

# 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 from an incident in which the applicant reported that his neighbour was in breach of bail conditions.

The complaint recorded was that a police officer “acted inappropriately” and was “unprofessional”.

The review found that the complaint was not dealt with to a reasonable standard. A reconsideration direction was issued and a learning point was identified.

### 3. Background

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The applicant lives with his wife, Mrs A. The house neighbouring the applicant's home is occupied by Mr B and his partner Ms C. There is an ongoing dispute between the applicant and his neighbours.

On the afternoon of 8 October 2016, the applicant telephoned 999 to report that Mr B had leaned over the fence dividing the properties and verbally abused Mrs A. The applicant advised that he believed that, by doing this, Mr B was in breach of bail conditions.

Around ten minutes later, Constables D and E arrived in the neighbourhood. The officers first attended at the home of Mr B and Ms C. Mr B denied acting in the manner alleged and showed the officers a video recording he had made of the incident which he believed showed that he had not committed the alleged offence. The officers then attended at the applicant's home. A discussion took place in which the applicant showed the officers parts of a recording he had made. The officers indicated that they did not intend on taking further action against Mr B. The discussion became heated and the applicant asked the officers to leave his home, which they did.

The applicant completed a complaint form on Police Scotland's website that evening. On 9 October 2016, the applicant sent a letter to Police Scotland explaining his complaint in more detail. Sergeant F noted a statement of complaint from the applicant on 21 October 2016, at which time a "heads of complaint" form was completed which recorded a single complaint about the police. Superintendent G responded to the applicant in a letter dated 13 December 2016.

## 4. The Review

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### *The Complaint*

In both his statement and his letter, the applicant made reference to Constable D telling him that that the incident “wasn’t a 999 call”. In his letter, the applicant complained that Constable D was “very arrogant and biased” and that she “started to make us feel very threatened and frightened”. Later in his letter, the applicant added:

*“The police woman and man who attended have not properly carried out their duties and have been negligent in their response and especially the woman police officer abused her power and an abuse of our rights”.*

On the heads of complaint form, a single complaint was noted, namely that:

*“The female officer acted inappropriately and was unprofessional in her dealings with us”.*

### *Police Handling of the Complaint*

Superintendent G provided the following response to this complaint:

*“On the 8<sup>th</sup> October 2016 you have stated that you and your wife were within the front garden of [the applicant’s home address] when you saw your immediate neighbours who reside at [Mr B’s home] exiting from their vehicle and that they made comments and performed actions, which you perceived to be directed at yourself and your wife. You believed that the situation could escalate, as you have been involved in previous dealings with your immediate neighbours. You were aware that the male who resides at [Mr B’s home] was on bail in relation to a matter for which you were a witness and you believed that these actions were in breach of his bail conditions.*

*As a result of this you have contacted the Police and in response you saw a Police vehicle arrive and stop outside your address but were perplexed as to why they immediately attended at your immediate neighbours house prior to visiting you and your wife. That when these officers did attend at your address the female officer present would not listen to your version of events and became focused on a discrepancy on CCTV footage you had which had an incorrect time displayed. That following a short period of time due to your wife becoming upset you asked the Police to leave. You believed that the female officer spoke to you in a manner that was unprofessional and that she wasn’t taking you seriously. You have stated that the male officer acted appropriately throughout.*

*The enquiry has established that 1506 [sic] hours on the 8<sup>th</sup> October 2016 you have contacted the Police via 999 in relation to this incident.*

*About 1511 hours on this date a further neighbour has contacted Police via 999 to report what they believed to be an ongoing Domestic argument in the address of your immediate neighbours at [Mr B's home].*

*The officers attending were made aware of both calls and they attended at [Mr B's home] in the first instance to ensure the safety of the occupants within as this was reported as an ongoing incident. On doing so they established that there was no ongoing disturbance. The occupants of [Mr B's home] then stated that they had recorded their entry into the house on their mobile phone and this was shown to the officers. The footage showed nothing untoward.*

*The male Police officer then attended at your home address and you made him aware of what you wished to report. This male officer has then joined the female subject officer at [Mr B's home] and asked regarding these comments and actions, which were denied.*

*Both Police officers have then attended at your home address and spoken with you and your wife. At this time you have shown them footage taken from a CCTV camera that covers a partial area of your front garden. The time on this footage was noted as being about 1610 hours, which was after your call and this caused an element of confusion. It was accepted that the CCTV footage that you possessed did not actually capture any of the events you had reported as they took place out with the area covered by this camera. The officers attempted to explain that the occupants [of Mr B's home] had recorded their entry into their house and this showed nothing untoward and that at this you and your wife became upset and that you expressed the opinion that the occupants [of Mr B's home] would be getting off with it again. On the Officers attempting to explain the situation to you, you stopped proceedings and asked them to leave. The officers then left.*

*The male officer has stated;*

*'PC (Female subject officer) and I were impartial, professional and acted in an appropriate manner with all parties whilst dealing with the incident'*

*I understand that later that day two further Police officers attended at your home address in an effort to reassure you that your complaint had been taken seriously and provided you with general safety advice.*

*The actions of the male who resides at [Mr B's home] were found not to be a breach of his bail conditions.*

*I am also aware that following your discussion with [Sergeant F] the local community officer for your area was tasked with reviewing all the historical incidents that have been reported in your street and to provide you and your neighbours with a level of reassurance and continuity in relation to this ongoing issue.*

*This review of the historical incidents in [the local area] did not identify any additional evidence to support offences that you have reported.*

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

### **Consideration of the Complaint**

Police Scotland’s Standard Operating Procedure on Complaints About the Police (“the Complaints SOP”) provides the following guidance in relation to interviewing a complainer:

*“The initial Enquiry Officer should clarify the precise nature of the complaints being made, in order that a more detailed and accurate statement can be recorded focusing on the specific areas of complaint. All areas of concern must be gone over and the complainer asked exactly what they are complaining/not complaining about.”*

The heads of complaint form is intended to bring about a clear understanding of the matters that are being complained about, and accordingly to set out exactly what is to be investigated in the complaint enquiry. In contrast, the complaint recorded on the heads of complaint form in this case was vague and open to interpretation. In order to avoid any ambiguity, the applicant should, in line with the Complaints SOP, have been asked by Sergeant F to explain exactly why he believed Constable D to have been “unprofessional” and to have “acted inappropriately”.

Similarly, the applicant advised in his statement that he believed that Constable D “wasn’t taking us seriously” and that he “felt we were victimised by her as if we were in the wrong”. The applicant’s letter also referred to Constable D as having been “confrontational” and “arrogant”. However, the applicant does not appear to have been asked by Sergeant F to explain what he believed Constable D did or failed to do that led the applicant to form these opinions.

In addition, the applicant and his wife have in their statements both specifically referred to Constable D telling them that the incident did not merit a 999 call being made. However, Sergeant F does not seem to have attempted to establish whether or not this comment was made and, likely as a result, Superintendent G has not given consideration in his response to whether it would have been an appropriate comment in the circumstances. Moreover, while Superintendent G’s response provides a detailed narrative of events, it does not address many of the concerns raised by the applicant.

Finally, while Police Scotland formally recorded this as a complaint of “incivility”, the applicant has raised concerns that do not ostensibly relate to whether or not Constable D was uncivil. For example, the applicant’s complaint letter stated that his neighbours were “given immunity” by the officers, referred to Constable D as having been “biased”, included concerns that Constable D did not watch all of the applicant’s video recording, and ended by stating that there had been “a poor and inadequate police response”.

For the reasons given above, it is considered that the enquiry into this complaint was insufficient and the response inadequate.

## 5. Conclusion

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It is concluded that this complaint was not dealt with to a reasonable standard. A reconsideration direction is issued to Police Scotland under section 35(7) of the Act.

In terms of section 37(1) of the Act, Police Scotland must now appoint a person to reconsider this complaint. The person appointed must not have had any previous involvement in the consideration of the complaint. Police Scotland must also adhere to the obligations set out in sections 38 and 40 of the Act, as appropriate. The reconsideration is not subject to the PIRC's supervision.

In reconsidering the complaint, Police Scotland should:

- a) give full regard to the comments and observations made in this report;
- b) ask the applicant to provide a further statement clarifying precisely the complaint(s) he wishes to pursue;
- c) record each complaint raised by the applicant as a separate complaint about the police, and categorise each appropriately;
- d) investigate the complaint(s) and thereafter provide the applicant with a further response, making clear that the applicant is entitled to request a review from the PIRC if he is dissatisfied with the handling of his complaint(s).

### Learning Point

When a person makes a complaint about the police that is vague or open to interpretation, it is crucial that the officer noting the complaint asks questions to clarify the specific act or omission being complained about. Taking such an approach helps to ensure that all points of concern are addressed and reduces the likelihood of complaints not being dealt with to a reasonable standard.

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