

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

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## 1. Role of 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 subject to various police vehicle stops. One complaint was reviewed, namely that between 2014 and 2015, officers from Police Scotland harassed the applicant by repeatedly stopping him in his vehicle. The applicant alleges that these stops happened because of reports made to the police by Mr A.

The review found that the complaint was not dealt with to a reasonable standard. Two recommendations were made and a learning point identified.

### 3. Background

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Between 2014 and 2015, the applicant alleges he was harassed by Police Scotland because officers repeatedly stopped him in his vehicle. The applicant believes this alleged harassment was instigated by Mr A contacting the police.

The applicant made his complaint online on 28 October 2016. Sergeant B was appointed as the enquiry officer and the applicant received a response to his complaints in writing in a letter from Chief Inspector C dated 20 December 2016.

### 4. The Review

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#### The Complaint

The applicant complains that, between 2014-2015, officers harassed him by repeatedly stopping him in his vehicle because of information they received from Mr A.

#### Police Handling of the Complaint

Chief Inspector C responded to the applicant's complaint as follows:

*"I refer to your recent complaint about the police in which you expressed concerns about the actions of officers of this Force on or between 2014 and 2015 in which you allege that between those dates you were repeatedly stopped in your vehicles whilst living in the [named] area. You further allege that this was a course of harassment which was instigated by [Mr A] calling the police.*

*The enquiry was allocated to Sergeant [B] who has investigated your complaint and I can advise you that I have now received his findings...*

*As no specific officer was identified as being responsible a request was circulated to all officers known to have worked in the relevant area during the timescales identified.*

*This request specified the vehicles identified as having been used by you around that time and I have to report that no officer reported recalling any incidents involving vehicle registrations [X] or [Y].*

*A check of the Scottish Intelligence Database was carried out along with checks of the STORM incident logging system.*

*I am not at liberty due to Data Protection to disclose details of any information contained there but can confirm that there is nothing to indicate your allegation that [Mr A] had made numerous spurious calls involving you.*

*A check of the PNC system was carried out which confirmed five transactions which took place between 30<sup>th</sup> of October 2014 and 26<sup>th</sup> June 2015. These related to stops of [vehicle registration X] on 30/10/14, 24/05/15 and 25/05/15. Stops of [vehicle registration Y] took place on 14/06/15 and 26/06/15. This research amounts to five stops in total over an eight month period involving two vehicles.*

*The transaction log provides limited information and does not provide any information as to why the vehicles were stopped.*

*You named retired Police Constable [Mr D], formerly of [named] Police Station as having advised you that [Mr A] was responsible for reporting him for traffic matters. Enquiries to date have failed to establish contact with [Mr D] to verify this statement.*

*As a result of the investigation [sic] I cannot uphold your allegation.”*

## Consideration of the Complaint

There appear to be two aspects to the applicant's complaint. Firstly he complains that he was harassed by the police because he was repeatedly stopped in his vehicle, and secondly he complains that this harassment was instigated because of calls made to the police by Mr A.

### (1) Repeatedly stopped

As reflected in the response, the applicant was unable to provide specific dates or the names or detail of any officers involved in stopping his vehicle. However, according to the information recorded by the police during their investigation, the applicant alleges he was stopped in excess of 50 times over a one year period.

As reflected in the response, during his investigation Sergeant B carried out a Police National Computer (PNC) check to ascertain if any officer had requested a routine check on the applicant's vehicles. These checks are regularly carried out by officers when a vehicle is stopped at the roadside.

Sergeant B's investigation revealed that PNC checks had been requested and carried out on the applicant's vehicles on five occasions in total in the eight month period between 30<sup>th</sup> October 2014 and 26<sup>th</sup> June 2015. Four of the requested checks occurred within a four week period, with two of the checks requested and carried out on two consecutive days.

Accordingly, it is considered that there is some evidence available to support the applicant's assertion that he was repeatedly stopped by officers, albeit the number of documented stops is far less than the number of stops claimed by the applicant.

The response in this connection acknowledges the number of stops in this time period, however, it does not explain to the applicant the reasons for these stops, or consider whether or not the number of stops in this time frame would be considered reasonable.

It is noted in this respect that the response explains that the reasons for the stops could not be obtained from the PNC print which included limited information. It is also noted that efforts were made to contact the officers involved in the stop and who worked in the area to ascertain if any recalled any dealings with the applicant, none of whom were able to provide any information regarding any dealings with the applicant.

From the evidence available, the stops in question occurred in 2014-2015 and as such officers may not now recollect any dealings with the applicant. Nevertheless, the officers who requested PNC checks on the applicant's vehicles should have noted details of the request and result of the check within their respective notebooks for audit purposes. Additionally, officers may not have requested a PNC check on each and every occasion that the applicant's vehicle was stopped or recorded such stops in the command and control system, however there is a requirement for officers to record such information in their notebooks. While officers may not have recalled stopping the applicants vehicle, a check of their notebooks may reveal such information. This information could potentially enable the police to ascertain the reason for each stop, and thereafter provide a response to the applicant which assesses whether or not the number of stops the applicant was subjected to in a relatively short period of time is considered reasonable in the circumstances.

Accordingly, it is considered that the complaint enquiry in relation to this aspect of the complaint is insufficient.

## (2) Calls made to the police by Mr A

In his response, Chief Inspector C explains to the applicant the enquiries carried out by Sergeant B who checked the Scottish Intelligence Database and the STORM Incident logging system. According to the response, nothing was uncovered from either system to indicate that Mr A made numerous calls involving the applicant. However, from the evidence available, the enquiry officer did identify one call made to police by a member of the public in respect of road traffic matters involving the applicant. Although it is noted that this incident is not reflected in the response, this particular incident did not result in the applicant's vehicle being stopped by the police.

The response also acknowledges the applicant's position that he was allegedly advised by Mr D that Mr A was responsible for reporting him to the police for traffic matters and states that any efforts to contact Mr D were unsuccessful. It is considered the response in this connection would have been strengthened by explaining to the applicant what enquiries were carried out by Sergeant B to try and contact Mr D. However, from reviewing the evidence within the police file, Sergeant B made reasonable efforts to contact Mr D during his investigation which included checking various police systems for a contact number, contacting other colleagues, contacting the Police Federation and making several phone calls to a number which did not provide an answer service facility.

Accordingly, although the efforts to contact Mr D proved unsuccessful and as such a statement was not obtained from him, Chief Inspector C makes an adequate assessment of the evidence available and explains to the applicant that there is nothing else in the evidence available to suggest that Mr A had made repeated calls to the police concerning the applicant that resulted in the applicant being stopped.

It is therefore considered that this aspect of the applicant's complaint is adequately reasoned and supported by the material evidence available.

For the reasons outlined above, it is concluded that the first aspect of this complaint was not dealt with to a reasonable standard but the second aspect was.

In relation to the first aspect of the complaint, it is recommended that Police Scotland reassess the complaint on the basis of the points outlined above and following this, provide the applicant with a further response.

In addition, as each aspect of the complaint is capable of being upheld or not upheld independently of the other, it is recommended that Police Scotland records (1) and (2) as two separate complaints.

### Learning Point

In relation to the question of whether or not Mr A repeatedly contacted the Police, it is noted that the investigating officer carried out several systems checks to ascertain if Mr A had contacted the police. However, from the evidence available, a check of the ACR Call Management system was not carried out. This system check would provide details of the number of calls made by Mr A, even if the call in question did not result in a STORM incident being created.

Nonetheless, if the applicant was stopped as a result of a call from Mr A, it is likely a STORM record would have been created and as noted above, the only STORM record found in respect of the applicant did not result in him being stopped. However, it is considered a check of the ACR Call Management system would have enabled Police Scotland to more effectively refute the applicant's claim that he was repeatedly stopped because of the alleged repeated calls made by Mr A. Police Scotland should take this into consideration when dealing with similar complaints in future.

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