

# Report of a Complaint Handling Review in relation to Police Scotland

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## 1. Role of the PIRC

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Sections 34 and 35 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (“the Act”) provide that the Police Investigations and Review Commissioner (“the PIRC”) may examine the manner in which particular kinds of complaints are dealt with by Police Scotland and the Scottish Police Authority. Through agreements with UK police bodies operating in Scotland, the PIRC may also examine the manner in which these bodies deal with complaints. The PIRC cannot review complaints of criminal behaviour against police officers or police staff, or complaints made by persons serving, or who have served with the police, about the terms and conditions of their service.

In performing this review function, the PIRC obtains information from the police body which dealt with the complaint. This information is considered together with information provided by the person who made the complaint (“the applicant”). An assessment is then made as to whether in all the circumstances the complaint was dealt with to a reasonable standard. Among the factors taken into account when making this assessment are the following:

- whether sufficient enquiries into the complaint have been carried out by the policing body;
- whether the policing body’s response to the complaint is supported by all material information available;
- whether in dealing with the complaint the policing body has adhered to all relevant policies, procedures and legal provisions;
- whether the policing body’s response to the complaint is adequately reasoned; and
- where the complaint has resulted in the policing body identifying measures necessary to improve its service, whether these measures are adequate and have been implemented.

## 2. Key findings

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The complaint in this case arose when police officers attended at the applicant’s address in search of a family member. One complaint was reviewed, namely that police officers failed to identify themselves by giving their shoulder numbers and names.

The review found that the complaint was dealt with to a reasonable standard. No recommendations were made.

### 3. Background

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On 26 February 2016, Detective Constables A, B and C attended at the applicant's address in search of his grandson. The applicant and his wife, Mrs D, were at home when the officers attended along with two other grandchildren, Mr E (aged 15 at the time) and a three year old child.

Mrs D made an emergency call to Police Scotland during the officers attendance at the property which was ongoing as the officers were leaving. According to Mrs D, the applicant asked her to "get their names" as the officers were leaving and notes that Detective Constable A tried to provide her with information at that point although she couldn't understand what the officer said to her.

The applicant submitted his complaint by telephone on 26 February 2016. Detective Sergeant F met with the applicant later that day and noted his statement of complaint. The applicant's complaint was investigated by Sergeant G, and Chief Inspector H responded to the applicant's complaint by letter of 16 November 2016.

### 4. The Review

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#### Complaint: Failure to provide identification

The applicant complains that three officers who entered his house in search of a family member failed to identify themselves by shoulder number and name.

#### Police Handling of the Complaint

Chief Inspector H provided the following response:

*"An independent witness, who was present at the material time states, when the three police officers were exiting your house, a female police officer did attempt to provide these details. However, the independent witness asserts she could not understand what the officer said.*

*A police officer subject of this allegation states, on entering your house, both herself and a male police officer stated 'Police' and the male police officer showed you his warrant card. She also states, that prior to leaving your house, she provided shoulder numbers of the three police officers in attendance. This account is supported by another police officer who was present at the material time.*

*There is no CCTV or other independent evidence available in respect of this allegation.*

*In considering the circumstances of this allegation, I am faced with two opposing versions of events. You have provided an account that three police officers entered your home and failed to identify themselves. The subject officers refute the allegation and one of the officers states she did*

*in fact provide you with this information. This officer's account is partially supported by a witness who states that a female officer did attempt to provide you with the relevant details.*

*There is no evidence, independent or otherwise, to allow me on the balance of probabilities to safely uphold this allegation. Therefore, I must conclude that this allegation is not upheld."*

## *Consideration of the Complaint*

Statements were provided by the applicant, Mrs D and Detective Constables A and B. No statement was noted from Detective Constable C because the applicant had made a criminal allegation against him as a result of his attendance at the applicant's property. Mr E provided a statement however he did not comment on whether the officers failed to identify themselves by name and shoulder number, he focused on the criminal allegation made by the applicant.

Detective Constable A recorded in her statement that she identified herself by name on attending the applicant's property. She also stated that Detective Constable C provided both the applicant and Mrs D with his name and that he showed them his warrant card. This information is supported to an extent by the applicant who recorded in his statement that *"the male officer showed me a card"*, and by Mrs D who stated that an officer showed her his badge and said *"CID from [Police Office X]"*. Detective Constable B stated that he identified himself on entering the property with his police issue warrant card.

Detective Constables A and B stated that, as they were leaving the property, Mrs D was on the telephone and was heard to say that the officers were refusing to provide her with their numbers. Police Scotland provided the recording of that call to the PIRC during the review. The applicant can be heard in the background shouting to the officers *"I want your names"*. Mrs D also shouted in a similar manner stating *"We want your names"*. During her conversation with the operator, Mrs D stated that *"police are walking out ignoring us"* and *"they're refusing to give us their names"*. A second male voice and a female voice can be heard in the background although their comments cannot be clearly distinguished.

Both Detective Constables A and B advise in their statements that on hearing Mrs D state to the operator that they were refusing to give her their numbers, Detective Constable A turned to Mrs D and advised her of all three officers' shoulder numbers. Detective Constables A and B both advise that this was the first time any request was made for their names or shoulder numbers. While Detective Constables A and B are mistaken over the applicant's request for their names as opposed to shoulder numbers, they both state that information regarding their identity was provided to Mrs D. Mrs D also confirmed in her statement that following the applicant shouting for her to get the officer's names, Detective Constable A *"tried"* to provide her with some information as she was leaving but she could not understand what the officer was saying to her. Neither the applicant or Mrs D advise in their statements that they asked for the officers' names or shoulder numbers prior to Mrs D making the telephone call.

It would have been beneficial for the response to have provided a more substantial analysis of the information contained in the witness statements and explained the content of Mrs D's emergency call. Despite this shortcoming, it is evident from Police Scotland's complaint file that the content of the statements and the audio recording were taken into account during the complaint investigation.

Section 6.12.6 of the Police Scotland Complaints about the Police Standard Operating Procedure (“the Complaints SOP”) provides that the decision whether to uphold a complaint must be taken based on the ‘balance of probabilities’. That is whether, based on all available evidence, one version of events is considered to be more probable than another. Where conflicting accounts cannot be reconciled, the complaint will not be upheld, however an explanation as to why must be provided. The burden of proof rests with the person making the complaint.

Therefore, it is considered that on the basis of the available evidence, Chief Inspector H was warranted in not upholding this complaint on the balance of probabilities. This is because there does not appear to be anything in the evidence as a whole that would have justified Police Scotland preferring the applicant and Mrs D’s accounts over the accounts provided by Detective Constables A and B. As the complaint response is supported by the material information available and the complaint was handled in accordance with the relevant procedures, it is concluded that the complaint was dealt with to a reasonable standard. No further action is required in this connection

## 5. Conclusions

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It is concluded that this complaint was dealt with to a reasonable standard. No further action is required in this connection.

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