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Police Investigations &  
Review Commissioner

PIRC/00104/18  
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 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 Complaints

The complaints in this case arose after the applicant was involved in an altercation with another individual in a car park. The applicant was charged with assault and the other party was not. We have reviewed three complaints, namely:

1. that, on or after 16 October 2017, officers from Police Scotland failed to conduct sufficient enquiry into an assault that resulted in the applicant being charged and not the other party;
  2. that officers from Police Scotland did not interview the applicant's wife as part of their investigation, and did not make CCTV footage available; and
  3. that officers from Police Scotland ignored evidence that the other party was the instigator. The applicant believes that the other party should have been charged with one or all of the following: Road Rage, Verbal Assault, and Physical Assault.
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## Police Scotland's Decision

Police Scotland treated all three of the applicant's complaints as a single complaint, making a single determination, which was that the complaint was not upheld.

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## Our Findings

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

Consequently, we have issued three reconsideration directions to address the shortcomings in Police Scotland's handling of each complaint.

We expect our reconsideration directions to be implemented by Police Scotland within two months of the date of this report.

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# Background

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The applicant became involved in an altercation with Mr A on 16 October 2017. The applicant, accompanied by his wife, Mrs B, and their children, were driving towards [named location] to carry out an errand. Mr A was accompanied by his wife, Mrs C. Both the applicant and Mr A intended to park in the car park at [named location] and attempted to do so at the same time. Both the applicant and Mr A exited their vehicles and a verbal altercation ensued, which subsequently turned physical. The police were called by both the applicant and Mrs C. Constables D and E attended and spoke to both Mr A and Mrs C before speaking with the applicant. The applicant was thereafter detained and taken to [named police office] where he was interviewed under caution by Constables D and F. Following this interview, the applicant was charged with an assault on Mr A.

The applicant submitted his full complaint to the police via email on 16 January 2018. It was allocated to Sergeant G for investigation. No statement of complaint was taken from the applicant. A Heads of Complaint form dated 26 January 2018 was completed by the applicant via email. A response letter was sent to the applicant from Chief Inspector H dated 2 March 2018.

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# Complaint 1

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The applicant complained that, on or after 16 October 2017, officers from Police Scotland failed to conduct sufficient enquiry into an assault that resulted in the applicant being charged and not the other party.

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

In his response letter, Chief Inspector H reiterated the circumstances of the incident on 16 October 2017<sup>1</sup>. He said that a verbal argument between the applicant and Mr A had escalated to physical violence and that the police were required to attend. He said that Mr A had advised officers that he had been assaulted and provided a description of the applicant. Chief Inspector H said that the applicant had been cautioned and detained when he approached the officers as he had matched the description provided by Mr A. He also said that the applicant confirmed his involvement to the officers at the scene of the incident.

Chief Inspector H went on to say that the applicant had been conveyed to [named police office] in order to facilitate further enquiry, where he was interviewed under caution. Chief Inspector H explained that it was during this interview that the applicant admitted to assaulting Mr A. Chief Inspector H said that such admissions were admissible evidence and provided corroboration of the initial allegation. The response letter said that this admission by the applicant provided sufficient evidence to charge him with assault and submit a report to COPFS in respect of the offence.

Chief Inspector H said that the applicant had made a counter allegation that Mr A had assaulted him first and that this allegation had been recorded and investigated in the same manner as the allegation against the applicant. He said that Mr A made no admission during interview and therefore there was insufficient evidence to either charge him or report him to COPFS in respect of the alleged assault on the applicant.

Chief Inspector H said that the decision to charge the applicant was based on witness testimony and the applicant's admission during interview and was one that he fully supported.

No individual determination was made in relation to this complaint. However, Chief Inspector H determined, in respect of all three of the applicant's allegations, that he was satisfied that the matter had been fully investigated and managed appropriately. Accordingly, the applicant's complaint was not upheld.

## Our Review of Complaint 1

We have reviewed both of the incident logs and the Standard Prosecution Report (SPR) submitted to COPFS in respect of this incident. We have reviewed the statements taken from the applicant, Mr A, Mrs B and Mrs C as part of the enquiry into the incident, as well as the relevant notebook entries of the attending officers. We have also reviewed the statements submitted to COPFS by Constables D and F, which contain a transcript of the interview conducted under caution with the applicant. We requested sight of the CCTV referred to in Chief Inspector H's response letter, however we were advised that this

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<sup>1</sup> The full response to the applicant's complaint can be found at paragraphs 11 – 14 of the appendix to this report.

had not been seized as it did not capture the incident. The SPR does, however, state that the CCTV footage had been viewed and found to be inconclusive.

The Scottish Crime Recording Standard (SCRS) states that, in order for a crime report to be raised, the circumstances of an incident must amount to a crime as defined by Scots Law, or an offence under statute. In addition, there must be no credible evidence to the contrary. The applicant's admission to Constables D and F under caution that he punched Mr A was sufficient for the officers to conclude that the actions of the applicant amounted to an assault on Mr A. This admission, along with the statement of Mr A, provided Police Scotland with a sufficiency of evidence to report the applicant to COPFS in respect of that assault. In this respect, we consider that Chief Inspector H was justified in concluding that the applicant was appropriately charged and reported to COPFS in respect of the assault on Mr A.

The applicant contended that he had struck Mr A in self-defence after being first verbally and then physically attacked by him. Chief Inspector H advised the applicant that this matter was recorded and investigated in the same manner as the allegation made against the applicant by Mr A. The crucial difference, however, was that Mr A made no admission during his interview. Therefore, there was an insufficiency of evidence to charge Mr A with assault on the applicant, or report him to COPFS. In this respect we consider that Chief Inspector H was justified in concluding that there was insufficient evidence to charge Mr A with an assault on the applicant at the time of the incident or following Mr A's interview.

We consider, therefore, that Chief Inspector H's response to the applicant that the decision to charge him and not Mr A with assault was based on the material information available.

We requested sight of all documents relating to the incident from Police Scotland, this included copies of the incident reports raised in relation to both allegations of assault. Police Scotland initially advised us that an incident report had not been raised in respect of the applicant's allegation of assault against Mr A. The reason given for this was that the applicant had purportedly made his allegation against Mr A while being interviewed under caution. However, the applicant had advised us that he called the police to report the actions of Mr A at the time of the incident.

Further enquiries carried out with Police Scotland revealed that the applicant had called to make his report at 1533 hours on the date in question and that an incident report had, in fact, been raised in relation to this call. This records the applicant's report as follows: "*Caller stating that a male has been abusive towards him. Caller said the male came towards him started to attack him while the called [sic] had 2 children with him*". The log is then updated to state that this is a counter complaint and that the unit attending at [named location] will deal with both reports when they attend at the scene. We note that the applicant's claim of self-defence was apparently contained within the SPR submitted to COPFS. However, there is nothing within either incident log to suggest that the applicant's allegation that Mr A was verbally abusive towards him and began attacking him when he had his two children with him was investigated in any way.

The initial response of Police Scotland to this query suggests that insufficient enquiry was carried out in relation to the applicant's initial complaint. The existence and content of the applicant's original report appeared to be unknown to the complaint enquiry team and the incident report was not included in the documents provided to us following our request for information. In this respect, it is unclear how Chief Inspector H could be sure that the applicant's allegation against Mr A had been "*recorded and investigated in the same manner*" as the allegation made by Mr A against the applicant<sup>2</sup>. We consider, therefore, that this aspect of Chief Inspector H's response is not well reasoned.

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<sup>2</sup> The specifics of the investigation carried out by Police Scotland into the applicant's allegation against Mr A will be considered under allegation 3 – that Police Scotland ignored evidence that the other party was the instigator.

The applicant also raised the concern within his complaint to Police Scotland that the decision to charge him and not Mr A was based on the fact that the applicant was not a British citizen and Mr A was. This is not recorded as a Head of Complaint, nor is it addressed in any way either within the response letter or the correspondence throughout the complaint enquiry between the applicant and Police Scotland. The only reference to this concern raised by the applicant is within the CAP record, which states: *“Complainer is of the opinion that this has something to do with his nationality although there is nothing to evidence this whatsoever, just simple lack of corroborative evidence of his allegation”*. As this is the only reference to the applicant’s concern within the complaint file, there is nothing to suggest that it was investigated in any way.

Given the seriousness of an allegation of discrimination, it is our view that the response letter from Chief Inspector H should have referred to the concern raised by the applicant. By choosing to ignore this concern, irrespective of whether they considered it to be valid, Police Scotland have given the applicant the impression that they do not take such concerns seriously. Properly addressing the applicant’s concern would have shown him that Police Scotland do, in fact, take concerns of this nature very seriously.

We also note that an attempt was made to deal with the applicant’s complaints by way of Front Line Resolution (FLR). Again, given the seriousness of the applicant’s concern regarding discrimination, irrespective of whether Police Scotland considered it to be valid, we consider that it was inappropriate to attempt to deal with the applicant’s complaints in this manner. In addition to the attempt at dealing with the applicant’s complaints via FLR being inappropriate, it also resulted in a lack of any statements being taken to inform the complaint enquiry, therefore insufficient enquiry was carried out.

As insufficient enquiry has been carried out, Chief Inspector H’s response is not well reasoned, the applicant’s allegation of discrimination was not dealt with and an inappropriate attempt was made to address the applicant’s complaint via FLR, we consider that Police Scotland have not handled this complaint to a reasonable standard.

## **Our Conclusion on Complaint 1**

We conclude that Police Scotland have not handled this complaint to a reasonable standard.

Under section 35(7) of the 2006 Act, a reconsideration direction is issued to Police Scotland in respect of this complaint.

The reconsideration direction is not subject to the PIRC’s supervision. In terms of section 37(1) of the Act, Police Scotland must now appoint a person to reconsider this complaint. The person appointed must not have had any previous involvement in the consideration of the complaint. Police Scotland must adhere to the obligations set out in section 38 and 40 of the Act, as appropriate.

To address the shortcomings identified in the handling of this complaint, Police Scotland should:

- (a) identify precisely what enquiries were carried out by Police Scotland into the applicant’s allegation that Mr A had behaved in an abusive way and began attacking him in the presence of his 2 children;
- (b) identify which officers carried out these enquiries;
- (c) provide an explanation to the applicant for their failure to address his concerns regarding discrimination;
- (d) provide an explanation to the applicant for the attempts to resolve his complaints via FLR;
- (e) ensure that statements are taken from all relevant individuals to inform the complaint enquiry;
- (e) provide a further response to the applicant which provides a separate and distinct determination in respect of this complaint, clearly setting out its reasoning and detailing the investigation undertaken and providing an apology if appropriate to do so.

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# Complaint 2

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The applicant complained that officers from Police Scotland did not interview his wife as part of their investigation, and did not make CCTV footage available.

## Police Scotland's Handling of Complaint 2 (not upheld by the police)

Chief Inspector H said that Mrs B was not interviewed at the time of the original incident due to operational demands on the enquiry officer<sup>3</sup>. He also said that the statement obtained from Mrs B did not fully support the applicant's version of events. He further stated that, regardless of the evidence obtained from Mrs B within her statement, the applicant would still have been charged and reported for the alleged assault on Mr A.

Chief Inspector H said that CCTV enquiries were carried out. However, while the cameras concerned captured the vehicles belonging to the applicant and Mr A entering the car park, they did not capture the incident itself. He also said that CCTV footage would only be disclosed to COPFS prior to trial if requested by them, at which point it would also be shared with defence solicitors.

No individual determination was made in relation to this complaint. However, Chief Inspector H determined, in respect of all three of the applicant's allegations, that he was satisfied that the matter had been fully investigated and managed appropriately. Accordingly, the applicant's complaint was not upheld.

## Our Review of Complaint 2

The applicant raised concerns in his correspondence with us that Mrs B's statement was only taken as a result of the intervention of the Grampian Regional Equality Council (GREC). The applicant stated that a member of staff from GREC contacted [named police office] on 9 November 2017 on his behalf to obtain an update on the enquiry and repeat his request that a statement be taken from Mrs B. It is the applicant's position that the statement taken from Mrs B on 15 November 2017 was as a direct result of this intervention by GREC.

Enquiries carried out by Police Scotland found no record of a call from GREC on 9 November 2017. However, there is an entry on the crime file dated 9 November 2017 to the effect that a statement should be noted from Mrs B. Chief Inspector H has stated that the delay in noting a statement from Mrs B was due to operational demands on the enquiry officer, however there is no evidence to support this position. Accordingly, the evidence currently available suggests that the decision to note a statement from Mrs B was taken after contact from GREC.

We consider that insufficient enquiry has been carried out into this aspect of the applicant's complaint. We also consider that the response from Chief Inspector H is not supported by the material information available. Consequently, we conclude that it has not been handled to a reasonable standard.

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<sup>3</sup> The full response to the applicant's complaint can be found at paragraphs 13 – 14 of the appendix to this report.

Chief Inspector H said that “CCTV evidence is not disclosed to any party, until it is requested by COPFS prior to a trial, when it will be shared with defence solicitors”. Chief Inspector H’s response did not advise the applicant that no CCTV had been seized in relation to this incident.

Chief Inspector H advised the applicant that the CCTV had been viewed and did not show the incident between the applicant and Mr A. The SPR, the copy provided to us being undated, stated that the CCTV had been reviewed and was inconclusive. We note, however, that the operational statements provided by Constables D, E and F to COPFS contain no reference to having viewed the CCTV. Both Constables D and E refer to detaining the applicant and conveying him to [named police office] where he was then interviewed under caution by Constables D and F. All three officers conclude their statements by advising that they took no further part in the enquiry. No further statements from any other officers have been provided. No evidence has been provided, therefore, to support the contention within the response letter that the CCTV was viewed but did not capture the incident between the applicant and Mr A.

We consider that Chief Inspector H’s response in respect of this aspect of the applicant’s complaint is not supported by the material information available. Consequently, we conclude that it has not been handled to a reasonable standard.

## **Our Conclusion on Complaint 2**

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

Under section 35(7) of the 2006 Act, a reconsideration direction is issued to Police Scotland in respect of this complaint.

The reconsideration direction is not subject to the PIRC’s supervision. In terms of section 37(1) of the Act, Police Scotland must now appoint a person to reconsider this complaint. The person appointed must not have had any previous involvement in the consideration of the complaint. Police Scotland must adhere to the obligations set out in section 38 and 40 of the Act, as appropriate.

To address the shortcomings identified in the handling of this complaint, Police Scotland should:

- (a) carry out further enquiry into the circumstances surrounding the taking of Mrs B’s statement, ascertaining precisely why it was not taken until one month after the incident and whether it was taken as a result of contact from GREC;
- (b) carry out further enquiries to ascertain precisely which officer(s) viewed the CCTV, when it was viewed and what was viewed;
- (c) obtain an operational statement from this officer(s) detailing their viewing of the CCTV;
- (d) provide a further response to the applicant which provides a separate and distinct determination in respect of this complaint, clearly setting out its reasoning and detailing the investigation undertaken and providing an apology if appropriate to do so.

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# Complaint 3

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The applicant complained that officers from Police Scotland ignored evidence that the other party was the instigator. The applicant believes that the other party should have been charged with one or all of the following: Road rage, Verbal Assault, and Physical Assault.

## Police Scotland's Handling of Complaint 3 (not upheld by the police)

Chief Inspector H said that the applicant's claim of self-defence was documented within the SPR sent to COPFS<sup>4</sup>. He also said that the SPR contained details of the verbal argument that had taken place between the applicant and Mr A prior to the physical altercation.

Chief Inspector H advised the applicant that there are no offences of Road Rage or Verbal Assault that Mr A could be charged with.

Chief Inspector H stated that the conduct of both Mr A and the applicant in respect of the verbal argument could have been considered as contravening section 38 of the Criminal Justice and Licensing (Scotland) Act 2010. He advised the applicant that it was decided that it was appropriate to take no action against either party in respect of the potential section 38 offence. He said that this decision was taken as it was considered that "*both parties have been as bad as each other*". Chief Inspector H said that, having reviewed the circumstances, he supported this decision.

No individual determination was made in relation to this complaint. However, Chief Inspector H determined, in respect of all three of the applicant's allegations, that he was satisfied that the matter had been fully investigated and managed appropriately. Accordingly, the applicant's complaint was not upheld.

## Our Review of Complaint 3

In his correspondence with us, the applicant raised his concerns that the police failed to carry out any investigation into the circumstances surrounding the incident which took place on 16 October 2017. The applicant stated that, as soon as he admitted having struck Mr A in self-defence, the police focused on him as the perpetrator and refused to make any further enquiry into the incident itself. The applicant stated that this resulted in the applicant being charged and not Mr A.

The applicant claimed that he acted in self-defence when he punched Mr A. We have reviewed both incident logs raised in relation to the incident. The first, raised in respect of the call by Mrs C at 1527 hours, stated: "*Male has been knocked to the ground after an altercation re driving*". The second, raised in respect of the applicant's report of the incident at 1533 hours, stated: "*Caller stating that a male has been abusive towards him. Caller said the male came towards him started to attack him while the called [sic] had 2 children with him*".

Chief Inspector H said that the applicant's "*claims of self-defence were documented in the offence report submitted to COPFS*". We reviewed the SPR submitted to COPFS. Under the 'Details of Defence' section it states: "*None*". Under the 'Remarks' section, the following has been noted by the Reviewing Officer: "*Accused stated that he was acting in self-defence however it is the belief of officers*".

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<sup>4</sup> The full response to the applicant's complaints can be found at paragraphs 13 – 14 of the appendix to this report.

dealing with the incident that this is an attempt by accused to justify his actions". We can find no evidence to support this supposition. This statement would appear to support the position of the applicant that officers may have disregarded evidence that Mr A instigated the incident.

We note that Mr A was not interviewed regarding the applicant's allegation until 7 December 2017. This was almost two months after the incident and after the applicant had been reported to COPFS. It is notable that Mr A admits to suffering from memory loss in respect of the incident during his interview. Mrs C also states within her statement given on the date of the incident that Mr A had been diagnosed with amnesia.

Chief Inspector H also advised the applicant that the "*verbal argument*" between the applicant and Mr A could be considered a breach of section 38 of the Criminal Justice and Licensing (Scotland) Act 2010. However, as both Mr A and the applicant had been considered to be "*as bad as each other*", the decision was made not to charge either party in respect of this potential offence. Chief Inspector H does not provide any details within the response letter as to who made this determination regarding the actions of the applicant and Mr A, nor is any evidence contained within the statements of the attending officers to support his position.

We have reviewed the statements provided by the applicant, Mr A, Mrs B, Mrs C and Constables D and F, which contain the transcript of the interview with the applicant conducted under caution.

The applicant stated that Mr A was shouting at him and that he told Mr A to "*bugger off*" as he tried to walk away. The applicant also stated that Mr A's behaviour caused his children to feel afraid, to the extent that they began to cry.

Mr A stated that he was shouting at the applicant and that the applicant did not answer him.

Mrs B stated that Mr A was shouting at the applicant, that he looked angry and was waving his arms around. She stated that the children started to cry. She stated that the applicant attempted to ignore Mr A and made no mention of the applicant shouting at Mr A.

Mrs C said that she could not hear anything being said between Mr A and the applicant.

The statements provided by Constables D and F both confirm that the applicant stated: "*I just carried on walking and told him to 'Bugger Off'. I was already late*".

Section 38 of the Criminal Justice and Licensing (Scotland) Act 2010 states that a person commits an offence if:

- they behave in a threatening or abusive manner;
- their behaviour would be likely to cause a reasonable person to suffer fear or alarm; and
- they intend by the behaviour to cause fear and alarm or are reckless as to whether the behaviour would cause fear or alarm.

The behaviour of Mr A, shouting at the applicant and waving his arms around, could potentially be considered to contravene section 38 as described above. This is supported by the statements provided by both the applicant and Mrs B which attested to the effect of Mr A's behaviour on their children.

Conversely, Mr A stated that the applicant never spoke to him, while Mrs C stated that she did not hear any words exchanged between the applicant and Mr A. This supports the applicant's contention that he attempted to avoid becoming involved in any form of argument with Mr A. The statements provided all confirm that the only words spoken by the applicant to Mr A were "*Bugger off*" as the applicant tried to walk away. We do not consider this to meet the criteria of the applicant being involved in a "*verbal*

*argument*” with Mr A. Nor does it conform to Chief Inspector H’s description of “*both parties being as bad as each other*”.

We consider that Chief Inspector H’s response to the applicant’s complaint is neither well reasoned, nor supported by the material information available. We conclude, therefore, that this complaint has not been handled to a reasonable standard.

### **Our Conclusion on Complaint 3**

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

Under section 35(7) of the 2006 Act, a reconsideration direction is issued to Police Scotland in respect of this complaint.

The reconsideration direction is not subject to the PIRC’s supervision. In terms of section 37(1) of the Act, Police Scotland must now appoint a person to reconsider this complaint. The person appointed must not have had any previous involvement in the consideration of the complaint. Police Scotland must adhere to the obligations set out in section 38 and 40 of the Act, as appropriate.

To address the shortcomings identified in the handling of this complaint, Police Scotland should:

- (a) obtain operational statements from all officers involved in the investigation carried out into the applicant’s allegation against Mr A detailing all enquiries carried out;
- (b) obtain an operational statement from Chief Inspector H which addresses the basis for his statements that the applicant and Mr A were involved in a “*verbal argument*” and were “*both as bad as each other*”;
- (c) provide a further response to the applicant which provides a separate and distinct determination in respect of this complaint, clearly setting out its reasoning and detailing the investigation undertaken and providing an apology if appropriate to do so.

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## What happens next

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We have issued three reconsideration directions. We expect these to be implemented within two months of the date of this report. We will continue to liaise with Police Scotland until such time as we consider that the recommendations have been implemented to our satisfaction.

**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 2 March 2018

(Redacted and paragraphs numbered)

1. *I write to you in my capacity as Chief Inspector within North East Division and in response to your complaint regarding the investigation in to an incident you were involved in on 16 October 2017.*
2. *You're allegation has been recorded as a Complaint About the Police and was allocated to [Sergeant F] to investigate. He has completed the enquiry and I now have all the relevant information to hand.*
3. *I understand you discussed the substance of your complaint with [Sergeant F] and identified your concerns.*
4. *Due to the allegations involving the same incident and intrinsically linked, I will address them together.*
5. *Allegation 1*
6. *On or after 16 October 2017 at unspecified location – you are dissatisfied with the enquiry into an assault which has resulted in you being charged but the other party not.*
7. *Allegation 2*
8. *You are dissatisfied that the police charged you with assault without conducting a thorough investigation, e.g. the main witnesses had not been interviewed (your wife), the CCTV footage was not made available and your assertion that you only reacted to the other party's attack on you was completely ignored. The police did not interview your wife (eyewitness) until you suggested that it should be done. If it had not been for the involvement of the Grampian Regional Equality Council, she may not have been interviewed at all, and you would not have had access to information such as the police officers' names and badge numbers.*
9. *Allegation 3*
10. *You are dissatisfied the evidence that it was the other party who was the instigator has been ignored by the police right from the start. The CCTV footage which was not made available to you should show that you had been attacked by the other party before acting in self-defence. Even if this evidence was not sufficient, there is evidence coming from eyewitnesses (e.g. your wife) confirming that the other party followed you and verbally assaulted you, making your children cry and feel unsafe. The other party should have been charged with any or all of the following: road rage, verbal assault and physical assault. Instead the police focused entirely on you. Despite there being evidence undermining the other party's assertion that he was the victim – this line of enquiry has been ignored since the moment you admitted you were forced to act in self-defence. The police focused on your admission and failed to investigate the circumstances of the actions which had led you to behave that way.*
11. *I understand on 16 October 2017, you were involved in an altercation with another motorist in the car park of [named location]. A verbal argument escalated to physical violence and Police Officers were required to attend. The other party involved advised officers he had been assaulted and provided a description of the person involved. You have approached the officers who noted you matched the description and you proceeded to confirm your involvement. As there had been an allegation of assault, you were cautioned and detained and conveyed to [named police office], in order to facilitate further enquiry. You were later interviewed under caution and admitted to assaulting the other party by punching him on the head. Admissions from a suspect provided under caution are considered as admissible evidence and provide corroboration of the initial allegation. In your case this provided the officers sufficient evidence to*

charge you with assault and submit an offence report to the Crown Office Procurator Fiscal Office, COPFS.

12. You made a counter complaint, alleging the other party had assaulted you first. This matter was recorded and investigated in the same manner with the other party also being detained and interviewed. Unlike you, they made no admissions during interview and there was an insufficiency of evidence to submit a report to COPFS.
13. The decision to charge you was based on the witness testimony provided and your admission during interview, which I fully support. While I note a statement was not noted from your wife at the time, it was later noted and it did not fully support your view of events. Regardless of what evidence your wife did provide, you would still have been charged and reported. The enquiry officer had not contact from the Grampian Regional Equality Council and if you had asked for the officer's details you would have been provided with them. The delay in getting your wife's statement was down to operational demand on the enquiry officer. CCTV enquiries were carried out, however while the cameras capture both the vehicles involved, it does not capture the altercation involving you and the other party. CCTV evidence is not disclosed to any party, until it is requested by COPFS prior to a trial, when it will be shared with defence solicitors. Your claims of self defence were documented in the offence report submitted to COPFS. It was also noted in the report that a verbal argument ensued between you both and you admit to telling the other party to "bugger off". While there are no offences of Road Rage or Verbal Assault as you highlight, conduct such as this could come under the realms of Section 38 of the Criminal Justice and Licensing (Scotland) Act 2010. On this occasion it would appear both parties have been as bad as each other and a decision was made to take no action against either of you. Again on reviewing the circumstances, I would support this course of action.
14. Taking all of the information in to account I am satisfied the matter has been fully investigated and managed appropriately. I therefore find your complaint not upheld.
15. While I realise this may not be the outcome you had expected, I hope the fact your complaint has been reviewed provides you with some comfort.
16. I would like to take this opportunity to thank you for bringing this matter to our attention, as complaints from members of the public are an important source of feedback in terms of the quality of service provided and as an indicator of problems that require to be addressed.