

# 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 complaint in this case arose from the police investigation into an allegation that the applicant’s daughter had been subjected to threatening and abusive behavior whilst within a primary school playground.

One complaint was reviewed, namely that Police Scotland failed to record that a crime had occurred. The review found that the complaint was dealt with to a reasonable standard. No recommendation was made.

### 3. Background

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On 1 February 2017, the applicant entered a police station to report an incident in which his 9 year old daughter Child X was approached in a school playground by Ms A, the parent of another child. The applicant alleged that Ms A had spoken to Child X “through her teeth” and stated “I’ll be going to the headmaster in the morning wee pal”.

Constables B and C attended at the applicant’s home and obtained details of the incident from the applicant and Child X. The applicant provided details of Ms D, a member of staff who was believed to have witnessed the incident. Constable B contacted Ms D by telephone to ask what she had witnessed. Ms D advised that she had seen Child X crying but had not heard the alleged conversation.

Constables B and C then met with Ms A and her daughter Child Y. Ms A and Child Y confirmed that Ms A had advised Child X that she would be reported to the head teacher in relation to bullying allegations but both denied that the comment had been delivered in an aggressive manner. The applicant and Ms A were subsequently advised that the police would not be taking further action in connection with the incident.

The applicant subsequently contacted Police Scotland to request a crime reference number for the incident and at this time was told that no number was available as the incident had not been considered to be a crime. The applicant was instead provided with an incident number.

On 6 March 2017, the applicant telephoned Police Scotland to raise a complaint that the incident had not been recorded as a crime. The applicant provided a statement of complaint and signed a Heads of Complaint form on 12 April 2017. Chief Inspector F responded to the applicant’s complaint in a letter dated 3 May 2017.

### 4. The Review

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In his statement, the applicant advised that he believed Ms A’s conduct to have been in breach of section 38 of the Criminal Justice and Licensing (Scotland) Act 2010. On his Heads of Complaint form, the applicant stated the following:

*“My complaint is against the Police Service of Scotland for not following the Scottish Crime Recording Standards and not recording this incident as a crime.”*

#### *Police Handling*

Chief Inspector F provided the following response:

*“Your position in respect of the allegation being that the actions and language of a parent used towards your daughter within the playground of her primary school constituted an offence against section 38 of the Criminal Justice Scotland Act.*

*The officers that attended the incident state that they were informed that your daughter had been left upset and in tears within the playground of [the school] as a direct result of an adult female parent challenging your daughter regarding an action of alleged bullying, informing her "that if her behaviour continues she would be required to go to the head teacher about it".*

*As a result of this the attending officers spoke to the adult parent, her daughter and an independent witness who confirmed the above statement was made to your daughter however the nature of the comments were not considered or intended to be aggressive, threatening or abusive and as such it was their opinion that in the circumstances no crime had been committed. [Inspector E] has discussed the incidents with the [local area] Crime Manager who asserts that on this occasion the actions and language used by the adult parent speaking to your daughter outside the school regarding an allegation of bullying does not amount to criminal conduct.*

*Police Officers have a range of disposals available to them and utilise their professional judgement and experience in order to assess how best to deal with a given situation and in this instance although a crime report was not required the full circumstances were investigated at the time and fully recorded on police incident [reference number].*

*On review I am satisfied that this incident has been dealt with appropriately by the officers concerned and is compliant with the Scottish crime recording standards and therefore I have decided not to uphold your complaint.*

*In considering all the circumstances as revealed to me I do not propose to take the matter further. I regret that on this occasion in your dealings with Police Scotland you felt the need to complain."*

## Consideration

The enquiries carried out in relation to the applicant's initial report established that all witnesses provided a version of events that was compatible with the allegation that Ms A had made the comment to Child X and that Child X had been upset by this. Under the Scottish Crime Recording Standard, an incident should only be recorded as a crime if the incident reported is a crime under Scots Law. If police officers are satisfied that the conduct reported to them does not amount to a crime, they should record the report as an incident as opposed to a crime. Police Scotland's reason for not upholding this complaint was that, whilst it was established that the comment was made to Child X, Ms A's conduct did not amount to a crime and as such the decision not to record it as a crime was justified.

In order to be considered a breach of section 38, a person's conduct must be considered to be "threatening or abusive". It is clear that Ms A's conduct would not be considered to be abusive.

Whilst Ms A's conduct could be considered a "threat" in so far as she has stated an intention to carry out an action which Child X would dislike, she has merely stated an intention to carry out a lawful course of action which she would be entitled to pursue i.e. approaching the school to raise concerns about her child being bullied. It is therefore considered that Police Scotland's finding that the alleged conduct was not "threatening" in terms of section 38 was reasonable.

In his correspondence with the PIRC, the applicant has challenged the necessity of Ms A making such a comment to his child and a belief that Ms A attended at the playground specifically to speak with his daughter. It is considered that, regardless of whether or not this was the case, Ms A's actions would still not amount to threatening behaviour in terms of section 38. Consequently, the decision not to uphold this complaint was reasonable.

It is considered that the response to this complaint was well-reasoned and supported by the material information

## 5. Conclusions

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

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