

# 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 concern that a Special Constable had followed members of his family. One complaint was reviewed, namely:

- that his complaint about a Special Constable following his family in 2014 was not suitably dealt with and fell below the standards expected.

The review found that the complaint was dealt with to a reasonable standard. One recommendation was made.

### 3. Background

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In 2014, the applicant's son (Mr A) had access arrangements in place to allow him to spend time with his child from his relationship with Ms B. He collected his child from a local Family Centre for a period of two hours each Saturday. As Ms B did not wish the applicant to be involved in the access visits, Mr A avoided any contact with other family members whilst with his child.

On one occasion during 2014, Mr A collected his child and visited a local play centre. On arrival, he realised that his mother and sister were already present. Mr A therefore left the centre *"to prevent any trouble"*. On leaving, he observed Ms B and Special Constable C sitting in a car across from the play centre. Then, whilst en-route to another leisure centre, Mr A also observed Ms B's mother sitting in her car. He therefore believed that they were *"following"* and *"watching"* him.

Mr A returned his child to the Family Centre early and attended at the local police office, along with the applicant, to report the matter. On arrival, Ms B and Special Constable C were already there, as Ms B had reported her own concerns about the access visit.

The applicant submitted his complaint about the police on 12 August 2016 during a meeting with Inspector H about another matter. Inspector H noted a statement of complaint and the Police Scotland Heads of Complaint form was also completed. Chief Inspector J responded to the applicant's complaint by letter of 22 November 2016.

### 4. The Review

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#### The Complaint: Lack of investigation

The applicant stated that Special Constable C followed members of his family on a date in summer 2014 and that his allegation was not properly investigated. In addition to reporting the incident on the day it occurred, he stated that he had informed several officers about his concerns regarding Special Constable C during meetings about other issues concerning Ms B. Specifically, he stated that he informed Sergeant D of his concerns during a meeting in 2014. He also noted that he informed Sergeants E and F about his concerns during a meeting on 21 August 2015, and also Constable G *"at some point between March and June 2015"*. The applicant complained that *"no-one has done anything about it"*.

#### Police Handling of the Complaint

Chief Inspector J provided a lengthy response in which he outlined the circumstances of the applicant's complaint and the investigations undertaken into the matter after the applicant submitted his complaint on 12 August 2016. Key extracts are noted below:

*"In the statement you provided to Inspector [H], you say that on an unknown date in the summer of 2014, Special Constable [C] and your former daughter in law...followed your [son and grandson] and*

*later [other family members]. You say that you attended at [the local police office] a short time later with your son, [Mr A] and that [Ms B and Special Constable [C]] were at the police office when you arrived. You spoke to a male officer who thereafter warned [Ms B] regarding [your grandson] and you were satisfied with this action. However, to your knowledge, Special Constable [C] has not been spoken to regarding his involvement at this time.*

*You say you raised your concerns with Sergeant [D] when he was dealing with a separate incident involving [Ms B] in 2014, however he told you not to worry as Special Constables were only used for football duties.*

*You also say you informed Constable [G] at some point between March and June 2015 and also Sergeants [E and F] on 21 August 2015, when they had all attended at your home address in relation to a further complaint about [Ms B], however they did not address your concerns.....*

*....Special Constable [C] has been made aware of the nature of your complaint and provided a statement. He confirms he is [Ms B's] mother's partner and that [Ms B] has previously told him that she had concerns about her son... being near you due to information [Mr A] had told her some years earlier.*

*He confirms he was with [Ms B] in her car, on a Saturday in the summer of 2014 on only one occasion and that he was off duty on this date. He states they dropped [your grandson] off at the Family Centre....and whilst there, they had spoken to [Mr A who informed them he would be taking your grandson to the play centre]. Special Constable [C] states that due to [Ms B]'s concerns regarding [her son] being in your company, she drove to [the play centre] and parked outside. He confirms he and [Ms B] remained within her car and watched [them] enter the centre.*

*He states they remained there for approximately 10 minutes at which time [Mr A and your grandson] left the centre, along with females who [Ms B] identified as being [Mr A's] family members.*

*Special Constable [C] has made it clear that he and [Ms B] did not follow (sic) [Mr A] and confirms he and [Ms B] remained within her car, which had been stationary outside [the play centre].....*

*He states [Ms B] entered [the police office] and that a male officer did come out and speak to him at one point however he could not recall the purpose or detail of this conversation. He is adamant that he did not follow any of your family at any point and did not receive any form of warning regarding doing so, as he would have challenged this...*

*[Ms B] was contacted, however declined to provide a statement....*

*Two sergeants and four constables were identified as being on duty at [the police office] between 0700hrs and 1700hrs on Saturday 28 June 2014. One officer, Constable [K], has provided an account and states that whilst he has no recollection of the incident, on checking his notebook, notes that he has recorded [Mr A's] details and also those of [his children] about 4.30pm on Saturday 28 June 2014. Unfortunately, Constable [K] cannot recall why he has recorded these details, or speaking to [Mr A], or what, if anything, he did with this information. He also cannot recall speaking*

*to Special Constable [C], who is not known to him.... Inspector [J] has confirmed that on checking police systems, no child concern report has been found.*

*Constable [K] has received corrective advice regarding the need to record domestic incidents involving children and has accepted this advice, albeit he cannot confirm whether he noted these details as enquiry officer, or on behalf of a colleague, given the passage of time.*

*No other officer identified can recall speaking to you or [Mr A] at [the police office] on 28 June 2014 and no other officer has any details relating to this incident in their notebook.*

*Sergeant [D] provided a statement and advises that he was not informed by you of any concerns regarding a serving Special Constable at any time or making any remarks regarding Special Constables only being used for football duties.*

*Constable [G] provided a statement and states she attended at your home address on three occasions between March and June 2015 and that you did not raise any concerns regarding a serving Special Constable to her at any time.*

*She states she attended at your home address on 4 March 2015 with a named officer. This officer has provided a statement and states you did not raise any concerns about a serving Special Constable during this meeting.*

*In or around April 2015, Constable [G] states she attended at your home address with a named officer. This officer provided a statement and states you did not raise any concerns regarding a serving officer or Special Constable during this meeting.*

*Sergeants [E and F] both provided statements and both state you did not raise any concerns regarding any serving officer or Special Constable during their meeting with you on 21 August 2015. They both confirm Councillor [L] was also present during this meeting.*

*Councillor [L] provided a statement and although he believes you did raise concerns with him regarding a Special Constable, he cannot recall if you raised these concerns during the meeting with Sergeants [E and F] on 21 August 2015 or with any other police officer at that time.*

*He can recall you referring to a piece of A4 paper upon which you had a list of bullet points, which you went through during the meeting. Inspector [H] has advised me that you provided to her a piece of A4 paper with a typed list of points which included one regarding Special Constable [C], which you state you believe you referred to during the meeting on 21 August 2015, however you cannot be sure. Unfortunately, there is no date on this piece of paper which could confirm it related to this meeting.*

*Sergeant [E] states you did not refer to a piece of paper during your meeting and Sergeant [F] cannot recall whether you did or not.*

*In considering all of the above information, I am satisfied that Special Constable [C] believed [Ms B] had reason to check if [her son] was going to be in your company on Saturday 28 June 2014 and that Special Constable [C] believes she drove to [the play centre] in order to confirm if this was the case.*

*I am also satisfied that from the evidence available, no crime was committed by Special Constable [C] and [Ms B] and that in the circumstances Special Constable [C]'s behaviour did not require him to be spoken to by an officer, other than to confirm his version of events at the time. There is evidence to suggest he was indeed spoken to by an officer regarding the incident at the time and as such, may have been made aware of your and your son's concerns in any case.*

*Sergeant [D], Constable [G] and her three colleagues, Sergeant [E] and Sergeant [F] all state you did not raise any concerns with them regarding any serving Special Constable.*

*In conclusion, on the balance of probabilities, I am unable to uphold your complaint."*

## **Consideration of the Complaint**

The applicant was unclear about the precise date of the incident. However, information provided to the PIRC within the Police Scotland case file strongly suggests that it occurred on 28 June 2014. It is therefore considered that Police Scotland was justified in focusing its complaint investigation on that date.

The complaint investigation established which officers were on duty at the police office on 28 June 2014, and each officer was asked to check notebook entries to confirm whether or not they had spoken to any of the parties concerned. One officer had recorded Mr A's details, which suggests that he dealt with the matter. The applicant's statement also suggests that only one officer was involved as he stated that he and Mr A spoke with the same officer who had dealt with Ms B. Mr A states that he and the applicant gave statements, however the relevant notebook entry does not support his position in that regard as only basic details were noted, rather than a lengthier statement. The applicant did not refer to any statement being noted on 28 June 2014.

Special Constable C, who also attended at the police office with Ms B (remaining outside within his car), stated that an officer came out to speak with him. He did not recall what the officer said and stated that he did not think his details were noted. This is supported by the notebook entries which do not contain any reference to him.

As the notebook entry contains only minimal information, as no incident report was created and no reports were submitted in respect of Mr A's children, it is unclear what level of information the applicant and Mr A provided to the officer, and whether or not they made a specific allegation against Special Constable C on 28 June 2014.

The applicant also stated that he informed Police Scotland of his concerns about Special Constable C at various times following the incident.

In relation to the applicant's position that he raised concerns about Special Constable C during his contact with Sergeant D in 2014, Sergeant D recorded in his statement that he had no involvement with the applicant between April 2014 and April 2015. Sergeant D stated that he spoke with the applicant in March or April 2014 and did not speak with him again until April 2015. This was in connection with another matter and Sergeant D was clear that he did not speak with the applicant about the incident of 28 June 2014 or Special Constable C.

In relation to the applicant's meeting with Sergeant E, it is noted from Sergeant E's statement that she met with him on both 12<sup>th</sup> and 21<sup>st</sup> August 2015. Notebook entries recorded by Sergeant E during those meetings have been viewed by the PIRC. They do not contain any reference to Special Constable C or the incident of 28 June 2014. Sergeant F, who was present during the meeting of 21 August 2015 recorded in his statement that "*at no point*" did the applicant make any allegation about Special Constable C. Councillor L who was also in attendance recorded in his statement that he could not recall the applicant "*bringing up concerns about Special Constable [C]*" and confirmed that he did not take any notes during the meeting.

In relation to whether or not the applicant raised his concerns with Constable G, it appears from the information available that she spoke with the applicant on at least two occasions between March and June 2015. On each occasion, she was accompanied by other officers, all of whom state that the applicant did not mention Special Constable C. She noted in her statement that she did not recall the applicant making a complaint about Special Constable C. This is supported by her notebook entries which do not record any reference to him.

In summary, although it is clear that the applicant and his son attended at Police Office X on 28 June 2014, no further details have been recorded in support of his position that they made a specific report about the actions of Special Constable C. The complaint response explained that, as Special Constable C had not committed any offence by being present outside the play centre with Ms B, no further action would have been required on 28 June 2014. Notwithstanding the above, Police Scotland confirmed that further information about the matter should have been recorded and explained that an officer had been provided with relevant guidance in that connection.

The officers subsequently involved in dealing with the applicant's concerns about Ms B recorded that he did not make any complaint about Special Constable C. Furthermore, the information provided by the applicant to Sergeant E, as recorded in her notebook entries of 12 and 21 August 2015, contains no reference to Special Constable C.

As the available information does not support the applicant's position that he raised concerns about Special Constable C on 28 June 2014 or thereafter, it is considered that, on balance, Police Scotland was justified in not upholding the applicant's complaint about Police Scotland's failure to investigate those concerns. As the complaint response is supported by the material information available and, as the applicant was informed of a shortcoming identified during the investigation in relation to the recording of the incident, it is concluded that the complaint was dealt with to a reasonable standard. It is

however recommended that Police Scotland clarifies whether or not the applicant now wishes to lodge a complaint about the actions of Special Constable C. If so, the complaint should be recorded and addressed in accordance with relevant procedures.

## 5. Conclusions

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### Complaint: Lack of investigation

It is concluded that this complaint was dealt with to a reasonable standard. It is however recommended that Police Scotland clarifies whether or not the applicant now wishes to lodge a complaint about the actions of Special Constable C. If so, the complaint should be recorded and addressed in accordance with relevant procedures.

**Lynn McCord**  
Review Officer

**Jacqui Jeffrey**  
Senior Review Officer