

# 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 complaints in this case arose from the applicant being given a warning by an officer of Police Scotland in relation to a road traffic matter.

The following six complaints were considered:

1. that the officer knowingly wrote a false statement about the applicant in his notebook;
2. that the officer asked the applicant to sign his notebook but did not explain why;
3. that the officer wrote a second false statement in his notebook, specifically that the applicant refused to sign the notebook;

4. that the officer neglected to accurately record the incident;
5. that the applicant was stopped unjustifiably and solely due to his identity, which he perceived as harassment; and
6. that writing falsehoods seemed “*second nature*” to the officer.

The review found that all six of the applicant’s complaints were dealt with to a reasonable standard. No recommendations were made.

### 3. Background

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In the early afternoon of 19 September 2016, the applicant was stopped in his company van by Constable A, who believed that the applicant had failed to give way at a marked junction.

Constable A explained the reason for the stop to the applicant and recorded in his notebook that the applicant had been given a warning. Constable A requested that the applicant sign his notebook to confirm he had been spoken to, however the applicant stated that he would not sign as he did not believe he had committed an offence.

Constable A thereafter recorded in his notebook that the applicant had refused to sign. The applicant then stated that he wished to sign the notebook, which Constable A provided to him. The applicant ultimately signed Constable A’s notebook and wrote “*liar officer*” next to Constable A’s description of the incident.

Later the same afternoon, the applicant submitted an online complaint form via the Police Scotland website. The applicant’s complaints were allocated to Sergeant B for enquiry. On 2 November 2016, Sergeant B obtained a statement from the applicant and agreed with the applicant the complaints which he wished Sergeant B to investigate. A final letter dated 29 November 2016 responding to the applicant’s complaints was issued by Superintendent C.

### 4. The Review

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#### Complaint 1: First false statement

The applicant complained that Constable A knowingly wrote a false statement in his notebook.

Specifically, the applicant states that he had approached the junction in question slowly and had taken the appropriate precautions before pulling out, however Constable A wrote that the applicant had failed to give way, which the applicant considers to be false. The applicant believes that he was only stopped to “*cover up [Constable A’s] wrong doing*”, namely Constable A speeding in his police vehicle immediately prior to stopping the applicant.

## Police Handling of Complaint 1

In his letter, Superintendent C wrote:

*"The subject officer has provided his account of events and states he was driving along [Road Y] at normal speed when he became aware of your long wheel based [sic] van on [Road Z] approaching the junction. He observed you approaching the junction at normal speed, coming either to a stop for an instant or carrying out a rolling stop before pulling out in front of the police vehicle onto the main road.*

*The officer aware of the worn road markings at the junction, the fact it was a built up area with a school nearby, that your vehicle potentially could have been laden with fragile glass, but also aware of community concerns regarding driver behaviour thought it advisable to signal you to stop in order to speak to you. He states he attempted to advise you that no formal action would take place, tried to give you road safety advice and issue you with a verbal warning.*

*You provided [Sergeant B] with a USB stick copy of dash cam footage, which you recorded during this time. He has reviewed this footage, which initially records a front facing view as you drive through [the town]. You approach the junction as described slowly and continue at slow speed pulling out the junction. It is not visible from this footage what vehicles can be seen approaching from your right but you are heard to make a comment having just pulled out of this junction. Part of this is inaudible due to music being played however the words, "... going a bit slower" can be heard.*

*Having stopped your vehicle, you turn your dash cam towards the subject officer, which records the conversation with him as he stands at the side of the road. The officer can be heard advising you and states, "See once you are coming at the junction, I know it's difficult with this type of vehicle and you can't see properly and I know you have to come up right wide but". The subject officer continues to state, "I wasn't speeding, I was certainly doing under 30mph. You've come out, it's not the end of the world but just watch". You can be heard explaining to the officer that one thing you don't do is drive fast. The subject officer can then be heard to say, "I'll just get you to sign this to say that it's yourself I've been speaking to please". You reply by saying, "Wait till I read this back". The officer replies, "I am asking you to sign it" and you reply "I didn't fail to give way, I'm not signing anything saying I failed to give way".*

*[Sergeant B] obtained a copy of the relevant sections of the subject officer's notebook. Your details were noted by the officer writing, "Failed to give way at JCTN adjacent to Primary School [town]. Warned re give way JNCN. Requested to sign N/B".*

*It is your belief that by making the notes within his police issue notebook, the subject officer has knowingly made a false statement. The Police Scotland Standing [sic] Operating Procedure on Notebooks and PDA's states in paragraph 3.3, "Police notebooks and PDA's are used to take notes regarding matters of police duty and should contain a record of matters which arise during a tour of duty and should not be used for any other purpose. This may include notes, which appear insignificant at the time but*

*may prove valuable later or may assist in rebutting false allegations made against police. All staff issued with a notebook should use their notebook to document any action they have taken as well as decisions why action was not taken”.*

*Inquiry with Police Scotland systems, which track the speed and direction of police vehicles recorded the subject officer was travelling at a speed of around 22 miles per hour prior to the junction... On reaching the junction his speed had slowed to around 20 miles per hour and show him activating his blue lights and siren before pulling into the side of the road.*

*The matter in question relates to your belief the subject officer’s vehicle was travelling at excessive speed. That you did not fail to give way, at the give way junction and therefore you should not be warned regarding this [sic]. Having considered the officers [sic] statement and the video footage provided by you, the subject officer formed a different opinion from you. Police vehicle tracking systems also show the subject officer was driving in accordance with the speed limit for the road.*

*I do not consider that the officer has knowingly written a false statement. The officer recorded notes within his official police notebook in accordance with standing [sic] operating procedures. I appreciate that you have a different opinion to the subject officer about whether or not you failed to give way as you believe he was driving at excessive speed. I do not consider this as a false statement by the officer but simply notes taken at the time by him in relation to his dealings with you at the roadside.*

*Having considered the information available to me, I do not uphold the allegation made against the officers [sic] concerned.”*

## **Consideration of Complaint 1**

As has been identified by Superintendent C in his response to the applicant, the circumstances of this complaint amount to the applicant and Constable A having differing perceptions of the incident.

The applicant’s position is that he did not fail to give way to Constable A, and Constable A only perceived this to be the case was because he himself was driving too quickly. Constable A, on the other hand, asserts that he was not driving too quickly, and that he witnessed the applicant pull out of the junction in front of his police vehicle without pausing.

The video footage from the applicant’s dashcam was provided to the PIRC. The footage is inconclusive as to whether or not the applicant failed to give way, as it is not possible to ascertain from the one available camera angle whether or not Constable A’s vehicle was visible to the applicant before he pulled out of the junction.

However, the information provided by Police Scotland shows that Constable A’s vehicle was travelling at around 22 mph, which does not support the applicant’s assertion that Constable A was driving too quickly. Accordingly, the balance of the evidence available appears to support Constable A’s perception of the incident. As a result, it is considered that Superintendent C was justified in concluding

that Constable A's notes were a contemporaneous record of his dealings with the applicant rather than a false statement.

Superintendent C has explained in detail the information he has utilised to come to his conclusion, and has also explained how this information was used to form the conclusion reached. It is considered that Superintendent C's response is well-reasoned and supported by the material information available.

For these reasons, it is concluded that this complaint was dealt with to a reasonable standard. No further action is required of Police Scotland in this connection.

## Complaint 2: Lack of explanation

The applicant complained that Constable A asked him to sign his notebook, however did not offer an explanation as to why this was required.

### Police Handling of Complaint 2

In his letter, Superintendent C wrote:

*"In the dash cam footage provided to [Sergeant B], the subject officer is heard attempting to give you advice regarding pulling out of the junction advising you to "You've come out, it's not the end of the world but just watch". The subject officer then states, "I'll just get you to sign this to say that it's yourself I've been speaking to please".*

*You acknowledge in your statement that you read the officers [sic] notebook and you disagreed with the fact he had written in his notebook that you had failed to give way. As previously stated the officer's notebook shows the following notes, "Failed to give way at JCTN adjacent to Primary School, [town]. Warned re give way JNCN. Requested to sign N/B".*

*The subject officer in his account of events states "that having attempted to advise him no formal action would be taking place and a verbal warning only, which incorporated road safety advice, I duly noted same while asking for his signature".*

*In your statement you acknowledge reading the officers notebook, where he noted that you failed to give way. Within the next line he notes indicating a warning in relation to failing to give way at the junction. Having disagreed with the officer and refusing to sign the officer's notebook he makes further notes and you later sign the officer's notebook and write "liar officer" in brackets. Taking into consideration the video footage and the comments made by the officer saying, "I'll just get you to sign this to say that it's yourself I've been speaking to please". I determine that at this point it is clear to you that the officer was attempting to warn you in relation to failing to give way and asking you to sign his notebook as a means to acknowledging and recording the interaction with yourself. I am satisfied that the officer gave you an adequate explanation for requesting a signature from you.*

*Having considered the information available to me, I do not uphold the allegation made against the officers [sic] concerned."*

## Consideration of Complaint 2

In his letter of response, Superintendent C has accurately explained to the applicant that it can be established from the video footage of Constable A's interaction with the applicant that Constable A requests the applicant sign his notebook in order to "say it's you I've been speaking to".

Superintendent C has also made clear to the applicant his rationale for concluding that Constable A did provide an explanation to the applicant as to why he wished the applicant to sign his notebook. It is considered that this determination is well-reasoned and supported by the material information available.

For these reasons, it is concluded that this complaint was dealt with to a reasonable standard. No further action is required of Police Scotland in this connection.

## Complaint 3: Second false statement

The applicant complained that he told Constable A he would not sign the notebook whilst it contained the "false statement" that he had failed to give way at the junction, and that Constable A then wrote the applicant had refused to sign.

The applicant states that this was a second false statement as, rather than having refused to sign the notebook, he wished to sign it but would not do so until Constable A had corrected the initial false statement.

## Police Handling of Complaint 3

In his letter, Superintendent C wrote:

*"In the dash cam footage having initially stated you would not sign anything, which said you failed to give way you are heard to say, "you are saying I failed to give way and want me to sign it. I am saying I didn't fail to give way. I did give way. I am saying you were going too quick". The subject officer replied by saying "Ok" while appearing to make further notes in his notebook. You are then heard to say, "Do you want me to sign it now". The subject officer is heard to say "No you are fine I've just put that you refused to sign it". You reply, "I didn't refuse to sign it sir, that's what I said. I wanted you to correct your error in the paperwork there. You're saying that I've, you're wanting me to sign it agreeing that I failed to give way. I didn't fail to give way. You're [sic] opinion is that I failed to give way. I wouldn't sign that. I am not refusing to sign it. I wish to sign it".*

*The subject officer states that you "refused to sign nor accept having committed an offence". Further that you insisted on signing his notebook, while continuing to refute you had committed any offence. The officer provided you with his notebook, which you then signed and in brackets wrote, "liar officer".*



*The officer wrote in his notebook, "Refused to sign N/B".*

*The crux of the matter is that you did not accept that you had committed an offence or fail to give way to on-coming traffic at the junction. This was at odds with the officer's account, where he then attempted to give you corrective advice and a verbal warning. The officer made notes in his notebook stating that you had refused to sign it on this basis. Before signing his notebook you wanted the officer to correct what you believed to be a "false statement". You declined to accept the officer's account about what he had observed and thereafter made notes on. In effect your offer to sign the officer's notebook was conditional and on the premise that the officer change his notes. You were not prepared to sign the officer's notebook unless he did so.*

*Decisions around what is recorded in an officer's notebook are decisions for the officer to make, in in line with Police Scotland standing [sic] operating procedures. As previously stated in response to allegation 1, I am of the opinion that the notes made by the subject officer do not amount to a false statement but are a record of matters relating to his dealings with you. Again as previously stated police systems show he was not driving at excessive speed as asserted by you. You refused to sign the officer's notebook until he made corrections to your satisfaction. The officer was under no obligation to do so and I regard the notes made by the officer as appropriate.*

*Having considered the information available to me, I do not uphold the allegation made against the officers concerned."*

### **Consideration of Complaint 3**

In the video footage provided, the applicant clearly states "*I'm not signing that*". Although the applicant has argued that he wished to sign the notebook, and ultimately did so, his agreeing to do so appears to have been dependent on Constable A amending the text he had written to reflect the applicant's perception of the incident rather than his own. In effect, the applicant refused to sign Constable A's notebook in the state in which it was initially presented to him. Accordingly, it is considered that Superintendent C was justified on the basis of the evidence available in concluding that Constable A's notes in this regard were appropriate and did not amount to a false statement.

It is considered also that Superintendent C's response demonstrates a well-reasoned determination consistent with the material information available.

For these reasons, it is concluded that this complaint was dealt with to a reasonable standard. No further action is required of Police Scotland in this connection.

### **Complaint 4: Inaccurate recording**

The applicant complained that the Constable A showed "*clear neglect to accurately record the incident*", which the applicant believes to have been a neglect of duty.

## *Police Handling of Complaint 4*

In his letter, Superintendent C wrote:

*“I consider this allegation is broadly similar in scope to allegations 1 and 3 and relates to the notes made by the officer in his police issue notebook and whether or not this amounts to a neglect of duty. The subject officer stated that he observed you pulling out of the junction and stopped you in order to speak to you regarding this. He made notes in his police issue notebook as already outlined in allegations 1 and 3. I consider that the notes made by the officer were relevant to the incident in question and in line with Police Scotland Standing [sic] Operating Procedure on Notebooks and PDA’s.*

*Having considered your version of events, the officer’s statement, the video footage and the notes made by the officer I do not consider the officer showed neglect in accurately recording matters in his police issue notebook. I also do not consider that he was in neglect of his duty.*

*Having considered the information available to me, I do not uphold the allegation made against the officers [sic] concerned.”*

## *Consideration of Complaint 4*

As identified by Superintendent C, the determination of this complaint hinges on similar factors as in Complaints 1 and 3. For the same reasons as given in the considerations of the handling of those complaints, it is deemed that Superintendent C was justified in concluding that Constable A accurately recorded the incident rather than neglected to do so. It is therefore considered that Superintendent C’s response is adequately reasoned and in line with the material information available.

For these reasons, it is concluded that this complaint was dealt with to a reasonable standard. No further action is required of Police Scotland in this connection.

## *Complaint 5: Unjustified stop*

The applicant complained that Constable A stopped him “*because of who I was not because of what I did*”. The applicant considers that the stop was unjustified and amounted to harassment by Police Scotland.

## *Police Handling of Complaint 5*

In his letter, Superintendent C wrote:

*“In your statement to [Sergeant B] you state that you “have had hundreds of complaints against the police of which lots have been upheld. My perception is because of this it has been proven time and again that local officers lie continuously when it comes to dealing with me”.*

*The subject officer states that prior to this incident he had not previously dealt with you. The officer states he observed your vehicle pulling out of the junction in front of him and I consider that he was justified in stopping you in order to speak to you regarding this matter. There is nothing in your statement, which suggests that you have had previous dealings with this officer [sic]. There is also no evidence to suggest that this officer was aware of who you were. The subject officer is stationed in [the town where the incident took place] and polices a different community policing area to either your home or business address. I do not consider that there is any evidence that this officer, in the actions he took, was harassing you.*

*Having considered the information available to me, I do not uphold the allegation made against the officers concerned.”*

### **Consideration of Complaint 5**

In his statement addressing the applicant’s complaint, Constable A states that he was not aware of the applicant prior to this incident. There is nothing in the evidence available to indicate otherwise.

Superintendent C’s response is based not only on Constable A’s statement, but also places this statement in a wider context by considering whether or not it is likely that Constable A would have been aware of the applicant based on his location. It is considered that this demonstrates good complaint handling on the part of Superintendent C, and that the applicant has been provided with an appropriate explanation as to why his complaint has not been upheld.

For these reasons, it is concluded that this complaint was dealt with to a reasonable standard. No further action is required of Police Scotland in this connection.

### **Complaint 6: Lack of integrity**

The applicant complained that “*it seemed second nature*” to Constable A to “*write down things that were untrue*”.

### **Police Handling of Complaint 6**

In his letter, Superintendent C wrote:

*“This allegation is similar in nature to those outlined in allegations 1, 3 and 4. My determination is based on the evidence considered in respect of these and whether or not the officer wrote things in his notebook, which were untrue. As previously outlined I believe the officer was entitled to stop you and make notes in his notebook relating to this. Also as previously outlined I consider that the notes that he took were appropriate and relevant to the matter. There is no evidence to suggest that they do not relate to or accurately reflect the officer’s perception as to why he stopped you or what took place.*

*Having considered the information available to me, I do not uphold the allegation made against the officers [sic] concerned.”*

## *Consideration of Complaint 6*

For the same reasons as given in the considerations of Complaints 1, 3 and 4, it is deemed that Superintendent C was justified in not upholding the complaint, as the balance of the evidence available does not support that Constable A wrote down “*things that were untrue*”. It is therefore considered that Superintendent C’s response is adequately reasoned and in line with the material information available.

For these reasons, it is concluded that this complaint was dealt with to a reasonable standard. No further action is required of Police Scotland in this connection.

## **5. Conclusions**

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### **Complaints 1 to 6**

It is concluded that all six complaints were dealt with to a reasonable standard. No further action is required of Police Scotland in respect of this case.

**Jennifer Millar**  
**Review Officer**

**Peter Innes**  
**Senior Review Officer**