

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

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## 1. Role of the PIRC

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

The complaints in this case arose from the applicant’s ongoing dispute with her neighbours. Two complaints were reviewed, namely:

1. that the police do not assist the applicant when people park blocking her driveway; and
2. that the police do not respond to the applicant’s concerns regarding her neighbours anti-social behaviour whereby she alleges that they harass her, make abusive comments and encourage other road users to block her driveway.

The review found that both complaints were dealt with to a reasonable standard. No recommendations were made.

### 3. Background

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The applicant is involved in a long running dispute with her neighbours which centres mainly around parking issues.

The applicant suffers from mobility problems and relies on her son to transport her to and from hospital appointments. Because of this, the applicant had the kerb in front of her address lowered and had a non-enforceable white line painted across her driveway to allow her son to easily park his vehicle.

The applicant has contacted the police on several occasions in connection with various concerns regarding her neighbours which focus mainly around parking complaints and she is unhappy with the police response to her concerns.

The applicant submitted her complaints to Police Scotland in writing in a letter dated 21 November 2016. This complaint was originally dealt with via front line resolution (FLR) and the applicant received a response to her complaints in writing in a letter dated 15 December 2016 from Chief Inspector A.

On 1 February 2017, the applicant contacted Police Scotland via telephone to advise that she did not feel the matter was resolved. Inspector B was appointed as the enquiry officer and the applicant received a further response to her complaints in writing from Chief Inspector A in a letter dated 24 February 2017.

### 4. The Review

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#### Complaint 1: Neighbours block driveway

The applicant complains that Police Scotland do not assist with her ongoing concerns regarding neighbours and who allegedly continue to park blocking her driveway.

#### *Police Handling of Complaint 1*

In his letter dated 15 December 2016, Chief Inspector A responded to the applicant's complaint as follows:

*“Generally Police Scotland only get involved in parking issues where there is a genuine and immediate safety issue. However, our standard operating procedure is clear in relation to obstructions of private driveways. Calls to the Police of this nature are to be marked ‘non-attendance’. We only have limited power in relation to parking and our expectation is that, before police will attend, you have made efforts to contact the owner of the vehicle and request that they move it.*

*Local Authorities try to offer solutions to improve parking situations and on this occasion have lowered your kerb and painted an advisory white line on the road across your driveway, which I*

*appreciate you contributed towards financially. This line is not an enforceable parking restriction by police or local authority. Unfortunately it has also limited useable road space (for what is a public road), available for shared parking.*

*Police officers have to be pragmatic when in dealing with parking complaints. Where there is a genuine obstruction to the extent you physically cannot move your car from your driveway, at a time when you need to move your car, and you cannot request that the driver moves their car, you can report this to the police and will prioritise the call accordingly. I appreciate you have health issues, as do many other people, however please be clear that if you can negotiate any obstruction, even if this involves moving another vehicle owned by you (or a family member), officers will not consider this to be a genuine obstruction and will not take any action.*

*If officers do consider that there is a genuine obstruction they will make efforts to contact the owner of the car and request that they remove it. However, depending on how many cars are involved it can be difficult for officers to establish which car actually caused the obstruction, particularly on narrow streets, with several parked cars. Notwithstanding, they would make efforts to allow you to drive your car.*

*If officers are of the opinion that anyone is frequently causing a genuine obstruction, despite being advised against doing so by the police, and where other reasonable alternatives exist, officers will consider an offence under the Road Vehicles Construction and Use regulations 1986. However, we have to ensure we are proportionate in our response, and even criminal charges do not offer any guaranteed solution.*

*Finally, in relation to parking, our position is clear that there is no long-term policing solution to your parking complaint. I strongly advise that if relations with your neighbours have broken down to such an extent that you cannot negotiate a reasonable shared parking solution, then please consider contacting the local authority who can offer mediation services between neighbours with a view to reaching a permanent solution.”*

In his further letter to the applicant dated 24 February 2017, Chief Inspector A states:

*“In respect of this complaint I can only re-affirm the explanation provided in my previous letter on the subject dated 15 December 2016. With the decriminalisation of parking legislation and the transfer of enforcement to local authorities, Police now have limited involvement in parking matters and even less when such issues relate to private driveways.*

*It is unfortunate that you believe my advice was contradictory when advising both [sic] Police have a non-attendance policy regarding obstruction of private driveways and that persons may be committing an offence under the Road Vehicles Construction and Use Regulations 1986. By way of clarification, the latter course of action is a measure that would only be appropriate in exceptional circumstances and when all other alternatives have been exhausted. It is clear to me that such circumstances do not apply in this case. There is no evidence that any person is regularly blocking your driveway in a manner that would prevent you from exiting. As I explained in my previous letter, before the Police are even contacted there is a presumption that you have*

*made efforts to contact the owner of the vehicle and request that they remove it. My understanding is that there has not been an occasion where the owner of any vehicle, genuinely denying you the opportunity to exit your driveway, has refused a request to move it.”*

## **Consideration of Complaint 1**

Within her correspondence with Police Scotland and the PIRC, the applicant highlights her concern that Police Scotland fails to provide her with any assistance in relation to her parking complaints because there is a policy of non-attendance in place. The applicant also expresses her concern that, because of this policy of non-attendance, the police would not be able to establish if a person was committing an offence under the Road Vehicles Construction and Use Regulations 1986.

However, as explained in the response, as parking within the applicant's local authority is de-criminalised, the power to enforce any parking restriction in the applicant's area has been moved to the Local Authority. Accordingly, the police have limited involvement in relation to parking matters and will generally not attend a parking complaint unless there is a genuine obstruction. In addition to this, as reflected in the response, and acknowledged by the applicant within her own account, the white line painted across her driveway is an “advisory” white line. Accordingly, this line does not appear to be an enforceable parking restriction in the first instance.

Furthermore, although Chief Inspector A acknowledges that there is a policy of non-attendance in place in relation to parking complaints, he also states that if the applicant's driveway was blocked to such an extent that a vehicle could not be moved from the driveway, the option would be available for the applicant to contact the police and report this matter and the call would thereafter be prioritised accordingly. In these circumstances, Chief Inspector A further acknowledges within the response that a person might be committing an offence under the Road Vehicles Construction and Use Regulations 1986.

Accordingly, although there is a policy of non-attendance in relation to parking complaints, Chief Inspector A does explain that the police would take action if there was a genuine obstruction and that this action could include proffering charges if a neighbour was found to be persistently causing an obstruction. However, the response in this connection then explains that there is no evidence that any of the applicant's neighbours block her driveway to such a degree that a vehicle could not manoeuvre into or out of the space. In support of this position, there is a file note within the documentation provided by Police Scotland to the effect that officers have carried out checks at varying times of the day at the applicant's home address and there has never been any sign of an obstruction to her driveway. It is also worth noting that, during the course of the review, the applicant provided the PIRC with many photographs and videos of the alleged obstructions. On examination, although there is evidence that vehicles might encroach slightly on the white line in front of the applicant's driveway, there does not appear to be any evidence that her driveway was blocked to the extent that a vehicle could not get into or out it.

Accordingly and for this reason, it is considered that the response is adequately reasoned and supported by the material evidence available. It is therefore concluded that this complaint was dealt with to a reasonable standard. No further action is required.

## Complaint 2: Neighbours' anti-social behaviour

The applicant complains about the police response to her reports that her neighbours harass her, are abusive and encourage the blocking of her driveway.

### Police Handling of Complaint 2

In his further letter to the applicant dated 24 February 2017, Chief Inspector A states:

*"I remain satisfied that rather than your neighbours, or you for that matter, being involved in anti-social behaviour, it is more appropriate to describe the situation as a long running neighbour dispute. I am aware that both parties have been in dialogue with the local authority housing officers in this regard for some considerable time. On no occasion has any of the behaviour reported by you to the Police been criminal.*

*In my previous letter of 15 December 2016, I clarified the position of Police Scotland when it comes to the issuing of Police warnings. However I would like to take this opportunity to respond specifically to the allegation that you repeat in your letter of 21 November 2016 that the police did not properly deal with a report of racial comments towards your daughter-in-law. This concerns an incident on 12 December 2014 and to which Police Incident Number [incident number] refers. You are aware that Police Officers noted your complaint but upon speaking with all parties in the dispute determined that no crime was established, that it was a neighbour dispute and advice was given to all.*

*The only aspect of Police response that you were not happy with was that you believed that your neighbour would receive a 'stern warning' rather than advice. You subsequently complained to Inspector [C] at [named] Police Office in writing on that basis. This led to further conversations between yourself and Inspector [C] culminating in the officer writing to you on 11 March 2015 and 25 March 2015 making clear that no criminality had occurred and that officers had simply offered advice to all parties to avoid any re-occurrence. I am therefore satisfied that this matter was fully recorded and properly investigated.*

*Finally in relation to your neighbours encouraging other road users to obstruct your driveway I would refer to my explanation provided under Complaint 1 and in my previous correspondence to you."*

### Consideration of Complaint 2

It is noted that the response in this connection focuses on the specific concern raised by the applicant in her original letter of complaint dated 21 November 2016 regarding the police response to an incident she reported to police in December 2014.

The response in this connection explains to the applicant that when officers attended this incident, no criminality could be established and advice was given to the parties involved. The response in this connection is supported the relevant STORM incident, a copy of which was examined during the course of the review and which confirms that when officers attended there was insufficient evidence to substantiate that a crime had occurred and that the parties involved were thereafter provided with the advice regarding their on-going issues.

In relation to the applicant's other more general concerns regarding the police response to incidents involving her neighbours, the response states that none of the incidents reported were criminal in nature. The response in this connection is again supported by copies of the relevant STORM incident which were provided by Police Scotland to the PIRC during the course of the review. On examination, each incident attended by officers is updated to reflect there was nothing criminal in nature and suggests that on each occasion the applicant (or her son) contacted the police they were provided with suitable advice and/or assistance.

Accordingly, although it is considered that the response in this connection would have been strengthened by referring to the other incidents and fully explaining the police action taken, it is nevertheless considered that this complaint was dealt with to a reasonable standard. No further action is required in this connection.

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## 5. Conclusions

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### Complaints 1 and 2

It is concluded that these complaints were dealt with to a reasonable standard. No further action is required.

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