



The Scottish Parliament
Pàrlamaid na h-Alba

JUSTICE SUB-COMMITTEE ON POLICING

AGENDA

11th Meeting, 2013 (Session 4)

Thursday 3 October 2013

The Committee will meet at 1.15 pm in Committee Room 6.

1. **Decision on taking business in private:** The Sub-Committee will decide whether to take item 3 in private.
2. **Complaints and investigations:** The Sub-Committee will take evidence from—

Professor John McNeill, Commissioner, John Mitchell, Director of Investigations, and Robin Johnston, Director of Reviews, Police Investigations and Review Commissioner.

3. **Work programme:** The Sub-Committee will consider its work programme.

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The papers for this meeting are as follows—

Agenda item 2

SPICe briefing (private paper)

JSP/S4/13/11/1 (P)

Agenda item 3

Paper by the clerk (private paper)

JSP/S4/13/11/2 (P)

Paper for information

Letter from the Scottish Government

JSP/S4/13/11/3

Justice Sub-Committee on Policing

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Letter from the Scottish Government to the Clerk of the Sub-Committee

Complaints against the Police: Ruddy

I understand that the Justice Sub-Committee on Policing is aware of the recent Ruddy case which relates to the investigation of a complaint against Strathclyde police. That case is still before the courts so I am unable to comment on it further.

However as the case dates back to 2004, it relates to previous arrangements for the investigation of complaints against the police and Mr MacAskill thought it would be helpful to set out how the Scottish Government considers the current arrangements for the investigation of complaints against the police to be ECHR compliant.

The need for the ability to carry out an independent investigation of complaints against the police arises out of relatively recent ECHR jurisprudence in relation to conduct of a type in which Article 2 (right to life) or 3 (prohibition of inhumane treatment) of the Convention is in prospect. This does not require that any form of criminality, no matter how trivial, be investigated by a third party. Rather, there is a need for serious allegations against the police to be subject to independent investigation, to ensure that State has discharged adequately its positive obligations in relation to Articles 2 and 3.

The Police and Fire Reform (Scotland) Act 2012 established the Police Investigation and Review Commissioner (PIRC). The PIRC's statutory functions are set out in section 62 of the 2012 Act and include:

- If directed by the Crown Office and Procurator Fiscal service to investigate
 - Any circumstance in which there is an indication that a person serving with the police may have committed an offence
 - The circumstance of any death involving a person serving with the police that the Fiscal is required to investigate under the Fatal Accident and Sudden Death Inquiry (Scotland) Act 1976
- The Chief Constable or SPA must refer to the PIRC serious incidents involving the police. This includes:
 - The death or serious injury of a person who has had direct or indirect contact with police at or before his or her death where there is an indication that the contact may have caused or contributed to the death
 - The use by police of a firearm, including a Taser or CS spray
- The power to investigate any matter relating to the SPA or Police Scotland where the PIRC consider that to be in the public interest.

Taken together these provisions ensure that both criminal and civil independent investigations of complaints against the police can be carried out by the PIRC in compliance with Scotland's ECHR obligations.

I hope the Sub-Committee finds this explanation of assistance.

Elizabeth Sadler
Safer Communities Directorate, Police Division
2 October 2013