duty of candour and a duty of co-operation: the duty to co-operate or assist is a facet of the duty of candour, which is about being transparent and proactive in sharing relevant information and highlighting relevant issues.”

The Committee asked for clarification on whether the duty would only apply to officers and staff who were witnesses rather than suspected of a crime or misconduct. The Cabinet Secretary responded, stating:

- the legislation had to be applied in a European Court of Human Rights (ECHR) compliant manner so the right to silence and the privilege against self-incrimination for those who have been identified as suspects in criminal cases, or those that may become suspects in the course of an interview, will apply
- there was no right to silence for those who are the subject of non-criminal investigations (e.g. misconduct)
- the duty of candour was not limited only to those who have been identified as a witness as this would mean that those who had no right to silence but were the subject of an investigation would not be subject to the duty. It would also exclude those who have not been identified as holding any knowledge of an event or issue

and therefore have not been asked for their account but who would be expected to come forward and volunteer information.

The Committee requested Police Scotland clarify why they felt care should be taken if applying the duty of candour to off-duty police officers. They advised that this was in relation to potential article 8 ECHR implications, a right to respect for private and family life. The Cabinet Secretary addressed this in her [correspondence to the Criminal Justice Committee](#) of 23 September 2024, stating that the Scottish Government's view was that the provision was article 8 compliant.

Sections 4 to 8 - Police conduct

Section 5 of the Bill will allow the PIRC to carry out the initial assessment function for senior officer misconduct allegations. The Committee believed this should be expanded stating:

“ The Committee agrees with the SPA that there should be a role for PIRC to receive and carry out an initial assessment of all complaints about senior officers, Assistant Chief Constable and above, and not only those relating to misconduct.”

The PIRC and the Cabinet Secretary for Justice and Home Affairs, Angela Constance MSP, disagreed with this recommendation, with the latter stating:

“ I welcome the Committee's views and can reassure the Committee that very careful consideration has been given to these views, along with those of stakeholders. As a result of extensive conversations with the PIRC, SPA and the Scottish Public Services Ombudsman (SPSO) the Scottish Government consider that, on balance, the Bill as currently drafted is appropriate and sufficient. I will, however, ask for this to be kept under review as the provisions bed in and it can be seen how they work in practice.”

In relation to the role of the PIRC in carrying out the preliminary assessment function in the process for former officers subject to a misconduct allegation, the Committee requested confirmation of the circumstances in which the PIRC would carry out this assessment.

The Cabinet Secretary responded by stating:

“ I am considering whether the PIRC should carry out the preliminary assessment process for all cases where consideration is being given to raising gross misconduct proceedings against former constables. This will, however, be subject to further consultation when the regulations setting this out are drafted.”

The Committee also recommended that the Bill should include a power for the Chief Constable to be able to remove someone who cannot maintain their vetting. The Cabinet Secretary responded that they were considering how best to implement this ahead of Stage 2. Further information was provided by the Cabinet Secretary in relation to this recommendation in the Stage 1 debate and is outlined in the [Stage 1 debate section](#) below.

The Committee report also contained recommendations relating to the PIRC's objections to having certain functions conferred on to it, as well as noting the Committee had heard conflicting views around the holding of gross misconduct hearings in public. These aspects were not dealt with directly by the Bill and would come in through secondary legislation.

Sections 9 to 16 - Functions of the Police Investigations and Review Commissioner (PIRC)

The Committee asked the Scottish Government to clarify the Bill's intention on whether it is only acts or omissions which directly affect people, and not those which are witnessed by a person serving with the police in their personal capacity, which will be defined as a relevant complaint under the amendments introduced by section 10 of the Bill.

The Cabinet Secretary for Justice and Home Affairs responded to this as follows:

“ The policy objective of section 10 was to make it clear that constables and police staff are able to complain about things that happen to them and which affect them in their personal capacity, where they are in a position akin to a member of the public [...] This could include a person serving with the police who witnesses something that affects them in their personal capacity, if it is something that could amount to a relevant complaint under the 2006 Act.”

The Committee called for section 11 of the Bill to be amended to include provisions requiring the SPA and Police Scotland to be under a duty to comply with the PIRC's recommendations, rather than simply respond to them, subject to a public interest test unless there are operational reasons not to.

The Cabinet Secretary responded stating that “placing a duty to comply with PIRC recommendations would be at odds with how other parts of policing legislation operates”. Though she said that she would keep under review Police Scotland's and the SPA's compliance with recommendations.

The Committee also recommended that the Bill be amended to include a presumption that the PIRC would publish the responses by Police Scotland and the SPA to its recommendations for them in complaint handling review reports, unless there are exceptional circumstances. The Cabinet Secretary responded that she accepted these comments and confirmed that an amendment would be drafted.

While not dealt with directly by this Bill, the Committee called for both the PIRC and the SPA to be added as prescribed persons in UK legislation. The Cabinet Secretary responded to this stating:

“ Whilst I am happy to consider this view, this matter is outwith the Bill as the management of the Prescribed Bodies List is a reserved matter and therefore would need to be subject to agreement by the UK Government to take forward legislation in the UK Parliament.”

The SPA and the PIRC in their written responses to the Committee's Stage 1 report did not support the inclusion of their respective organisations as prescribed persons.

Further suggested legislative changes

The Committee received specific requests for legislative changes for the Scottish Government to consider in written evidence. These were changes that could potentially be incorporated in the Bill as well as changes to conduct regulations for senior and non-senior police officers. These requests included:

- introducing accelerated misconduct proceedings
- providing statutory powers to allow Police Scotland to require the provision of a 'with cause' sample, permit random drug and alcohol testing, and to compel the provision of associated samples by police officers and staff
- addressing the lack of parity in powers available to the PIRC in Crown directed investigations.

The Cabinet Secretary for Justice and Home Affairs, Angela Constance MSP, responded to these points, advising that:

- the Scottish Government was consulting with the Scottish Police Consultative Forum on the separate Dame Elish Angiolini recommendations (which can be delivered in secondary legislation) that there should be provision for accelerated misconduct hearings.
- they considered that the existing regulation making powers in the 2012 Act could be used to put in place substance misuse testing for constables
- they considered the possibility of amending regulations to address this point, however their analysis identified ECHR concerns. They also stated they were not in receipt of evidence that this was a substantial issue for the PIRC, and were of the view there might be a workable solution to be found between the PIRC and the Crown Office and Procurator Fiscal Service (COPFS) that would deliver the same result but not require legislation.

Finance and Public Administration Committee

The Finance and Public Administration (FPA) Committee held two evidence sessions on the Financial Memorandum of the Bill, taking evidence from the Bill Team on [26 March](#) and the Cabinet Secretary for Justice and Home Affairs, Angela Constance MSP, on [7 May 2024](#).

In correspondence to the Criminal Justice Committee of [16 April](#) and [16 May 2024](#), the Finance and Public Administration Committee advised of the revised financial costs of the Bill:

“ The updated overall total revised costs are estimated to be £5,800,069. Updated total one-off costs are estimated to be £2,356,134, compared to £801,134 in the original FM, and updated total recurring costs are estimated to be £3,443,935, compared to £613,340 in the FM.”

[Annex A](#) in the letter from the Cabinet Secretary for Justice and Home Affairs to the Criminal Justice Committee on 1 May 2024 lays out the additional costs.

Details of the revised Financial Memorandum, submitted following Stage 2 proceedings, are included in the [Stage 2 scrutiny](#) section below.

Delegated Powers and Law Reform Committee

The Delegated Powers and Law Reform Committee discussed the Bill in private at a meeting on 12 December 2023.

Stage 1 debate

The [Stage 1 debate](#) took place on 10 September 2024, following which the general principles of the Bill and the financial resolution were unanimously agreed to.

During her opening and closing speeches, the Cabinet Secretary for Justice and Home Affairs, Angela Constance MSP:

- confirmed that she proposed to add organisations to the list of mandatory consultees, and to add further sources that the Chief Constable must refer to, when preparing the code of ethics
- committed to working with Police Scotland and the SPA on how an individual duty of candour applying to police staff who have statutory powers and duties could be progressed
- proposed to amend the Bill to make it clear that candour is also required in investigations against Police Scotland and SPA staff as well as those involving police officers
- confirmed that she would lodge a Stage 2 amendment addressing the HM Inspectorate of Constabulary in Scotland (HMICS) recommendation in their Assurance review of vetting policy and procedure within Police Scotland⁹ that "the Scottish Government should place into legislation the requirement for all Police Scotland officers and staff to obtain and maintain a minimum standard of vetting clearance and the provision for the Chief Constable to dispense with the service of an officer or staff member who cannot maintain suitable vetting"
- agreed that gross misconduct proceedings against former officers should be completed as timeously as possible and committed to exploring with policing partners ways to mitigate any delay
- stated she would lodge a Stage 2 amendment to address the Committee's recommendations that there was an expectation Police Scotland and the SPA would publish their responses to recommendations made by the PIRC unless there were operational reasons not to do so.

During the debate:

- a number of MSPs raised the issue of the significant difference in figures initially provided by the Scottish Government in their Financial Memorandum and the now revised figures that have been provided to the Finance and Public Administration and Criminal Justice Committees
- a number of MSPs also spoke of the need for cultural change to take place in policing, alongside any changes made by this legislation
- Russell Findlay MSP questioned whether the PIRC should be accountable to Parliament, as recommended in the Angiolini Review¹⁰ in relation to non-criminal matters
- Jackie Dunbar MSP raised the issue of whether there would be a retrospective

element to the provisions in the Bill relating to the commencing or continuation of gross misconduct proceedings against former officers

- multiple MSPs raised concern that the PIRC did not feel they should take on some of the additional functions which the Scottish Government had indicated they were considering transferring to the organisation in secondary legislation
- Martin Whitfield MSP questioned whether the Scottish Government had considered having a similar statutory definition for a duty of candour as exists in the NHS - in her closing speech, the Cabinet Secretary stated she had no specific plans to have a definition of candour
- the issue of whether gross misconduct hearings would be held in public, something which could be brought in through secondary legislation, was raised by Fulton McGregor MSP and Claire Baker MSP - the Criminal Justice Committee heard conflicting evidence on this point
- timescales and delays within the complaints and misconduct systems were raised by multiple MSPs - in the Cabinet Secretary's closing speech, she noted that the Angiolini Review¹⁰ had concluded that statutory time limits were not appropriate for legislation and that they should instead be reviewed and published in guidance.

Following the Stage 1 debate, the [Cabinet Secretary for Justice and Home Affairs wrote to the Criminal Justice Committee](#) on 23 September 2024 to clarify some of the issues which were raised during the debate. This included that:

- the 'organisational' duty of candour did not place any direct duty of candour on individual members of staff, nor did it provide for any sanction should they fail to be candid
- applying any individual duty of candour to police staff would be better achieved outside of the Bill due to how they are employed in comparison with to police officers
- the PIRC was not required to be directly accountable to Parliament for non-criminal matters as they could be held to account through the Scottish Ministers, who are accountable to the Scottish Parliament, and the PIRC could also be called to give evidence to Parliamentary Committees
- changing the law retrospectively could cause unfairness and undermine the rule of law, therefore the Bill provisions relating to commencing or continuing gross misconduct proceedings against former officers would not apply retrospectively
- the Scottish Government would continue to work with the PIRC in relation to the further functions that could be conferred on to them in secondary legislation.

Stage 2 scrutiny

Stage 2 scrutiny took place at a meeting of the Criminal Justice Committee on 2 October 2024.

The [Marshalled List](#) and [Groupings](#) of amendments can be viewed on the Parliament website.

The results of all amendments can be viewed in the [Criminal Justice Committee Minutes](#) and what was said can be viewed in the [Official Report](#).

The [Bill as amended at Stage 2](#) ¹¹, [Revised Financial Memorandum](#) ¹² and [Supplementary Delegated Powers Memorandum](#) ¹³ were subsequently published on the Parliament's website.

The Delegated Powers and Law Reform Committee discussed the Supplementary Delegated Powers Memorandum in private at a meeting on 26 November 2024.

The Revised Financial Memorandum included the previously updated costs provided to the Finance and Public Administration and Criminal Justice Committees during the Stage 1 process, as well as costs that relate to Stage 2 amendments. The [Cabinet Secretary for Justice and Home Affairs, Angela Constance MSP, wrote to the Criminal Justice Committee](#) on 24 October 2024, providing further information in respect of the costs within the Revised Financial Memorandum.

The [Cabinet Secretary also wrote to the Committee](#) on 29 October 2024 in respect of the vetting amendments and other areas where members had sought further clarification during the Stage 2 scrutiny process, including:

- code of ethics - further sources
- UK duty of candour on public servants
- duty of candour - extent of the duty and engagement, consultation and express qualification.

Amendments which were moved at Stage 2 are outlined below as they relate to the relevant sections of the Bill, along with amendments where there was an indication that the intention was to bring them back at Stage 3.

A number of amendments were withdrawn/not moved. These covered areas including:

- amending what must be included in the statement laid before the Scottish Parliament when the code of conduct is reviewed by the Chief Constable
- the Chief Constable to undertake a review of the discipline and conduct policies, procedures and guidance
- proposal for regulations so that disciplinary proceedings continue alongside any criminal proceedings
- timescales for when disciplinary and conduct investigations must be completed

- the Chief Constable having a power to dismiss constables on the grounds of their conduct or behaviour
- police officers being able to request a review of the decision to enter them on the advisory or barred list
- all ranks of police officer being able to appeal any decision, not only one to dismiss or demote, to the Police Appeals Tribunal
- police officers to be notified as soon as an investigation into their standard of behaviour has commenced
- automatic suspension of a police officer only where the investigation relates to gross misconduct or a criminal offence
- reporting on the effectiveness of body-worn cameras in monitoring and enforcing standards of behaviour
- introducing a new offence of misconduct in public office for police officers and staff
- Equality Impact Assessments to be prepared for responses to PIRC recommendations
- mandatory Fatal Accident Inquiries into police officer suicides, or deaths, in certain circumstances.

Sections 2 and 3 - Ethics of the police

The Cabinet Secretary's amendments 1 and 2 would add further sources the Chief Constable must have regard to, and amendment 3 further persons to be consulted by the Chief Constable, when preparing the code of ethics.

Amendments 1, 2 and 3 were all agreed to without division.

Sharon Dowey MSP's amendment 4 would further add to the list of persons to be consulted by the Chief Constable when preparing the code of ethics to include persons who are representative of individuals who have made a complaint against the police. The Cabinet Secretary said that she welcomed the amendment in principle but to "ensure that the provision can be effective" she committed to working with the Member to bring it back at Stage 3.

Katy Clark MSP's amendment 48 would further add to the list of sources the Chief Constable must have regard to when preparing the code of ethics by including the Equality Act 2010. The Cabinet Secretary did not support this amendment. Katy Clark MSP stated that she would be happy to work with the Cabinet Secretary to see whether it was "possible to come up with a form of words that might be acceptable to all at Stage 3".

The Cabinet Secretary's amendments 5, 8 and 11 would clarify that the duty of candour applied to **all** investigations, i.e. against police officers and staff.

Amendments 5, 8 and 11 were agreed to without division.

The Cabinet Secretary's amendments 7 and 10 would clarify that the duty of candour was subject to the assertion of the privilege against self-incrimination in criminal cases.

Amendments 7 and 10 were agreed to without division.

The Cabinet Secretary's amendment 43 would introduce mandatory requirements for the ongoing vetting of police staff through a Vetting Code of Practice. It would also make provision as to supporting vetting procedures in respect of both police staff and officers. Amendment 44 would introduce mandatory requirements for the ongoing vetting of police officers. These amendments would mean that circumstances must be set out whereby anyone who had undergone vetting would be required to comply with conditions, redeployed, demoted or dismissed.

These amendments address the HMICS recommendation from their Assurance review of vetting policy and procedure within Police Scotland⁹ that:

“ the Scottish Government should place into legislation the requirement for all Police Scotland officers and staff to obtain and maintain a minimum standard of vetting clearance and the provision for the Chief Constable to dispense with the service of an officer or staff member who cannot maintain suitable vetting.”

Amendment 43 was agreed to by division (For 4, Against 2, Abstained 2).

Amendment 44 was agreed to by division (For 4, Against 2, Abstained 2).

The Cabinet Secretary's amendment 47 was consequential on the new provision on vetting being added to the Bill as it is not encompassed by the existing long title.

Amendment 47 was agreed to by division (For 4, Against 2, Abstained 2).

Sections 4 to 8 - Police conduct

Sharon Dowey MSP's amendment 12 proposed that regulations introduced in secondary legislation relating to the process for commencing or continuing gross misconduct procedures against former officers must provide a time limit beyond which action could not be taken. Amendment 13 stated that this limit was set at 12 months, and amendment 14 that beyond this time a public interest test must be met for proceedings to commence or continue.

The Cabinet Secretary said that she supported amendments 12 and 14 as "they would put into the bill what was intended to be done in regulations on applying misconduct procedures to former constables".

Amendments 12 and 14 were agreed to without division.

Amendment 13 was not moved, with the Cabinet Secretary saying that she could not support the amendment due to "a defect in the drafting" but that she would work with the Member to bring it back at Stage 3.

Sharon Dowey MSP's amendment 53 would mean that regulations must be provided that, where someone ceases to be a constable after a misconduct allegation has been made, they must be given notice that the disciplinary proceedings will continue in their absence if they do not engage.

The Cabinet Secretary said that this amendment would put into the bill something which

was intended anyway but that it "needs to be reworded to avoid giving constables the wrong impression that, if they engage, proceedings will not continue". She stated that she would work with the member on an amendment on this subject for Stage 3.

The Cabinet Secretary's amendment 45 is a paving amendment for 46 and they relate to the changes made by amendments 43 and 44 to introduce a vetting code of practice and procedures for vetting. They enable those dismissed for a failure of vetting to be added to the barred list.

Amendment 45 was agreed to without division.

Amendment 46 was agreed to by division (For 4, Against 2, Abstained 2).

Sharon Dowey MSP's amendment 17 proposed a list of organisations which must consult the police advisory and barred lists before employing or appointing someone. Her amendment 18 would mean that notice must be given to those individuals who are entered in or removed from the advisory or barred lists, and her amendment 23 would provide circumstances in which information about a person which is included in the barred list may be published by the SPA. The Cabinet Secretary said that she supported these amendments.

Amendment 17 was agreed to without division.

Amendment 18 was agreed to without division.

Amendment 23 was agreed to without division.

Sharon Dowey MSP's amendments 20, 22 and 24 were consequential to amendments 17, 18 and 23.

Amendments 20, 22 and 24 were agreed to without division.

Sections 9 to 16 - Functions of the Police Investigations and Review Commissioner (PIRC)

Sharon Dowey MSP's amendment 33 would mean that the PIRC must notify complainers when they carry out a complaint handling review of their own volition. The Cabinet Secretary said that she "welcome[d] and support[ed]" the proposed new provision in this amendment.

Amendment 33 was agreed to without division.

The Cabinet Secretary's amendment 34 would mean that the PIRC must, rather than may, publish responses to their recommendations made in complaint handling reviews, subject to the conditions contained in amendment 35. Amendments 37 and 38 would achieve the same purpose in respect of complaints the PIRC have "called in".

Amendments 34, 35, 37 and 38 were agreed to without division.

Sharon Dowey MSP's amendment 39 would mean that the PIRC must consult with HMICS before carrying out any review of practices and policies of the police under the new powers given to them by section 15 of the Bill. The Cabinet Secretary said that she was supportive

of this amendment.

Amendment 39 was agreed to without division.

Section 17 - Governance of the Police Investigations and Review Commissioner (PIRC)

Russell Findlay MSP's amendment 66 proposed that the PIRC must report to the Scottish Parliament rather than the Scottish Ministers in relation to non-criminal matters. They would still be accountable to the Lord Advocate in respect of criminal matters. This was a recommendation (number 35) made by the Angiolini Review ¹⁰.

The Cabinet Secretary responded to this amendment, stating:

“ The Scottish ministers appoint the PIRC and, due to sponsorship and funding arrangements, it is for them, rather than the Scottish Parliament, to hold the PIRC to account [...] The Scottish Parliament has a role to play, first through the Scottish ministers, who are ultimately accountable for the activities of the PIRC and their use of resources, and additionally in that the committee is able to call the PIRC to give evidence.”

Amendment 66 was disagreed to (For 4, Against 4; amendment disagreed to on casting vote).

Russell Findlay MSP's amendment 67 proposed to achieve the same aim as amendment 66 but in a different way. It would remove the discretion Scottish Ministers have to lay reports from the PIRC before the Scottish Parliament and instead require them to do this.

The Cabinet Secretary responded to this amendment, stating:

“ Making that a requirement would remove the flexibility to deal with exceptions and to safeguard against the possibility of sensitive information being published. It is important that the Scottish ministers retain that discretion, as the new powers that are set out in the bill may result in changes to the content of future reports.”

Amendment 66 was disagreed to (For 4, Against 4; amendment disagreed to on casting vote).

Stage 3 timetable

The deadline for Stage 3 amendments is 12 noon on Wednesday 8 January 2025.

Stage 3 Proceedings will be held on Wednesday 15 January 2025 in the Chamber.

Details of proposed amendments lodged can be viewed on the [Scottish Parliament website](#).

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