

independent and effective investigations and reviews

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Police Investigations &  
Review Commissioner

PIRC/00063/18  
November 2018

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

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# What we do

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We obtain all the material information from Police Scotland and the applicant. We then use this to review how the complaint was dealt with and conclude whether the complaint was handled to a reasonable standard\*. In doing so, we consider factors such as:

- whether Police Scotland carried out sufficient enquiries into the complaint;
- whether Police Scotland's response to the complaint was supported by the material information available;
- whether Police Scotland adhered to the relevant policies, procedures and legal provisions in dealing with the complaint;
- whether Police Scotland's response was adequately reasoned; and
- where the complaint resulted in Police Scotland identifying measures necessary to improve its service, that these measures were adequate and have been implemented.

Finally, where we consider appropriate, we can make recommendations, issue reconsideration directions and identify learning points for Police Scotland.

\*Sections 34 and 35 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 as amended ("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.

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# Executive Summary

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## The Complaint

The complaint in this case arose following the applicant reporting to the police that a taxi driver had driven dangerously across a pavement. We have reviewed one complaint, namely:

1. that an officer had a poor attitude, was arrogant, full of his own self-importance, and was unwilling to accept what the applicant was saying to him.
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## Police Scotland's Decision

Police Scotland did not uphold the applicant's complaint.

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## Our Findings

We have found that Police Scotland did not handle the applicant's complaint to a reasonable standard.

No further action is required of Police Scotland in relation to this complaint.

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# Background

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The incident occurred on 18 February 2018 when the applicant was walking with her granddaughter and a bright red taxi drove onto the pavement in front of her, blocking her right of way. The applicant and the driver of the taxi subsequently became involved in a verbal altercation. The applicant called to report the incident via 101 a few hours later. An appointment was made for her to meet Constable A at [first named police office] at 1300 hours on 20 February 2018.

Following this meeting, the applicant submitted her complaint to Police Scotland via phone on 5 March 2018. The complaint enquiry was allocated to Inspector B, who carried out enquires with Mr C of [named local council] and Constable D at [second named police office]. The applicant's statement of complaint was taken by Sergeant E on 20 March 2018. A Heads of Complaint form was completed and signed by the applicant, however this is undated. A response letter was sent to the applicant from Chief Inspector F dated 5 May 2018.

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# Complaint 1

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The applicant complained that an officer had a poor attitude, was arrogant, full of his own self-importance, and was unwilling to accept what she was saying to him.

## Police Scotland's Handling of Complaint 1 (not upheld by the police)

Chief Inspector F described the applicant's complaint as one of incivility<sup>1</sup>. Chief Inspector F said that the applicant had described Constable A as having a poor attitude and that he was unwilling to accept what the applicant was saying to him. The applicant had said that she had been telling Constable A about the incident and the layout of the area, however Constable A kept telling the applicant that the area in question was one that was shared between pedestrians and other road users. Chief Inspector F said that the applicant stated that she tried to tell Constable A that she had obtained confirmation from [named local council] that the area in question was a pavement and not a shared access area.

Chief Inspector F said that Constable A stated that he had obtained advice from officers at [second named police office] who were familiar with the area in question, prior to meeting with the applicant. Constable A stated that these officers had told him that the area was a shared access area. Chief Inspector F also said that Constable A stated that these officers told him that the road layout of the area in question had been changed recently, which had been causing issues locally.

Chief Inspector F said that Constable A stated that he advised the applicant of this and denied being uncivil to the applicant at any time during their conversation. The response also advised the applicant that Inspector B had contacted Mr C from [named local council]. Mr C had advised Inspector B that there was a low kerb access at the area in question which briefly goes across the pavement. Chief Inspector F said that Mr C stated that this was used by the church to access the area for funerals, etc, but that parking was not permitted and that the area was subject to restrictions.

Chief Inspector F advised the applicant that "*vehicles requiring access to the church require to cross the pavement which make the area in question a shared access*". Chief Inspector F further advised the applicant that Inspector B confirmed with the local officers that the area in question was indeed the area described by the applicant.

Chief Inspector F advised the applicant that he had been presented with two conflicting versions of events and was therefore unable to determine whether one account was more credible than the other. Therefore, the applicant's complaint was not upheld.

## Our Review of Complaint 1

The crux of this complaint is the alleged incivility by Constable A, who the applicant states was arrogant, had a poor attitude and was unwilling to accept what she was saying to him. However, within her original call to complain and her statement of complaint, the applicant raised two specific examples of incivility against Constable A. She alleged that he commented on the way that she spoke, which she considered to be derogatory. She also alleged that Constable A said words to the effect of "*40 minutes wasted*" when discussing the arrangements that had been made for the applicant's appointment and his mistaken attendance at her home address.

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<sup>1</sup> The full response to the applicant's complaint can be found at paragraphs 18-27 of the appendix to this report.

Constable A provided an operational statement dated 6 April 2018 responding to the applicant's complaint. Constable A denied being uncivil towards the applicant, however did not address the specific examples of incivility raised by the applicant. He made specific reference towards the end of his statement about being aware of "*the allegation to which I am deemed a subject officer*", which he described as follows: "*Incivility: The complainer, [redacted] alleges that on 20 February 2018 at [first named police office] you were uncivil to her*". There is nothing within the complaint file to suggest that these specific examples or details of the complaint were raised with Constable A by the enquiry officer.

We note that Chief Inspector F's response letter seems to focus primarily on the question of whether Constable A or the applicant was correct in their assessment of the status of the area in question. We consider this issue to be irrelevant. He too, does not address the specific examples of incivility provided by the applicant within her call and statement of complaint.

We carried out further enquiries with Police Scotland to ascertain whether Constable A was provided with full details of the complaint allegation made against him. A response to this query was not received. However, a second operational statement by Constable A dated 12 November 2018 was provided in which he addressed these specific issues. On this basis, we have concluded that these examples were not raised with Constable A during the complaint enquiry and accordingly deprived him of an opportunity to fully address the allegation. Therefore, we consider that insufficient enquiry was carried out.

Notwithstanding this fact, within his second operational statement Constable A also denies having made the specific comments attributed to him by the applicant. Accordingly, we consider that, had Chief Inspector F had access to this information in compiling his complaint response, he would still have been faced with two conflicting versions of events. We agree with Chief Inspector F that there is nothing in the available evidence that would enable him to prefer one account as more credible than the other. Therefore, on the balance of probabilities, he would have been justified in not upholding the applicant's complaint.

We consider, therefore, that as insufficient enquiries were carried out, the complaint has not been handled to a reasonable standard. However, as Constable A's additional response to the applicant's specific examples has not provided any grounds to alter the conclusion reached by Chief Inspector F, we do not consider it appropriate to make any recommendations in relation to this complaint.

## **Our Conclusion on Complaint 1**

We conclude that Police Scotland did not handle this complaint to a reasonable standard.

No further action is required of Police Scotland in relation to this complaint.

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# What happens next

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No further action is required of Police Scotland in relation to this complaint.

**Ann McGruer**  
**Review Officer**

**Ilya Zharov**  
**Head of Reviews & Policy**

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# Appendix

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## Copy of Police Scotland's response letter dated 5 May 2018

(Redacted and paragraphs numbered)

1. *I refer to your contact with Police Scotland on 5 March 2018 reporting a complaint against the police. Police Scotland's Professional Standards Department thereafter contacted you on 15 March 2018 to discuss the complaint. On 16 March 2018 I instructed [Inspector B] to investigate this matter.*
2. *I am aware that a meeting was arranged on 20 March 2018 by [Inspector B] to obtain a statement in relation to this matter, however due to unexpected operational demands, this statement was taken by [Sergeant F].*
3. *I am advised that when [Sergeant F] noted your statement, three allegations were made for [Inspector B] to investigate which you signed, namely that on 18 February 2018:*
4. *'The officer attended my home address when I had told the police contact centre no police were to attend my home address, causing me to be kept waiting at [first named police office].'*
5. *'The officer had a poor attitude and was unwilling to accept what I was saying to him and was arrogant and full of his own self-importance.'*
6. *'The officer did not apologise for keeping me waiting.'*
7. *[Inspector B] thereafter made contact with you by telephone on 27 March 2018 and you added an additional complaint; stating:*
8. *'You were not invited into [first named police office] when you attended to report the incident.*
9. *[Inspector B] has investigated your complaints and provides the following detail.*
10. *Complaint No. 1 – 'The officer attended at my home address when I had told the police contact centre no police were to attend my home address, causing me to be kept waiting at [first named police office].'*
11. *I consider this to be a Quality of Service – Service Delivery – Policing Response complaint.*
12. *You state that you contacted Police Scotland's contact centre and made it clear that officers should not attend at your home address. You further state that you were asked to attend [first named police office] on Tuesday 20 February 2018 at 1300hrs to report the incident, which you subsequently did.*
13. *[Constable A] states that he attended at your home address on Tuesday 20 February 2018 and on realising that you were at [first named police office] he thereafter attended there.*
14. *The police incident provided to [Constable A] states 'caller to attend [first named police office]', however not specifically that police have not to attend at your home address. It is evident that there has been a breakdown in communication and an officer has attended at your home address against your instructions.*
15. *I therefore consider this complaint to be upheld and for that I apologise on behalf of Police Scotland.*
16. *Complaint No. 2 – 'The officer had a poor attitude and was unwilling to accept what I was saying to him and was arrogant and full of his own self-importance.'*
17. *I consider this to be an On Duty – Incivility complaint.*
18. *The officer complained about in this instance is [Constable A], who denies the allegation made.*
19. *You state that on attending [first named police office] on 20 February 2018, the officer you spoke with had a poor attitude and was unwilling to accept what you were saying.*
20. *You state that 'I was telling him about the incident, the layout of the pavement and that I was in the right had right of way. He kept stating it was not a pavement it is a shared area. I kept saying*



- it was a pavement.’ You further state ‘I have spoken to [named local council] and they have verified that it is a pavement and not a shared area.’*
21. *[Constable A] states that prior to speaking with you at [first named police office], he contacted local officers within [second named police office] to familiarise himself with the area. He was told that the area described by you was a shared road user and pedestrian access area. He states that he was further informed that the area had recently saw a change to the road layout, which had been causing issues locally.*
  22. *[Constable A] states that he informed you of the foregoing and in doing so he was both civil and professional to you throughout and at no time was he uncivil towards you.*
  23. *[Inspector B] has contacted [Mr C] from [named local council] who states that the church has a low kerb access which briefly goes across the pavement. The church use this access for funerals etc. The area is not for parking and is subject to restrictions.*
  24. *In essence vehicles requiring access to the church require to cross the pavement which make the area in question a shared access, as stated by [Constable A].*
  25. *[Inspector B] has also confirmed with [Constable D] that this is the area described by you.*
  26. *Having considered the evidence and information available to me, I am presented with two conflicting versions of events and am unable to determine one account is more credible than the other.*
  27. *On the balance of probabilities I am therefore unable to uphold your allegation.*
  28. *Complaint No. 3 – ‘The officer did not apologise for keeping me waiting.’*
  29. *I consider this to be an On Duty – Incivility complaint.*
  30. *The officer complained about in this instance is [Constable A], who denies the allegation made.*
  31. *You state that on attending at [first named police office] you had to wait for 20 minutes for police to arrive, due to the officer incorrectly attending at your home address.*
  32. *You further state that when the officer did arrive, you can’t remember him apologising for keeping you waiting.*
  33. *[Constable A] does not state that he apologised to you upon his arrival at [first named police office]. However, he states that when he telephoned you and on realising that you were at [first named police office], he apologised for keeping you waiting and explained he had attended your home address by mistake and he would make his way to [first named police office].*
  34. *Having reviewed all the evidence and information available to me in relation to this allegation I am presented with two conflicting version [sic] of events. The nature of your complaint is that [Constable A] did not apologise for keeping you waiting. [Constable A] states he apologised when he spoke to you on the phone having attended at your home. Whilst it would have been reasonable to have expected [Constable A] to reiterate his apology upon his arrival he does not provide any evidence to suggest he did so. However, he states that he did apologise to you.*
  35. *Therefore, on the balance of probabilities, I am unable to uphold your complaint.*
  36. *Complaint No. 4 – ‘You were not invited into [first named police office] when you attended to report the incident.’*
  37. *I consider this to be a Quality of Service – Service Delivery – Policing Response complaint.*
  38. *You state that when you arrived at [first named police office] you were not invited in until [Constable A] arrived to speak with you, leaving you waiting outside for twenty minutes.*
  39. *[Constable A] states that, on his arrival at [first named police office] the office was closed for lunch. This is the reason you were unable to gain access to the building. [Constable A] states that upon his arrival he invited you into the interview room within the reception area of [first named police office].*
  40. *When you arrived at [first named police office], the office was closed for lunch and this is the reason you were unable to gain access to the building. If officers had attended at [first named police office] as arranged they would have anticipated your arrival and been on hand to permit you access to the office. Therefore, you would not have been left outside waiting.*
  41. *I therefore consider this complaint to be upheld and for that I apologise on behalf of Police Scotland.*

42. *[Inspector B] has informed me that officers from [second named police office] have met with you to discuss the incident which you reported to [Constable A]. I am assured by the officers from [second named police office] that the incident is now concluded and that you are satisfied with the outcome.*
43. *It may be helpful for you to know that, where it has been deemed that the allegations are not upheld, this does not necessarily mean that I had judged these allegations to be untrue. It simply means, taking all of the available information into account, there is insufficient evidence to support the allegations.*