

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

## Index

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1. **Role of the PIRC**
2. **Key findings**
3. **Background**
4. **The Review**
5. **Conclusions**

## 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 an incident in which the applicant’s son’s car was stolen after Police Scotland had been informed that the keys had been taken in an earlier burglary. Three complaints were reviewed, namely:

- 1) that Police Scotland failed to timeously allocate resources following the report that the car keys had been stolen;
- 2) that a call handler was rude to the applicant’s wife;
- 3) that Police Scotland kept the car for policing purposes and was therefore liable for the costs incurred in this connection.

The review found that one of the complaints was dealt with to a reasonable standard while two were not. Two recommendations were made in this connection. A learning point was also identified.

### 3. Background

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Mr A, the applicant's son, lives in Town X with his flatmate, Mr B. The applicant lives in Town Y which is around three to four hours' drive from Town X.

At around 1930hrs on 13 October 2016, Mr A left his flat to go to Town Z. Mr B was at work at this time and returned to the flat at approximately 2200hrs. Upon his arrival, Mr B became aware that the flat had been burgled and that several items were missing, including Mr A's car keys. Mr B advised Mr A of this, and Mr A confirmed that the keys should have been in the flat and that the car had been left parked on the street outside. Mr B noted that the car was still present on the street.

At 2228hrs, Mr B contacted Police Scotland to report the burglary and advised that the keys to Mr A's car were seemingly in the possession of the burglars. Police Scotland was informed that the spare keys to the car were in the applicant's possession and that, although he was on his way, it would take him several hours to arrive as he was travelling from Town Y.

At 2326hrs, Mr B contacted Police Scotland to advise that the car was now gone and had presumably been stolen. Police officers arrived at the flat at 2354hrs and noted details of the incident from Mr B. On the morning of 14 October 2016, the applicant completed an online form complaining about the police.

Mr A's insurance company had fitted a device to his car which they refer to as a "black box". The device contains a chip which can track the location of the vehicle and record details of journeys made by the car. The device sends details of each journey to the insurance company, who in turn provide details to the insured driver via a smartphone application. On 14 October 2016, Mr A started to receive updates from his insurance company indicating that the car was being driven. Mr A received details of several journeys which suggested that the car was being moved from location to location within Town X. During the course of the day, Mr A and the applicant's wife made several telephone calls to Police Scotland reporting new locations for the car. Using this information, police officers located the car on a street in Town X, not far from Mr A's flat.

When located, the car was found to be locked and unoccupied. The spare keys were still with the applicant in Town Y whilst Mr A was still in Town Z. Police Scotland telephoned Mr A and offered to have the vehicle removed under Police Scotland's Vehicle Recovery Scheme (VRS). Mr A agreed and the car was collected by a vehicle recovery operator and taken to a Police Scotland recovery yard.

Mr A later attempted to retrieve his car from the recovery yard but was told it could not be released as a "scenes of crime" examination was to be carried out on the vehicle. The examination was completed on 24 October 2016. On 26 October 2016, Police Scotland's contracted vehicle recovery operator sent a letter by post to Mr A informing that the car could now be collected. The car was collected on 28 October 2016.

The applicant met with Inspector C and signed a Heads of Complaint form on 31 October 2016. No statements were taken from any party in relation to the complaints. Superintendent D responded to the complaints in a letter dated 28 December 2016.

## 4. The Review

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### Complaint 1: Failure to allocate resources

The applicant complained that Police Scotland “failed to timeously allocate resources to a break-in at [his] son’s flat ... which resulted in [his] son’s car being stolen from outside”.

#### *Police Handling of Complaint 1*

Superintendent D provided the following response to this complaint:

*“Enquiries have revealed that your son’s flat mate, [Mr B] contacted the police at approximately 2230 hours on the 13th October 2016 to report a break-in to the flat that they share at [address].*

*The break-in had occurred between 1330 hrs and 2200 hrs (same date).*

*[Mr B] provided information on how access had been gained to the flat and also gave details of property that had been stolen, including your son’s car keys for his [car].*

*He confirmed that your son’s car was still in situ and that he was watching it from the flat. ...*

*A Storm Incident (incident no 3340 13 October 2016) was created by a Service Advisor at [the control room] and the incident was assessed as requiring a standard police response (grade 3 call).*

*Police Officers were dispatched to [Mr A’s address] at 2238 hrs (same date), however, whilst en route, they were diverted to a crime in progress which took priority. ...*

*Prior to police arrival at the break-in, [Mr B] re-contacted the police, to inform them that your son’s car had been stolen, sometime between 2230 hrs and 2245 hrs (same date).*

*Police arrived at the scene at 2354 hrs (same date) and noted details of the break- in and the theft of your son’s car.*

*Police Scotland Standard Operating Procedure for Incident Prioritisation and Response outlines the Police Service of Scotland practices and procedures in relation to its command and control incident prioritisation and response management.*

*The grading of response is based on an assessment of risk and vulnerability.*

*Incidents are categorised as follows:*

- Grade 1 - Immediate*
- Grade 2 - Priority*
- Grade 3 - Standard*
- Grade 4 - Scheduled*
- Grade 5 - Non Attendance of police*
- Grade 6 - Managed Call Appointment System*

*An Immediate Response refers to an ongoing incident where there is an immediate or apparent threat to life or a serious crime in progress. Serious crimes include domestic/hate crime incidents, missing persons, firearms incidents, children at risk and dropped 999 calls etc.*

*A Priority Response is described as a crime or incident where there is a degree of importance or urgency associated with initial police action.*

*A Standard Response applies to an incident which is not ongoing but police attendance is required and where the outcome could be prejudiced by significant delay.*

*Police Scotland Command and Control Standard Operating Procedure outlines the Police Service of Scotland Area Control Room practices, procedures and responsibility relating to the command and control of incidents.*

*It provides details of dispatch timescales for the various categories of response.*

- Grade 1 - within 5 minutes of acceptance of the call at the Area Control Room*
- Grade 2 - within 15 minutes of acceptance of the call at the Area Control Room*
- Grade 3 - within 40 minutes of acceptance of the call at the Area Control Room*

*Area control rooms are responsible for the command and control of all deployable resources including making every effort to dispatch officers to calls within the prescribed dispatch timescales.*

*The incident being reported by [Mr B] was not ongoing, the crime had occurred within a nine hour time frame, there was no apparent threat to life and a serious crime was not in progress.*

*There were concerns raised regarding the possibility of your son's car being stolen as the car keys had been taken during the break in.*

*No one could have surmised that your son's car would have been stolen between the time that the crime was reported to the police and the arrival of the police at the scene of the crime.*

*Having considered the above information in relation to the call grading and response, I am satisfied that the call was correctly graded as a standard response, as the incident did require*

*police attendance and the outcome could have been prejudiced if there was a significant delay in police attendance. The call did not meet the criteria for an Immediate or Priority Response.*

*The police also responded to the call within the prescribed response timescales (within 40 minutes), albeit, they were diverted to a higher priority call as there were no other available resources. Officers did however attend the break in as soon as possible. ...*

*Regarding the subsequent theft of your son's car, Police Scotland cannot be expected to provide officers to stand by a car for hours to prevent it from being stolen.*

*Owners must take responsibility for the safekeeping of their property.*

*Your son who was the owner of the vehicle had responsibility for the security of the vehicle. He knew that it would take you 3-4 hours to get to [Town X] with the spare keys but failed to take any additional action within a reasonable timescale to prevent the theft.*

*Having considered all of the above, I have decided not to uphold the allegation”.*

## **Consideration of Complaint 1**

Superintendent D states that the initial break-in had “occurred between 1330 hrs and 2200 hrs ... within a nine hour time frame”. However, the applicant has indicated in his correspondence with the PIRC that Superintendent D's position is incorrect and results from a statement not having been taken from Mr A. According to the applicant, although Mr B left the flat around 1330hrs, Mr A did not leave the flat until approximately 1930hrs. On that evidence, the break-in likely occurred between 1930hrs and 2200hrs within a window of two and a half hours. Notwithstanding, even on the basis of the evidence available to Police Scotland at the time, the break-in could have taken place just a few minutes before Mr B returned home around 2200hrs.

According to Superintendent D, “no one could have surmised that [Mr A's] car would have been stolen between the time that the crime was reported to the police and the arrival of the police at the scene of the crime”. However, Police Scotland knew that the car keys had been taken. It is not unreasonable to infer that whoever took the keys did so in order to steal the car, and that the thief would likely act quickly so to avoid action being taken to prevent the car from being stolen. Accordingly, it is unclear as to why Superintendent D finds that the theft of the car within the period in question was not surmisable.

Furthermore, in stating that Mr A “failed to take any additional action within a reasonable timescale to prevent the theft”, Superintendent D appears to be indicating that there was some form of action that Mr A could have taken to try to stop the car from being stolen. However, the response does not detail what that action might have been. It is noted that, on Police Scotland's Heads of Complaint form, there is a comment that Mr A failed to contact his insurance company, arrange uplift of the car, arrange to have the car “boxed in” by another vehicle or have the air let out of the car's tyres. In reviewing this complaint, the PIRC asked Police Scotland to clarify what advice is expected to be provided to someone reporting that vehicle keys had been stolen. Police Scotland advised that there is no

standard advice for such situations and, significantly, that none of the above suggestions was actually made to Mr A or Mr B prior to the car being stolen.

For the reasons given, it is concluded that this complaint was not dealt with to a reasonable standard. It is recommended that Police Scotland:

- a) seek a statement from Mr A in respect of the timeline of events;
- b) reassess, with direct reference to the points made above, whether resources should have more promptly been allocated to the break-in; and thereafter
- c) send a further response to the applicant providing a fully reasoned explanation for whatever conclusion is reached.

## Complaint 2: Incivility

The applicant complained that “a call taker was rude to [his] wife when she was providing information regarding the location of [their] son’s car”.

### Police Handling of Complaint 2

Superintendent D provided the following response to this complaint:

*“The calls made by your wife to the police on the 14th October 2016 and the call made by a Service Advisor, [from the Service Centre] to your wife (same date) have been listened to and at no time were any of the three Service Advisors who spoke to your wife, rude.*

*Enquiries have revealed that when your wife called the police at around 1714hrs (same date) she informed the Service Advisor that her son’s vehicle which had been stolen yesterday from [flat address], was fitted with a black box, which indicated that the car was currently in [a location in Town X].*

*The Service Advisor then updated the Storm Incident, which had been created earlier in response to your son who had contacted the police to inform them that the current location of his stolen car was [a named street].*

*This entry caused confusion with another Service Advisor who was receiving information from your son regarding the current location of his car.*

*A call was made to your wife to seek clarification on the information that she had passed earlier and during the conversation, a Service Advisor said to your wife that she told the police that her son’s car was in [a different street with a similar name] which your wife refutes.*

*There was no ill will or incivility from the Service Advisor towards your wife, it appears there was confusion with the location of the car that the Service Advisor was trying to rectify. This was an error on entering the details onto the incident and I can understand this might have been*

*frustrating for your wife but there was no impoliteness or rudeness from the Service Advisor towards your wife.*

*Corrective advice will be given to the Service Advisor who added inaccurate information to the storm log.*

*Having considered all the evidence available to me, I have taken the decision not to uphold the allegation”.*

### **Consideration of Complaint 2**

Police Scotland supplied the PIRC with recordings of five telephone conversations between service centre operators and the applicant’s wife. Those recordings have been listened to as part of the review of this complaint. It is considered that Superintendent D’s finding that none of the three advisors was rude is a fair interpretation of the recordings. It is therefore considered that the decision not to uphold this complaint was justified.

Accordingly, it is concluded that this complaint was dealt with to a reasonable standard. No further action is recommended.

### **Complaint 3: Liability for charges**

The applicant raised the following complaint:

*“Between the 14<sup>th</sup> and 28<sup>th</sup> October 2016, Police Scotland kept my son’s car for policing purposes and are therefore responsible for the costs involved for the recovery of the car and not my son”.*

### **Police Handling of Complaint 3**

Superintendent D provided the following response to this complaint:

*“Enquiries have revealed that your son’s vehicle was stolen on the 13<sup>th</sup> October 2016 and recovered by police officers on the 14th October 2016 in [Town X].*

*At the time of recovery, the car was locked and secured and no car keys were available.*

*Following the recovery of your son’s car, police contacted him to let him know that his car had been recovered.*

*Your son was unable to collect his car and gave authorisation to have the car recovered, at his expense, using the Police Scotland Contractual Vehicle Recovery Scheme.*

*Your son’s car was recovered by a Vehicle Recovery Operator and taken to a Police Recovery Yard for safekeeping.*

*Following the recovery, a request for a Scenes of Crime Examination was submitted and this examination was completed on the 24th October 2016.*

*Your son's car was released from the Police Recovery Yard on the 25 October 2016 and a notice letter was sent by the Vehicle Recovery Operator on the 26th October 2016 informing your son that the car was now ready for collection.*

*Your son's car was collected from the yard by his insurance company on the 28th October 2016. Police Scotland have Standard Operating Procedures (SOP) for the Seizure of Vehicles and Stolen Vehicles. ...*

*The SOP states that in the first instance, where a stolen vehicle is recovered and is suitable for release, the owner must be given the opportunity to arrange for its collection. If a Scenes of Crime Examination is required, arrangements should be made to have the examination carried out at the location where it was recovered.*

*If the owner cannot arrange to remove the vehicle within a reasonable timescale (30 mins), the officer should advise the Area Control Room that a Statutory Removal is required.*

*Under these circumstances, the owner will be responsible for the recovery cost. Stolen vehicles fall under the Statutory heading and the owner is liable for the recovery costs.*

*The Stolen Vehicle SOP provides police officers and police staff with instruction and guidance that should facilitate the timeous recovery of stolen property and ensure that the potential evidence is secured at the earliest opportunity.*

- Where the owner cannot get the stolen vehicle removed and police want to carry out a Scenes of Crime Examination, it will be removed to a Police Recovery Yard. The reason for removal remains as a Statutory Vehicle — Stolen Vehicle and the owner / insurance company is still liable for the Statutory Fee. The removal under these circumstances is not deemed a police request.*
- Vehicles will be released and returned to the owner/insurance company by the Vehicle Recovery Operator after the Scenes of Crime Examination has been carried out.*

*Regulation 4, Removal and Disposal of Vehicles Regulations 1986 and the Road Traffic Act 1988 (Retention and Disposal of Seized Motor Vehicles) Regulations 2005 confer powers on police officers to remove, retain and seize motor vehicles.*

*Having taken account of police procedures and legislation, Police Scotland are not liable for the recovery costs of your son's vehicle.*

*Police Scotland Standard Operating Procedures were adhered to and the relevant legislation was applied correctly in the circumstances.*

*Your son was contacted by police on the 15th October 2016, to inform him that his car had been recovered by police officers in [Town X] and he was given the option to uplift the vehicle from [the street] himself or make arrangements for it to be uplifted, however, he was unable himself to do so. The Police Scotland Contractual Vehicle Recovery Scheme was explained to your son and he took the decision to use this service. He was not charged for storage whilst the vehicle was being held to allow for a scenes of crime examination to be carried out.*

*Storage charges only commenced on the 26<sup>th</sup> October 2016 after a notice letter was sent to your son by the Vehicle Recovery Operator advising that that the car could be collected. As your son's car was not reclaimed until the 28th October 2016, your son incurred storage fees for two days, which he was rightfully liable for."*

### **Consideration of Complaint 3**

Superintendent D states that, when notified that officers had located his car, Mr A authorised the police to recover it at his expense using the VRS. This is supported by what the applicant states in his correspondence with the PIRC:

*"As my son was not in a position to recover his car and we were back in [Town Y], the Police Officer said they would arrange recovery at his expense which the insurance would pay for. My son agreed to this and the car was recovered by the Police Recovery operator and taken to an undisclosed location".*

Accordingly, it does not appear to be in dispute that Mr A agreed to bear the costs of the recovery of the vehicle. As outlined by Superintendent D, the action taken by Police Scotland in this respect was in line with standard operating procedure, specifically paragraph 10.8 of the Stolen Vehicles SOP.

In relation to the storage costs, Superintendent D states that Police Scotland accepts responsibility for the costs incurred while the vehicle was retained at the request of the police, but not for the costs incurred following release of the vehicle. In this connection, paragraph 8.25 of the Stolen Vehicles SOP states the following:

*"The recovering officers or in their absence their line manager; at the earliest opportunity; will be responsible for arranging its release to the owner or insurance company if the vehicle is identified after examination by Stolen Vehicle Examiner or other department; This is to ensure that the vehicle is not retained unnecessarily, incurring costs to PSoS."*

On 26 October 2016, a letter was sent to Mr A by Police Scotland's contracted vehicle recovery operator informing him that his car was ready for collection. As the notification was sent by post, two days of storage costs were incurred which could have been avoided had notification been given instantaneously by telephone or email. Furthermore, it would appear that the notification letter was not sent until two days after the examination had been completed. In any event, it is reasonable to consider that a vehicle cannot be said to have been released to its owner until he or she has actually been made aware that the vehicle is available to collect. For those reasons, it is considered that Police

Scotland did not “at the earliest opportunity” arrange for the release of the vehicle, as required by the Stolen Vehicles SOP.

Accordingly, it is concluded that this complaint was not dealt with to a reasonable standard. It is recommended that Police Scotland reassess the complaint taking into account the comments made in this report. The applicant should be provided with a further response which addresses whether the car was in fact released at the earliest opportunity, with specific reference to the method of communication utilised to inform the owner that the vehicle had been released.

## 5. Conclusions

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### Complaint 1

It is concluded that this complaint was not dealt with to a reasonable standard. It is recommended that Police Scotland:

- a) seek a statement from Mr A in respect of the timeline of events;
- b) reassess, with direct reference to the points made above, whether resources should have more promptly been allocated to the break-in; and thereafter
- c) send a further response to the applicant providing a fully reasoned explanation for whatever conclusion is reached.

### Complaint 2

It is concluded that this complaint was dealt with to a reasonable standard. No further action is required in this connection.

### Complaint 3

It is concluded that this complaint was not dealt with to a reasonable standard. It is recommended that Police Scotland reassess the complaint taking into account the comments made in this report. The applicant should be provided with a further response which addresses whether the car was in fact released at the earliest opportunity, with specific reference to the method of communication utilised to inform the owner that the vehicle had been released.

### Learning point

Police Scotland has advised the PIRC that there is currently no standard advice offered to members of the public who report the theft of vehicle keys. Accordingly, Police Scotland may wish to consider developing such advice along the lines mentioned above, e.g. that the individual could arrange uplift of the vehicle, let the air out of the tyres or have the vehicle “boxed in” by another vehicle. If Police Scotland decides to develop advice in this connection, it would be beneficial to bring it to the attention of service centre operators and also make it available to the public.



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