

Our Ref: MG/JW/HAR.247

25<sup>th</sup> October 2017

**FIRST CLASS POST & EMAIL- [mary.fee.msp@parliament.scot](mailto:mary.fee.msp@parliament.scot)**

**PRIVATE & CONFIDENTIAL**

Mrs Mary Fee MSP  
Convenor, Justice Sub-Committee  
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Dear Madam

**Police Constable Karen Harper & Police Scotland**

We act on behalf of the above named who was recently retired from Police Scotland on the grounds of ill health.

Our client has instructed us to write to you and the other members of the Justice Sub-Committee regarding the Chief Constable's letter to you dated 3<sup>rd</sup> August 2017. Of particular concern to our client is the responses provided by the Chief Constable to questions 3, 4 and 5 contained in your letter to him dated 28<sup>th</sup> June 2017.

Our client alleges that in responding to your aforementioned questions the Chief Constable has provided inaccurate information in relation to the following matters;

- i) the number of complaints against the PSD in the relevant period,
- ii) the Complaint Handling Procedures ("CHP") adopted by Police Scotland when dealing with complaints made by Officers against PSD/PSD based Officers and
- iii) the rights of a Police Officer to refer Police Scotland's handling of their complaint to PIRC.

In responding to your question 3 about the number of complaints investigated by CCU/ACU/PSD since the "*SPA's 2015 Audit*", the Chief Constable cross references to the responses he provides to questions 4 and 5 and states that "*No complaints have been made against officers within PSD*". It is not clear from the Chief Constable's aforementioned response what period he is referring to. Our client proceeds on the basis that the reference in your question to the "*SPA's 2015 Audit*" means a date of on or around April 2016 i.e. at the end of financial year 2016. Our client therefore contends that the response provided by the Chief Constable is incorrect since she intimated a formal complaint to the Chief Constable on the 26<sup>th</sup> May 2016 alleging criminal conduct and misconduct against an Inspector and Chief Inspector working in the PSD. The PSD's investigation into our client's misconduct/non-criminal allegations did not commence until June of this year.

In responding to your questions 4 and 5, the Chief Constable states that a new CHP was introduced "*in the latter part of 2016*" meaning that any complaint made against a PSD

Officers would be “investigated by an Independent Enquiry Officer appointed from out with both PSD and ACU. This appointment is made in conjunction with the Head of Professional Standards and Deputy Chief Constable (Designate). In making such an appointment steps are taken to ensure the highest possible standards of independence. As a result, often the Enquiry Officer is appointed from another part of the country and from an unconnected business area.”

As stated, the PSD’s investigation in to the misconduct aspects of our client’s allegations did not commence until June 2017. From the very outset, our client has questioned the appropriateness of PSD involvement in the investigation of her complaints. For instance, on the 13<sup>th</sup> February 2017 the writer emailed the PSD making it clear that our client did not wish PSD Officers involved in the investigation of her complaints on the grounds that they were not independent.

In June and July 2017 the PSD confirmed that the Enquiry Officer and Investigating Officer assigned to investigate our client’s complaints was Mr Stevie Foggin and Chief Superintendent Alan Speirs respectively. Mr Foggin is an Inspector with the PSD and SI Speirs the Head of the PSD.

If, as stated in the Chief Constable’s letter to you dated 3<sup>rd</sup> August 2017, the new CHP were introduced “in the latter part of 2016” then our client questions why;

- a) she has never been notified of their existence by the PSD and
- b) her own misconduct complaints against PSD/PSD Officers have not being handled in accordance with the new CHP introduced in late 2016 i.e. before the PSD commenced their investigation into her misconduct allegations.

On the 13<sup>th</sup> July 2017 the writer sent an email to the PSD which made explicit reference to your letter to the Chief Constable dated 28<sup>th</sup> June 2017 and asked what measures the PSD was taking to ensure that there was no conflict of interest in the investigation of our client’s complaint. The PSD replied by letter dated 17<sup>th</sup> July 2017 stating that CI Speirs “is satisfied that there is no conflict of interest”.

The first our client became aware of the new CHP referred to in the Chief Constable’s aforementioned letter was when she had sight of this letter on the 8<sup>th</sup> September 2017.

### PIRC

The Chief Constable also states in his aforementioned letter to you that any Complainer is afforded the opportunity to refer a complaint to PIRC if they are dissatisfied with Police Scotland’s handling of their complaint. Our client states that this is simply untrue and refers to correspondence PIRC sent the writer dated 10<sup>th</sup> January 2017 confirming that it did not have the power to deal with such complaints on the grounds that Police Officers are not “members of the public” for the purposes of Sections 34 and 35 of the Police, Public Order & Criminal Justice (Scotland) Act 2016 (as amended). Further details of PIRC’s position is contained in the attached Complaint Chronology (“the Chronology”) at paragraphs 30 and 31.

### SPA

The Chief Constable also states in his aforementioned letter to you that the new CHP involve the Head of PSD notifying the SPA in writing about the commencement of any enquiry which will provide the SPA “with an opportunity to dip sample any such complaints at a later time”. It is not known if the PSD provided such notification to the SPA when it commenced their investigation into our client’s misconduct complaints in June of this year.

However, if, as stated by the Chief Constable, only 6 relevant complaints have been made in the year from July 2016 then our client contends that the SPA has a relatively easy task of monitoring same and ensuring compliance with the new CHP. It appears to our client that the SPA has failed to effectively scrutinise Police Scotland CHP and to properly hold the Chief Constable to account on this matter. The Sub-Committee may wish to explore with the SPA how many of the “6 complaints” in the last year they have dip sampled to ensure adherence with the new CHP and whether the Head of the PSD notified them, at any time, about the existence of our client’s complaints.

#### **PSD’s handling of KH’s complaints**

Despite the fact that our client explicitly and repeatedly recorded in writing with the PSD her concerns about their ability and willingness to investigate her complaints independently, the new CHP are not being followed in the investigation of her complaints and nor has PSD ever made her aware of their existence.

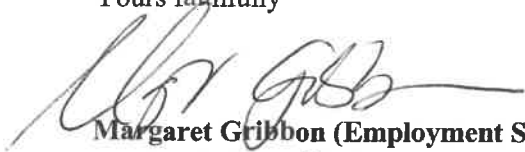
The Chronology attached provides a detailed summary of the background to our client’s complaints and PSD’s handling of same. Our client would be most grateful if each of the Sub-Committee members could take the time to carefully read the Chronology since she believes it gives a disturbing insight into PSD complaint handling and reveals a culture within Police Scotland which, she alleges, deters, rather than encourages, Officers to expose wrongdoing.

As can be noted in the Chronology our client made a formal complaint to the PSD about their handling of her complaints and in October 2016 three out of her five complaints were upheld.

Our client believes that her experiences as a Complainer provide credible proof that Police Scotland is incapable and or unwilling to genuinely embrace a CHP which guarantees effective, robust and independent investigation of complaints against the CCU/ACU/PSD and that there is a compelling public interest case for such complaints to be removed entirely from Police Scotland and dealt with instead by a separate, independent statutory body like they are in England and Wales by the Independent Police Complaints Commission.

We have also sent a copy of this letter to the Sub-Committee Clerk with a request that it be circulated to all other Committee Members.

Yours faithfully



**Margaret Gribbon (Employment Solicitor)**

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