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Police Investigations &  
Review Commissioner

PIRC/00586/17  
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 sufficient enquiries into the complaint were carried out by Police Scotland;
- 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 deem appropriate, we give reconsideration directions, make recommendations 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 applicant was dissatisfied with Police Scotland's investigation into his allegations that a university professor (Ms A) had committed a fraud. We have reviewed six complaints as follows:

1. that Police Scotland did not interview Ms A in relation to the applicant's allegations;
  2. that Police Scotland did not contact a named university in America to establish whether Ms A had worked there as a professor;
  3. that Police Scotland did not contact US immigration to establish whether Ms A's visa entitled her to be employed as a professor at the named university in America;
  4. that Police Scotland did not obtain published reports that Ms A purported to have written;
  5. that Police Scotland did not submit a report to the Crown Office and Procurator Fiscal Service or obtain an opinion from them; and
  6. that Police Scotland did not properly scrutinise evidence from a named university in Scotland.
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## Police Scotland's Decision

Police Scotland did not uphold any of the applicant's complaints.

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## Our Findings

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

Consequently, we have made six recommendations to address the shortcomings in Police Scotland's handling of each of these complaints. We have also issued a learning point to address a shortcoming that we identified in Police Scotland's handling of the complaints.

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

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# Background

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Ms A was the vice chancellor and principal of a named university in Scotland (“the Scottish University”). The applicant said that he became aware of Ms A in 2014 by chance, but has never met or had any association with her in either a personal or professional capacity.

The applicant believed that Ms A’s CV contained false statements and deceptions about her employment history and publications. In particular, the applicant said that Ms A claimed to have been a professor at a reputable university in America (“the American University”). He also said that he had researched Ms A’s publication list and found many inconsistencies and false statements. The applicant has maintained that, if the aforementioned deceptions and false statements contributed to Ms A’s appointment at the Scottish University and therefore led to personal gain, she has committed the crime of fraud.

The applicant initially raised his concerns about Ms A with the “university court” of the Scottish University (“the University Court”). Thereafter, in July 2017, the applicant raised his concerns with the Police Service of Northern Ireland (“PSNI”). The applicant said that he gave the PSNI a dossier of nearly 100 pages, containing documentary evidence relative to his allegations. The PSNI obtained a statement from the applicant on 28 July 2017. In August 2017, the enquiry was transferred to Police Scotland and was allocated to Detective Sergeant B. Detective Sergeant B emailed the applicant on 19 November 2017, advising that she had made enquiry with Ms C (who was the secretary and vice principal of the Scottish University, as well as a member of the University Court) and had not found anything to suggest that Ms A had committed a fraud.

By way of background information, we note that the paperwork provided by Police Scotland has detailed that another individual (Mr D) made similar allegations about Ms A in 2014.

On 19 December 2017, the applicant wrote to Police Scotland to complain about Police Scotland’s investigation into his allegations about Ms A. Sergeant E was appointed to investigate his complaints. On 9 January 2018, Detective Inspector F agreed a Police Scotland Heads of Complaint form with the applicant and the applicant signed it. Detective Inspector F also noted a statement from the applicant. Police Scotland responded to the applicant’s complaints by way of a letter from Chief Inspector G dated 9 February 2018.

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# Complaint 1

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The applicant complained that Ms A was not interviewed by Police Scotland, and he said that this was contrary to standard police practice. The applicant said that “*instead Police Scotland interviewed subordinates speaking on behalf of [Ms A]*”. The applicant contended that Ms C’s independence was questionable, as she was a subordinate of Ms A and therefore answered directly to her.

In addition, in the applicant’s correspondence with us, he said that Detective Sergeant B decided at a very early stage that no crime had been committed. The applicant said that he believed that Detective Sergeant B’s decision compromised the entire investigation and was the reason why she did not obtain productions or pursue lines of enquiry, such as interviewing Ms A. In addition, the applicant contended that there was no evidence of any crime being committed because Police Scotland failed to conduct a robust investigation and accepted assurances that were given by Ms C at face value.

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

In her letter of response, Chief Inspector G said that Detective Sergeant B had provided a statement. Chief Inspector G said that Detective Sergeant B stated: that Ms A was not interviewed because there was no evidence that a crime had been committed; that, by nature of Ms A’s appointment, all employees at the Scottish University would be subordinate to her; that Ms C was spoken to as a witness and was not interviewed on behalf of Ms A; and that Ms C was a member of the University Court and had conducted an “*independent enquiry*” into the applicant’s allegations.

Chief Inspector G went on to say that there was no evidence to suggest that Ms C, or any member of the University Court, was complicit in any ongoing fraud by Ms A. He also said that the Scottish University and the University Court were satisfied that Ms A had not provided any fraudulent information to secure her post and that as such, there was no evidence to detain her for the purpose of an interview.

Chief Inspector G then said that Detective Sergeant B had stated that both the University Court and the Scottish University had carried out a “*thorough internal investigation*” and were satisfied that there was no evidence to substantiate the applicant’s claims. Chief Inspector G assessed that, as no apparent crime had been committed, Detective Sergeant B would have been acting out with her powers to interview Ms A as a suspect.

Chief Inspector G’s full response to this complaint can be found at paragraphs 1 to 3 of the Appendix.

## Our Review of Complaint 1

As outlined in Chief Inspector G’s response, Detective Sergeant B stated that Ms A was not interviewed because she did not find any evidence to support that a crime had been committed. Chief Inspector G assessed that, as no crime had been committed, Detective Sergeant B would have been acting out with her powers to interview Ms A as a suspect. We acknowledge that, where the police have been unable to establish that a crime had been committed, there would be no grounds to interview an alleged offender.

However, given the nature of the applicant’s concerns, we consider that it was necessary for Chief Inspector G to assess whether Detective Sergeant B carried out sufficient investigation before

concluding that no crime had been committed. We highlight that, in order for Detective Sergeant B to determine whether the crime of fraud had been committed, she would have had to establish whether Ms A would have obtained her appointment at the Scottish University regardless of whether her CV contained the alleged deceptions/false statements. If Detective Sergeant B established that Ms A would have obtained her appointment regardless of these alleged inaccuracies/falsehoods, there would have been no evidence that the crime of fraud had been committed.

Police Scotland has confirmed that we have been given all of the paperwork that Detective Sergeant B obtained and considered during her enquiries. The paperwork that we were given included (amongst other things):

- a note of a meeting held by the chair, vice-chair and secretary of the University Court on 2 March 2015, which detailed that the aforementioned individuals met with Ms A to discuss the allegations that Mr D had made against her;
- an email from Ms C to Mr D dated 19 March 2015, which advised that the chair and vice-chair of the University Court had seen “*substantive evidence*” relating to Ms A’s publications and the positions she had held;
- a letter from Ms C to the Scottish Ministers dated 1 April 2015, which referred to Mr D’s allegations and advised that the chair, vice-chair and herself had seen hard copies of virtually all of the publications cited in Ms A’s CV and were satisfied that there were no grounds to Mr D’s allegations;
- an email from Ms C to the members of the University Court dated 19 February 2016, which referred to the allegations made by Mr D in 2015 and said: that an individual (Mr H) had given her a letter on 5 February 2016, which was signed by Mr H and the applicant; that there was documentation attached to the letter, which critiqued Ms A’s publication list; and that the critique was similar to the allegations that had previously been made by Mr D. The letter also reminded the members of the University Court that “*substantive due diligence*” was undertaken in March 2015; that the chair and vice-chair of the University Court had seen hard copies of the majority of Ms A’s publications; and that the chair and vice-chair had looked at websites, and had also seen a telephone directory and yearbook from the American University, which confirmed Ms A’s presence at the American University. In addition, Ms C’s letter explained that the applicant and Mr H had asked her to circulate the material that they had provided and advised the court members that they could collect their personal envelopes from her office;
- a letter from Ms C to Mr H dated 26 February 2016, which advised that the chair and vice-chair of the University Court were satisfied with the authenticity of Ms A’s publications; and
- a telephone directory and yearbook from the American University.

We acknowledge that the paperwork provides some support that the University Court investigated the allegations that Mr D made in 2014. However, in our view, the paperwork is quite dismissive of the allegations. In addition, the paperwork consists mostly of items of correspondence and contains little to evidence what enquiry was actually undertaken by the University Court.

In her response, Chief Inspector G briefly outlined the enquiries that Detective Sergeant B stated were undertaken. In addition to the information outlined in the response, Detective Sergeant B stated that she made enquiries with Police Scotland’s fraud department and also contacted the Procurator Fiscal for “*general advice*”. However, aside from these things, Detective Sergeant B’s statement supports that the only other enquiry that she made was to speak to Ms C and obtain paperwork from her. The

available evidence therefore supports that Detective Sergeant B did not undertake any independent enquiries and relied solely on a position supplied by Ms C. Detective Sergeant B stated that she “felt” Ms C would be an appropriate person to contact, as she would know the workings of both the Scottish University and the University Court. However, Detective Sergeant B did not explain whether she confirmed that Ms C had authority to speak on behalf of the Scottish University and give its formal position. As such, we consider that there is uncertainty over whether Detective Sergeant B established the official position of the Scottish University. Chief Inspector G’s response did not, however, recognise or consider this point. We consider that Chief Inspector G’s response also contained the following shortcomings.

Firstly, when assessing whether Detective Sergeant B carried out sufficient enquiry, Chief Inspector G did not consider whether Detective Sergeant B established that the Scottish University would have appointed Ms A regardless of whether her CV contained the false/dishonest statements as alleged. Perhaps, this is because Detective Sergeant B herself did not address this point in her statement. We therefore consider that neither Detective Sergeant B nor Chief Inspector G’s response adequately addressed whether sufficient enquiry was undertaken before it was concluded that no crime had been committed. Consequently, we consider that Chief Inspector G’s assessment (that there was no requirement to interview Ms A because there was no evidence that a crime had been committed) is not fully or adequately reasoned.

Secondly, in his statement, the applicant said that Ms C’s independence was questionable because she was a subordinate of Ms A and answered directly to her. In this regard, and as referred to above, Detective Sergeant B’s statement supports that she did not undertake any independent enquiries and relied solely on a position supplied by Ms C. In our view, and in light of the applicant’s concerns, Chief Inspector G’s response should have considered whether Detective Sergeant B ought to have undertaken independent enquiries before concluding that no crime had been committed, e.g. whether she ought to have personally examined Ms A’s application form to the Scottish University or other supporting documents. Consequently, as Chief Inspector G did not address this point, we consider that his letter of response did not fully address the applicant’s complaint and was not sufficiently reasoned.

Thirdly, Chief Inspector G indicated that Ms C conducted the investigation. Chief Inspector G said: “[Detective Sergeant B] states that [Ms C] is a member of the University Court and she has conducted an independent enquiry into the allegations that [the applicant] has made”. However, Detective Sergeant B stated that Ms C told her that the chair and vice-chair of the University Court investigated the similar allegations that Mr D made in 2014. The other paperwork provided by Police Scotland also supports this position. As such, Chief Inspector G’s response appears to have misunderstood or misrepresented the evidence available in this regard. We consider that Chief Inspector G should have recognised that Detective Sergeant B only spoke to Ms C and did not make any enquiry with the individuals that actually conducted the investigation. Chief Inspector G should then have assessed whether Detective Sergeant B ought to have spoken to the chair and vice-chair of the University Court, or undertaken any other enquiry, before concluding that no crime had been committed and to satisfy herself that she had established the official position of the Scottish University

Accordingly, and for the reasons outlined above, we consider that the complaint enquiry was insufficient and that Chief Inspector G’s response did not consider all of the available evidence or adequately address whether Detective Sergeant B undertook sufficient investigation before concluding that no crime had been committed. We highlight that, in the absence of Police Scotland obtaining the official position of the Scottish University, it was not possible to establish whether the allegation made by the applicant amounted to a crime.

As an aside, we note that Police Scotland provided us with: (i) brief handwritten notes prepared by Detective Sergeant B, which were relative to a telephone call between her and Ms C on 31 August 2017; (ii) email correspondence between Detective Sergeant B and Ms C, in which they made

arrangements to meet on 2 October 2017; and (iii) brief handwritten notes prepared by Detective Sergeant B, which were relative to a meeting between her and Ms C on 2 October 2017. However, aside from these things, Police Scotland has confirmed that there are no further records of Detective Sergeant B's enquiries with Ms C. As such, there is little available evidence to support the account given by Detective Sergeant B in her statement.

In addition, Police Scotland has confirmed that an incident report was not raised in connection with the applicant's allegations against Ms A. We highlight that this is contrary to Police Scotland's Standard Operating Procedure regarding Crime Recording, which provides that "*all reports of incidents, whether crime related or not will result in the creation of a report, which is auditable*". This point was not acknowledged in Chief Inspector G's response.

Consequently, and for the reasons outlined above, we are not satisfied that Police Scotland dealt with this complaint to a reasonable standard.

## Our Conclusion on Complaint 1

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

We recommend that Police Scotland obtains a further statement from Detective Sergeant B, in which she is asked to consider and explain:

- a) whether she established that Ms C had authority to speak on behalf of the Scottish University and give its official position;
- b) why she did not make any enquiry with the chair or vice-chair of the University Court, even though the available evidence supported that they conducted the investigation into the allegations about Ms A; and
- c) whether she was satisfied that the Scottish University would have appointed Ms A regardless of whether her CV contained the false/dishonest statements as alleged.

Thereafter, Police Scotland should reassess the complaint on the basis of the points outlined in our report and Detective Sergeant B's further statement. Police Scotland should then provide the applicant with a further response, which considers whether Detective Sergeant B undertook sufficient investigation to satisfy herself that no crime had been committed. Thereafter, and in consideration of this point, the fresh response should assess whether Ms A ought to have been interviewed.

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## Complaint 2

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The applicant complained that Police Scotland did not contact the American University to establish whether Ms A had worked there as a professor. The applicant said that Ms A claimed to have been employed as a professor at the American University, but the American University had no record of this. The applicant also said that he gave Police Scotland an email address for a dean at the American

University, who would have had access to the university archives and would have been able to refute or confirm Ms A's claim.

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

Chief Inspector G's response confirmed that Detective Sergeant B did not contact the American University, but was given paperwork from the University Court to establish Ms A's professional status during her time there. Chief Inspector G advised: that Detective Sergeant B was satisfied that the Scottish University carried out all reasonable enquiries to substantiate the status of Ms A; that Detective Sergeant B established that Ms A was not employed by the American University as a 'Full' professor as she had stated, but was a lecturer; that Detective Sergeant B also established that, as a visiting scholar, Ms A was afforded the equivalent American title to her position in the UK, in this case 'Professor'; and that Detective Sergeant B was satisfied that there was no attempt to mislead.

Chief Inspector G went onto explain that Sergeant E saw documentary evidence that Ms A submitted to the University Court, and was satisfied that there was no evidence to suggest criminality.

Chief Inspector G assessed that, as no crime was committed, it was not within Detective Sergeant B's remit or powers to make enquiries with the American University. He then found that the complaint was not upheld.

Chief Inspector G's full response to this complaint can be found at paragraphs 4 to 7 of the Appendix.

## **Our Review of Complaint 2**

Chief Inspector G's response accurately summarised Detective Sergeant B's account. As outlined in the response, Detective Sergeant B stated that she did not contact the American University because Ms C provided her with paperwork and she was satisfied that the University Court had undertaken all reasonable enquiries to substantiate Ms A's status during her time there. In addition to the information outlined in the response, Detective Sergeant B stated that she did not contact the American University because the crime of fraud was not established and the Scottish University did not wish to make any complaint of fraud against Ms A.

Chief Inspector G's response assessed that, as no crime was committed, it was not within Detective Sergeant B's remit or powers to make enquiries with the American University. However, as outlined above at complaint 1, we consider that the complaint enquiry was insufficient and that Chief Inspector G's response did not consider all of the available evidence or adequately consider whether Detective Sergeant B undertook sufficient investigation before concluding that no crime had been committed. Specifically, we consider that Chief Inspector G's response failed to consider whether Detective Sergeant B ought to have undertaken any independent enquiry or whether Detective Sergeant B was satisfied that she had established the official position of the Scottish University. Consequently, and in light of these things, we consider that Chief Inspector G's assessment (that Police Scotland did not contact the American University because there was no evidence that a crime had been committed) is not fully or adequately reasoned.

We also observe, that according to discussions between Ms C and Detective Sergeant B, the Scottish University undertook at least some enquiries in relation to Ms A's involvement with the American University, and were satisfied that Ms A did not deliberately misled the Scottish University in this regard. Ordinarily, if this was indeed the formal position of the Scottish University, then it could provide a reasonable explanation why Detective Sergeant B did not contact the American University herself.

However, similar to our observations in relation to complaint 1, we do not consider that the Scottish University's formal position on these issues has been properly ascertained or documented.

Accordingly, and for the same reasons as outlined at complaint 1, we are not satisfied that this complaint was dealt with to a reasonable standard.

## Our Conclusion on Complaint 2

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

We recommend that Police Scotland obtains a further statement from Detective Sergeant B, in which she is asked to consider and explain:

- a) whether she established that Ms C had authority to speak on behalf of the Scottish University and give its official position;
- b) why she did not make any enquiry with the chair or vice-chair of the University Court, even though the available evidence supported that they conducted the investigation into the allegations about Ms A; and
- c) whether she was satisfied that the Scottish University would have appointed Ms A regardless of whether her CV contained the false/dishonest statements as alleged.

Thereafter, Police Scotland should reassess the complaint on the basis of the points outlined in our report and Detective Sergeant B's further statement. Police Scotland should then provide the applicant with a further response, which considers whether Detective Sergeant B undertook sufficient investigation to satisfy herself that no crime had been committed. Thereafter, and in consideration of this point, the fresh response should assess whether Detective Sergeant B ought to have contacted the American University.

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## Complaint 3

The applicant complained that Police Scotland failed to contact US immigration to establish whether Ms A's visa entitled her to be employed as a professor at the American University.

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

In his letter of response, Chief Inspector G advised that Detective Sergeant B was not asked to provide an account in relation to this aspect of the complaint because it was not a matter for Police Scotland to investigate or question US immigration policy. Chief Inspector G assessed that there was no requirement for Detective Sergeant B or Police Scotland to contact the US embassy or immigration authorities. He then advised that the complaint was not upheld.

Chief Inspector G's full response to this complaint can be found at paragraphs 8 to 10 of the Appendix.

## Our Review of Complaint 3

The crux of the applicant's complaint was that Police Scotland did not contact US immigration to establish whether Ms A's visa entitled her to work as a professor at the American University. The applicant was of the belief that Ms A's visa did not authorise her to do so. As such, he wanted Police Scotland to make enquiries with US immigration to confirm whether the type of visa held by Ms A would have entitled her to work as a professor in America. As outlined above, the applicant has maintained that, if Ms A had lied about working as a professor at the American University and this contributed to her employment at the Scottish University, she may have committed fraud. Thus, the complaint is about perceived lack of enquiries to establish supporting evidence in respect of the applicant's criminal allegation.

We acknowledge that questioning US immigration policy does not fall within Police Scotland's remit. We also accept that it is not a matter for Police Scotland to investigate whether or not Ms A complied with her visa requirements during her time at the American University. It is also clear that Detective Sergeant B did not consider in this case that a crime has been committed, and accordingly this explains why no additional enquiries, such as checking Ms A's visa's restrictions, were carried out.

However in line with our observations in respect of complaint 1, the available evidence supports that Detective Sergeant B did not undertake any independent enquiry and relied on a position provided to her by Ms C. Furthermore, on the basis of the information made available to us, we do not believe that Detective Sergeant B properly obtained and documented the Scottish University's formal position in respect of applicant's allegation of fraud. In these circumstances, the outcome of complaint 1 has a very direct and significant effect on the outcome of this complaint, i.e. was the enquiry with US immigration authorities necessary and proportionate.

Consequently, we are not satisfied that this complaint was dealt with to a reasonable standard.

## Our Conclusion on Complaint 3

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

We recommend that Police Scotland obtains a further statement from Detective Sergeant B, in which she is asked to consider and explain:

- a) whether she established that Ms C had authority to speak on behalf of the Scottish University and give its official position;
- b) why she did not make any enquiry with the chair or vice-chair of the University Court, even though the available evidence supported that they conducted the investigation into the allegations about Ms A; and
- c) whether she was satisfied that the Scottish University would have appointed Ms A regardless of whether her CV contained the false/dishonest statements as alleged.

Thereafter, Police Scotland should reassess the complaint on the basis of the points outlined in our report and Detective Sergeant B's further statement. Police Scotland should then provide the applicant with a further response, which considers whether Detective Sergeant B undertook sufficient investigation to satisfy herself that no crime had been committed. Thereafter, and in consideration of this point, the fresh response should assess whether Detective Sergeant B ought to have contacted US Immigration.

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# Complaint 4

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The applicant complained that Police Scotland failed to obtain ten published reports that Ms A purported to have written for the World Health Organisation and European Commission. The applicant said that he had been unable to trace many of the reports that Ms A claimed to have written and they had not been made available for reading on the Scottish University's premises.

## **Police Scotland's Handling of Complaint 4** (not upheld by the police)

Chief Inspector G's response referred to Detective Sergeant B's account. Chief Inspector G explained that Detective Sergeant B said that the University Court had provided documentation in relation to its investigation into the publication list. He explained that the University Court was satisfied that all publications were accurately attributed to Ms A and confirmed their authenticity. He then advised that Detective Sergeant B was satisfied that there was no criminality and made an operational decision that it was unnecessary to seize these documents as productions.

Chief Inspector G found that the complaint was not upheld.

Chief Inspector G's full response to this complaint can be found at paragraphs 11 to 13 of the Appendix.

## **Our Review of Complaint 4**

Chief Inspector G explained that Detective Sergeant B said that the University Court gave her documentation relating to its investigation into Ms A's publications, and that the University Court was satisfied that all publications were accurately attributed to Ms A. As outlined above at complaint 1, Police Scotland has confirmed that it provided us with all of the paperwork that Detective Sergeant B considered during her enquiry. Although the paperwork included email correspondence which referred to the University Court undertaking some sort of investigation into the allegations concerning Ms A, it did not contain any auditable records of the actual investigations that were undertaken or any formal conclusions reached. As such, we are unclear as to what documentation Detective Sergeant B was referring to in this regard.

Chief Inspector G also advised that Detective Sergeant B was satisfied that there was no criminality and as such, made an operational decision that it was unnecessary to seize these documents as productions. However, as outlined above at complaints 1, 2 and 3, we consider that the complaint enquiry was insufficient and that Chief Inspector G's response did not consider all of the available evidence or adequately consider whether Detective Sergeant B undertook sufficient investigation before concluding that no crime had been committed. We accept, that in circumstances where no crime has been established, it may be disproportionate and unnecessary to seize documentary productions. However, in light of our observations in relation to complaint 1, we are not satisfied that there was a sound basis to conclude that no crime has been committed. Specifically, and as fully outlined at complaint 1, we consider that Chief Inspector G's response failed to consider whether Detective Sergeant B ought to have undertaken any independent enquiry or whether Detective Sergeant B was satisfied that she had established the official position of the Scottish University.

Accordingly, and for the same reasons as outlined at complaint 1, we are not satisfied that this complaint was dealt with to a reasonable standard.

## Our Conclusion on Complaint 4

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

We recommend that Police Scotland obtains a further statement from Detective Sergeant B, in which she is asked to consider and explain:

- a) whether she established that Ms C had authority to speak on behalf of the Scottish University and give its official position;
- b) why she did not make any enquiry with the chair or vice-chair of the University Court, even though the available evidence supported that they conducted the investigation into the allegations about Ms A; and
- c) whether she was satisfied that the Scottish University would have appointed Ms A regardless of whether her CV contained the false/dishonest statements as alleged.

Thereafter, Police Scotland should reassess the complaint on the basis of the points outlined in our report and Detective Sergeant B's further statement. Police Scotland should then provide the applicant with a further response, which considers whether Detective Sergeant B undertook sufficient investigation to satisfy herself that no crime had been committed. Thereafter, and in consideration of this point, the fresh response should assess whether Ms A ought to have obtained the reports.

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## Complaint 5

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The applicant complained that Police Scotland failed to submit a report to the Crown Office and Procurator Fiscal Service ("the COPFS") to obtain an opinion from them. The applicant said that the evidence submitted to the Scottish University was extensive, complex and nuanced. He also said that the investigation would have been far from routine and that, in light of this, the COPFS's opinion should have been sought.

### Police Scotland's Handling of Complaint 5 (not upheld by the police)

In his letter of response, Chief Inspector G referred to Detective Sergeant B's account. He explained that Detective Sergeant B said that she spoke to a Procurator Fiscal Depute in relation to "*a fraud committed by misrepresenting qualifications or experience*". Chief Inspector G explained that the Procurator Fiscal said that he was unaware of any instances of this type of crime, but advised that it may be possible to pursue a criminal case if the Scottish University had found discrepancies and felt that they had been used to obtain the position. Chief Inspector G also said that the Procurator Fiscal advised that it would be for the Scottish University to determine whether there were any discrepancies and make any complaint of fraud.

Chief Inspector G then explained that Detective Sergeant B had confirmed that the Scottish University was satisfied that all experience and publications claimed by Ms A could be attributed to her and did not want to make a complaint of fraud. Chief Inspector G said that Detective Sergeant B therefore concluded that no crime had been committed.

Chief Inspector G also explained that, although the police consult with the COPFS on serious matters, it is an operational decision for the police to determine whether a crime has been committed and any investigation must be proportionate and lawful.

Chief Inspector G found that this complaint was not upheld.

Chief Inspector G's full response to this complaint can be found at paragraphs 14 to 17 of the Appendix.

## **Our Review of Complaint 5**

As outlined in Chief Inspector G's response, Detective Sergeant B stated that she contacted the COPFS for advice. However, Police Scotland has advised us that there are no telephone notes or any other auditable record of Detective Sergeant's B's enquiries with the COPFS. Accordingly, there is no available evidence to support Detective Sergeant B's account in this connection.

Chief Inspector G also said that Detective Sergeant B was satisfied that the crime of fraud had not been committed. As outlined at complaints 1, 2, 3 and 4 above, we consider that the complaint enquiry was insufficient and that Chief Inspector G's response did not consider all of the available evidence or adequately address whether Detective Sergeant B undertook sufficient investigation before reaching this conclusion. Specifically, Chief Inspector G stated that Detective Sergeant B confirmed the Scottish University's position in respect of the allegations and that it did not want to make a complaint of fraud. We have not been provided with any documentary evidence to confirm Scottish University's formal and recorded position in this regard. Consequently, and in light of these things, we consider that Chief Inspector G's assessment (that Police Scotland did not submit a report to the COPFS because there was no evidence that a crime had been committed) is not fully or adequately reasoned.

Consequently, and similar to complaints 1, 2, 3 and 4 above, we consider that Chief Inspector G's response did not adequately address the complaint. As such, we are not satisfied that this complaint was dealt with to a reasonable standard.

## Our Conclusion on Complaint 5

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

We recommend that Police Scotland obtains a further statement from Detective Sergeant B, in which she is asked to consider and explain:

- a) whether she established that Ms C had authority to speak on behalf of the Scottish University and give its official position;
- b) why she did not make any enquiry with the chair or vice-chair of the University Court, even though the available evidence supported that they conducted the investigation into the allegations about Ms A; and
- c) whether she was satisfied that the Scottish University would have appointed Ms A regardless of whether her CV contained the false/dishonest statements as alleged.

Thereafter, Police Scotland should reassess the complaint on the basis of the points outlined in our report and Detective Sergeant B's further statement. Police Scotland should then provide the applicant with a further response, which considers whether Detective Sergeant B undertook sufficient investigation to satisfy herself that no crime had been committed. Thereafter, and in consideration of this point, the fresh response should assess whether Detective Sergeant B should have submitted a report to the COPFS.

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## Complaint 6

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The applicant complained that Police Scotland failed to properly scrutinise evidence from the Scottish University. The applicant did not refer to this complaint in his statement, but added it at a later date. In an email to Sergeant E dated 23 January 2018, he said:

*"The key element which I did not fully address in my statement concerns the internal investigation into [Ms A] carried out by [the Scottish University]. This internal investigation was purportedly carried out by [Ms C], Secretary of the University Court, and two other independent parties.*

*The two other independent parties are the Chair and Vice Chair of the University Court – neither of whom are independent.*

*There is no evidence in the published minutes of the University Court proceedings that the results of an internal investigation were ever tabled or discussed by the University Court.*

*Police Scotland appears to have accepted the assurances of [the Scottish University] that they were 'satisfied' with the results of their internal investigation. This assurance seems to have been accepted by Police Scotland on face value without any independent verification of evidence – fully*

*documented and incontrovertible evidence collated over nearly three years and which entailed personal visit to [the American University] and [a named archive centre in America].*

*This internal investigation by [the Scottish University] into [Ms A], its chief executive, has not been seen, disclosed or made publically available to anyone other than Police Scotland. No documentary evidence has been made publically available for independent verification. This internal investigation by [the Scottish University] into its chief executive, by subordinates, seems to be the main basis on which Police Scotland have reached their determination that no fraud has been committed.*

*If this is so, and evidence provided has not been properly scrutinized, then this a [sic] major flaw in the investigation by Police Scotland.”*

## **Police Scotland’s Handling of Complaint 6** (not upheld by the police)

In his response, Chief Inspector G advised that Detective Sergeant B had stated that she took over the enquiry after it was passed from the PSNI; that she was handed a package containing the applicant’s statement and documents pertaining to his allegation; that she reviewed the information that the applicant provided; that she carried out open source checks in relation to the Scottish University and Ms A; and that she reviewed all of the evidence obtained by the University Court. Chief Inspector G said that Detective Sergeant B established that the University Court publishes its findings but, due to the sensitive nature of the investigation, made an internal decision not to publish them on this occasion.

Chief Inspector G also explained that, after reviewing all of the information, Detective Sergeant B contacted the COPFS. Chief Inspector G said that Detective Sergeant B ascertained that, as the Scottish University was satisfied that there was no basis to the allegations, there was no crime to answer. Chief inspector G also said that Detective Sergeant B subsequently updated the applicant with her findings; that the applicant thereafter requested specific information in relation to the enquiries that she had undertaken; and that Detective Sergeant B then consulted with the fraud department, which also agreed that no crime had been committed.

Chief Inspector G went onto say that, Detective Sergeant B, in consultation with Police Scotland’s Professional Standards Department, declined to provide the applicant with the paperwork because it belonged to an external body and was not therefore for Police Scotland to divulge.

Chief Inspector G also said that it was a matter for the Scottish University to decide on whether its investigation into Ms A should be made public, and that this did not fall within Police Scotland’s remit.

Chief Inspector G assessed that there was no evidence that Detective Sergeant B failed to undertake a thorough and complete review of the evidence provided to her.

Chief Inspector G found that this complaint was not upheld.

Chief Inspector G’s full response to this complaint can be found at paragraphs 18 to 20 of the Appendix.

## **Our Review of Complaint 6**

Chief Inspector G’s response accurately summarised the account given by Detective Sergeant B in her statement, including that she made enquiries with the COPFS and the “fraud department”. However, Police Scotland has advised us that there is no auditable record (including any telephone notes or

correspondence) of the enquiries that Detective Sergeant B made with the Procurator Fiscal or the fraud department. Accordingly, there is no evidence available to support Detective Sergeant's B's account in this connection.

Chief Inspector G assessed that there was no evidence that Detective Sergeant B failed to undertake a thorough and complete review of the evidence provided to her. However, and in light of the shortcomings identified in relation to the other complaints, we consider that there is some doubt over whether Detective Sergeant B undertook a thorough and complete review. This is because, as outlined above, the evidence available supports that Detective Sergeant B only made enquiry with Ms C and that Ms C did not personally undertake the investigation into the allegations concerning Ms A. The evidence available supports that the investigation was carried out by the chair and vice-chair of the University Court. Despite this, the paperwork provided contains nothing to suggest that Detective Sergeant B made any enquiries with these individuals. Furthermore, as Detective Sergeant B did not address whether she confirmed that Ms A had authority to speak on behalf of the Scottish University, there is some doubt over whether Detective Sergeant B ascertained the official position of the Scottish University. In addition, and as highlighted at complaint 1, the paperwork that we were given included correspondence which referred to University Court's investigations. However, in our view, this paperwork was quite dismissive of the allegations. Furthermore, the paperwork provided contained little to evidence what precise investigation was undertaken by the University Court. We consider that Chief Inspector G should have recognised these points in his response.

As also outlined above at complaint 1, Police Scotland provided us with: (i) brief handwritten notes prepared by Detective Sergeant B, which were relative to a telephone call between her and Ms C on 31 August 2017, (ii) email correspondence between Detective Sergeant B and Ms C, in which they made arrangements to meet on 2 October 2017; and (iii) brief handwritten notes prepared by Detective Sergeant B, which were relative to a meeting between her and Ms C on 2 October 2017. However, aside from these things, Police Scotland has confirmed that there are no further records of Detective Sergeant B's enquiries with Ms C. As such, there is little available evidence to support the account given by Detective Sergeant B in her statement. Furthermore, Police Scotland has confirmed that an incident report was not raised in connection with the applicant's allegations against Ms A. We highlight that this is contrary to Police Scotland's Standard Operating Procedure regarding Crime Recording, which provides that "*all reports of incidents, whether crime related or not will result in the creation of a report, which is auditable*". This point was not acknowledged in Chief Inspector G's response.

Consequently, and for the reasons outlined above, we are not satisfied that this complaint was dealt with to a reasonable standard.

## **Our Conclusion on Complaint 6**

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

We recommend that Police Scotland reassess the complaint on the basis of the points outlined above. When doing so, Police Scotland should also take its further findings in relation to complaints 1, 2, 3, 4 and 5 of this report into account. Police Scotland should issue the applicant with a further response thereafter, which fully explains the reasoning for whatever decision is reached.

## Leaning Point

Paragraph 6.7.5 of Police Scotland's Standard Operating Procedure regarding Complaints About the Police ("the Complaints SOP") states the following:

*"There should be a clear understanding between the person noting the complaint and the complainer as to what is being investigated... the complainer should be asked to complete and sign a "Heads of Complaint" Form ([form number]) which lists the description of each allegation. This document can be considered as the agreement between the complainer and the Enquiry Officer and sets out exactly what is to be investigated. It also assists greatly in the recording process. A copy of the Heads of Complaint form must be provided to the complainer at the earliest opportunity. Where the complainer wishes an amendment or addition, this should be accommodated and a new of amended form sent out."*

The applicant signed a Heads of Complaint form on 9 January 2018, which listed a single complaint. Detective Inspector F also noted a statement from the applicant at that time. However, the statement contained a bullet-pointed list of five complaints. Furthermore, on 23 January 2018, the applicant emailed Sergeant E and made a further complaint. Accordingly, and in line with the guidance set out in the Complaints SOP, the applicant should have been asked to sign amended or new Heads of Complaint forms to incorporate his additional complaints.

Detective Inspector F and Sergeant E should be reminded of the guidance set out paragraph 6.7.5 of the Complaints, and should take said guidance into account when dealing with future complaints.

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## What happens next

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We have made six recommendations. 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.

**Amy Ferguson**  
Review Officer

**Ilya Zharov**  
Head of Review & Policy

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# Appendix

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## Copy of Police Scotland's response letter dated 9 February 2018

(Redacted and paragraphs numbered)

### Complaint 1

1. You believe that [Ms A], Principal of [the Scottish University], had obtained her position through professional misrepresentation of her experience and published articles and this constitutes a crime of fraud. You state that Police Scotland has failed to interview [Ms A] in relation to this crime. You state that your allegations against [Ms A] were not properly investigated as [Detective Sergeant B] failed to interview [Ms A], and this is contrary to standard police practice. You stated that a subordinate, [Ms C], was spoken to instead and that she was speaking on behalf of [Ms A]. You also state that as she answers to [Ms A], she cannot be regarded as being independent.

2. [Detective Sergeant B] has provided her account. [Detective Sergeant B] confirms that [Ms A] was never interviewed by her as after reviewing the evidence [Detective Sergeant B] could find no evidence that a crime had been committed. She also confirms that she contacted [Ms C] as, by the nature of [Ms A's] position, all employees of [the Scottish University] would be subordinate to her. However, [Detective Sergeant B] states [Ms C] was spoken to as a witness and was not interviewed on behalf of, or to answer for, [Ms A]. She states that [Ms C] is a member of the University Court and she has conducted an independent enquiry into the allegations that you have made. There is no evidence to suggest that [Ms C], or any other member of the University Court, is complicit in any ongoing fraud by [Ms A]. Furthermore, she states that both the University Court and [the Scottish University] were satisfied that [Ms A] has not provided any fraudulent information in order to secure her current post, thus there was no evidence on which to detain [Ms A] for the purpose of an interview.

3. You believe that [Ms A] should have been interviewed by [Detective Sergeant B] in accordance with standard Police practice. The rules of evidence applicable to criminal procedures are strict as they affect people's freedom and reputation. [Detective Sergeant B] states that both the University Court and [the Scottish University] have carried out a thorough internal investigation and are satisfied that there is no evidence to substantiate your claims. In this case, and in accordance with Scots Law as there is no apparent crime that she has committed, [Detective Sergeant B] would be acting out with her powers to interview [Ms A] as a suspect. It is my determination therefore that this element of your complaint is not upheld.

### Complaint 2

4. You believe that Police Scotland has failed to contact [the American University] to substantiate claims made by [Ms A] that she worked as a Professor at [the American University]. You state that [Ms A] has claimed to have been employed as a Professor in [a named field] at [the American University]; however, [the American University] has no record of this. You state you provided [Detective Sergeant B] with a contact email address in order to verify this claim and she has failed to contact that email address.

5. [Detective Sergeant B] has provided her account. She has confirmed that she did not contact [the American University] as she was provided with paperwork from the University Court to establish [Ms A's] professional status during her time there. She was satisfied that all reasonable enquiries were

carried out by the University Court to substantiate the status of [Ms A] at that time. [Ms A] was not employed by [the American University] as a 'Full' professor, which she has clearly stated, but was a Lecturer and as a visiting scholar was afforded the equivalent American title to her position in the UK, in this case 'Professor'. Therefore, [Detective Sergeant B] states she was satisfied there was no attempt to mislead.

6. [Sergeant E] states that she has seen the documentary evidence submitted by [Ms A] to the University Court and is satisfied there is no evidence to suggest criminality.

7. You believe that [Detective Sergeant B] should have contacted [the American University] to verify [Ms A's] status. [Detective Sergeant B] states she was satisfied the University Court and [the Scottish University] had verified her status and had no reason to believe they had been misled. [Sergeant E] states that she has viewed the evidence referred to by [Detective Sergeant B] and is satisfied that [Detective Sergeant B] had no requirement to contact [the American University]. As no crime was committed, it was not within [Detective Sergeant B's] remit or powers to make such enquiries of the University. It is my determination therefore that this element of your complaint is not upheld.

### **Complaint 3**

8. You believe that Police Scotland has failed to contact US Immigration authorities as you believe the type of visa which [Ms A] used to enter the country did not authorise her to take up a post within the University. You state that the US Immigration Authority issued [Ms A] with a J-1 Visa in allowing her to study in the USA for six months. You state that Police Scotland did not contact the US Embassy to establish if this Visa gave [Ms A] the legal right to take up a post at [the American University] as a Professor.

9. [Detective Sergeant B] has not been asked to provide an account of this element of your complaint as it is not a matter for Police Scotland to investigate or question US Immigration policy. I have already explained [Ms A] status at [the American University] and, quite simply, this is not a matter for Police Scotland in any sense. There was no requirement or expectation that [Detective Sergeant B] would carry out any enquiry into it.

10. It is your belief that Police Scotland failed to contact US immigration authorities as you believe that the type of visa issued to [Ms A] did not authorise her to take up a post within the University. I am satisfied that there was no requirement for Police Scotland to contact the US Embassy or Immigration authorities, therefore it is my determination that this element of your complaint is not upheld.

### **Complaint 4**

11. You believe that [Detective Sergeant B] has failed to secure 10 published reports for the World Health Organisation and the European Commission purported to have been written by [Ms A]. You state that [Ms A] claims to have written many published research reports for important international bodies. You state you have been unable to trace many of these and they are not available through [the Scottish University]. You state that if Police Scotland has not requested and not sighted these publications it is a significant oversight.

12. [Detective Sergeant B] has provided her account. She states that the University Court provided documentation in relation to their investigations into the publication list as provided by [Ms A] and were satisfied that all publications were accurately attributed to her and confirmed their authenticity. [Detective Sergeant B] was satisfied there was no criminality and made an operational decision that it was unnecessary to seize these documents as productions.

13. You believed that [Detective Sergeant B] should have requested and sighted these documents to ensure their authenticity. [Detective Sergeant B] states that she made an operational decision not to seize the documents as she could not establish that any crime had occurred. It is my determination therefore that this element of your complaint is not upheld.

#### **Complaint 5**

14. You believe Police Scotland did not submit a report to the Crown Office and Procurator Fiscal Service and did not seek or obtain their advice. You state that evidence supplied to Police Scotland was extensive, complex and nuanced and the investigation was far from routine. You believe that the opinion of the Crown Office and Procurator Fiscal Service should have been sought, but it was not.

15.[Detective Sergeant B] has provided her account. [Detective Sergeant B] states that she spoke to a Procurator Fiscal Depute at the Procurator Fiscals office in relation to a fraud committed by misrepresenting qualifications or experience and was advised that the Procurator Fiscal Depute was unaware of any instances of this type of crime. [Detective Sergeant B] also states that if the employer, in this case [the Scottish University], had found discrepancies and felt that it had been used to obtain a position then it could be possible to pursue a criminal case. However, it would be reviewed on an individual basis. [Detective Sergeant B] confirms that [the Scottish University] were satisfied that all experience and publications claimed by [Ms A] could be attributed to her and they had no complaint to make. [Detective Sergeant B] concluded that no crime had been committed.

16. Whilst Police Scotland do consult with the Crown Office and Procurator Fiscals Service on serious matters, it is an operational decision solely for Police Scotland to determine if a crime has been committed and any investigation to be carried out is proportionate and lawful.

17. You believe that Police Scotland should have obtained advice from the Crown Office and Procurator Fiscal Service. [Detective Sergeant B] states that she was satisfied, based on the evidence provided to her, that no criminality could be established. It is an operational decision to investigate any criminal matters and they must be proportionate and lawful. However, she did consult the Procurator Fiscal who determined that it would be for [the Scottish University] to determine if they believed there were any discrepancies and make any complaint of fraud, which they did not. It is my determination therefore that this element of your complaint is not upheld.

#### **Complaint 6**

18. You believe that Police Scotland has failed to scrutinise evidence obtained from [the Scottish University]. You state that Police Scotland appears to have accepted assurances on face value without any independent verification of evidence. You state that the internal investigation by [the Scottish University] has not been seen, disclosed or made publically available to anyone other than Police Scotland. You believed that this is the main basis on which Police Scotland has determined that no fraud has been committed.

19. [Detective Sergeant B] has provided her account. [Detective Sergeant B] states that she took ownership of an enquiry which was passed from the Police Service of Northern Ireland, relating to an allegation of fraud by [Ms A]. This allegation related to inconsistencies or falsehoods in her curriculum vitae and publications list. [Detective Sergeant B] states she was handed a package containing your statement and documents pertaining to the allegations. She states she reviewed the information provided by you. [Detective Sergeant B] states she then carried out open source checks in relation to [the Scottish University] and [Ms A] and reviewed all the evidence obtained by the University Court, which is made up of lay people independent to the University Court. [Detective Sergeant B] also established that the University Court does, as you have stated, publish their findings; however, on this occasion, they have stated that due to the sensitive nature of the investigation an internal decision was

made not to publish it. Having reviewed all the information, [Detective Sergeant B] contacted the Procurator Fiscal and ascertained that as [the Scottish University] were satisfied there was no basis to the allegations, there was no crime to answer. [Detective Sergeant B] subsequently updated you with her findings. You thereafter requested specific information in relation to the enquiries carried out by her and she consulted with the Fraud department, who agreed that there was no crime. [Detective Sergeant B], in consultation with Police Scotland's Professional Standards Department, declined to provide you with the paperwork you have requested as this belongs to an external body and is not for Police Scotland to divulge.

20. You believe that Police Scotland has failed to scrutinise evidence obtained from [the Scottish University] and they have failed to publicise the outcome of their investigations. [Detective Sergeant B] has stated that she has reviewed both the information received from you and from [the Scottish University]. She has sought advice from departments within Police Scotland and the Procurator Fiscal's office and determined that no crime has been committed. You have stated that the internal investigation into [Ms A] has not been made public. This is a matter for [the Scottish University] and not within the remit of Police Scotland to question. I can see no evidence that [Detective Sergeant B] did not complete a thorough and complete review of the evidence provided to her, and it is my determination therefore that this element of you [sic] complaint is not upheld.