

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

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## 1. Role of PIRC

Sections 34 and 35 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (“the Act”) provide that the Police Investigations and Review Commissioner (“the PIRC”) may examine the manner in which particular kinds of complaints are dealt with by Police Scotland and the Scottish Police Authority. Through agreements with UK police bodies operating in Scotland, the PIRC may also examine the manner in which these bodies deal with complaints. The PIRC cannot review complaints of criminal behaviour against police officers or police staff, or complaints made by persons serving, or who have served with the police, about the terms and conditions of their service.

In performing this review function, the PIRC obtains information from the police body which dealt with the complaint. This information is considered together with information provided by the person who made the complaint (“the applicant”). An assessment is then made as to whether in all the circumstances the complaint was dealt with to a reasonable standard. Among the factors taken into account when making this assessment are the following:

- whether sufficient enquiries into the complaint have been carried out by the policing body;
- whether the policing body’s response to the complaint is supported by all material information available;
- whether in dealing with the complaint the policing body has adhered to all relevant policies, procedures and legal provisions;
- whether the policing body’s response to the complaint is adequately reasoned; and
- where the complaint has resulted in the policing body identifying measures necessary to improve its service, whether these measures are adequate and have been implemented.

## 2. Key findings

The complaints in this case arose from the applicant being entered onto Police Scotland’s Vulnerable Person’s Database (VPD). Three complaints were reviewed, namely:

- 1) that the decision to submit a concern report and enter the applicant onto the VPD was unjustified ;
- 2) that an officer carried out an investigation without discussing the matter with the applicant, and then failed to respond to his request for a meeting; and
- 3) that Police Scotland did not advise the applicant that he was the subject of a concern report;

The review found that none of the complaints were dealt with to a reasonable standard. Three recommendations were made.

### 3. Background

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On 9 October 2014, a senior officer allegedly attended an inter-agency meeting where it was communicated to him by another individual that the applicant was repeatedly contacting a member of the Local Government leaving the person receiving the communications concerned for his mental state.

On 13 October 2014, the applicant's details were placed onto the Police Scotland's Vulnerable Person's Database via a concern report at the request of this senior officer.

In November 2015, the applicant received various correspondence from Police Scotland following a subject access request. Within this paperwork was a copy of the concern report.

On 22 May 2016, the applicant submitted his complaint online. The applicant received a response to his complaints in writing from acting Superintendent A in a letter dated 21 October 2016.

## 4. The Review

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### Complaint 1: entry on VPD

The applicant complains that the decision to submit a concern report and enter him onto the vulnerable person's database was unjustified.

#### *Police Handling of Complaint 1*

Acting Superintendent A responded to the applicant's complaint as follows:

*"...The background to this is The Adult Support and Protection (Scotland) Act 2007 which places a duty on councils to make enquiries into the circumstances of adults at risk and to act with partner to protect them. It also places a statutory duty on other bodies, including the police, to refer any adult who may be at risk of harm and to cooperate with council inquiries, in line with local policies and procedures. In practice this will involve accurately recording information, working effectively with key partner, sharing relevant information and ultimately supporting and protecting adults at risk of harm.*

*In order to discharge their duties Police Scotland has a database entitled "Vulnerable Persons Database" (VPD) in which a police officer would make an entry when it is assessed that a person is at risk.*

*It may be the case that on assessment it is deemed that an adult does not meet the test in terms of the legislation to be classed as an Adult at Risk but is otherwise vulnerable and in need of support and protection. There would still therefore be a requirement for Police Scotland to record this information and to share it with partner agencies as necessary.*

*If I now turn to your specific case I believe that you are aware that on 9 October 2014 a Chief Inspector from Police Scotland attended an interagency meeting of a general nature. Whilst at this meeting the officer was informed by an individual present that you were texting and phoning a particular individual on a daily basis leaving him concerned for your mental state.*

*In view of the information received the Chief Inspector had a police officer, namely officer... as identified by you, submit an entry onto the Vulnerable Persons Database. This entry merely reflected the information provided to the officer by the Chief Inspector. This information was ultimately shared with Health professionals in your area.*

*I take the view that in the circumstances this was a reasonable course of action based on the available information because a concern had been highlighted and as it had all the appearance of a medical matter it was passed onto the relevant agency. As there was no suggestion of a*

*crime being committed there was also no requirement for any further enquiry into the circumstances....*

*...I am aware that you have been involved in a considerable correspondence with the Information Management Unit and in a letter dated 18 February 2016 [Lead Disclosure Officer C] the Lead Disclosure officer for the North outlined the position of Police Scotland on a number of the points you have raised so I would refer you to that letter.*

*In summary the police have received information that has been recorded and processed in good faith and shared with a partner organisation. After a period of time you have contacted Police Scotland who have reviewed this information and concluded that there was no longer a requirement to retain the information that has involved you engaging in considerable correspondence with the Information Management Unit. Through the above explanation I believe I have addressed the points you raised above.*

*I cannot therefore uphold your complaint about being made the subject of a concern report and then subsequently being placed on the VPD.*

## **Consideration of Complaint 1**

As explained in the response, The Adult Support and Protection (Scotland) Act 2007, (“the Act”) places a statutory duty on councils to make enquiries into the circumstances of adults at risk and to act with partner agencies to protect them. It also places a statutory duty on the other agencies, including the police, to refer any adult who may be at risk of harm and to co-operate with council enquiries.

In practice this will involve accurately recording information, working with key partner agencies, sharing relevant information and ultimately supporting and protecting adults at risk of harm.

However, as stated in the response, there may be times when a particular adult may not meet the legislative criteria to be classed as an “Adult at Risk”, but may otherwise be “vulnerable” and potentially in need of some form of intervention.

In terms of police action and intervention, whether or not a person is deemed to be “vulnerable” appears to be based on the particular circumstances of each individual case. However, according to the Adult Support and Protection Standard Operating Procedure (“the SOP”), this term can broadly include someone who might not have a physical or mental condition, but whose behaviour at a particular time might give cause for concern or place them in a vulnerable situation.

As explained within the response, in order to comply with their duties under the relevant legislation, Police Scotland has a “Vulnerable Persons Database” (VPD). This is an incident based database that allows officers from Police Scotland to record common concerns that may be a risk to a person’s current or future wellbeing. The information contained in this database is thereafter assessed and shared, where appropriate, with other agencies.

The response to the applicant then explains the circumstances in which a concern report was submitted and the applicant was placed onto the VPD.

In summary, an unnamed Chief Inspector attended an interagency meeting of a general nature and was informed by an individual who was present there that the applicant was phoning and texting a member of the Local Government leaving the person receiving the communication concerned for the applicant's mental state.

The response thereafter reasons that, as a concern was highlighted which appeared to relate to the applicant's mental wellbeing, submitting a concern report was a reasonable course of action in order that this concern could be properly recorded and ultimately shared with the relevant partner agencies.

However, the applicant has highlighted in correspondence to Police Scotland and the PIRC his concern this information was not substantiated and therefore the decision to submit a concern report on the basis of that information was not justified.

From examining the complaints file provided to the PIRC during the course of the review, there is no evidence to indicate that any enquiry was carried out. The concern report itself appears to have been submitted on the basis of the limited information allegedly provided to the Chief Inspector at the interagency meeting and includes no additional information.

In his response to the applicant, acting superintendent A reasons that, as the concern highlighted did not suggest that the applicant had committed a crime, there was no requirement for any further enquiry into the circumstances.

However, although acting Superintendent A reasons that this enquiry was not necessary, according to paragraph 1.1 of the SOP:

*“All Adult Protection concerns reported to the Police Service of Scotland will be thoroughly investigated...”*

Accordingly, although no criminal behaviour was alleged, if the applicant was deemed to fall into the category of “vulnerable” and potentially in need of some form of intervention or protection, the relevant SOP suggests that officers should have conducted additional enquiry into the concern highlighted about his mental state and wellbeing.

In addition to this, the applicant provided the PIRC with documentation from Police Scotland and the relevant Council received via various Freedom of Information requests which was examined during the course of the review. It is noted that neither public body apparently has any record of a meeting on the date in question being attended by a Chief Inspector. In addition to this, it is also noted in the information provided by the council that there is no documented record on the relevant systems of any phone calls made by the applicant to anyone in the council or local government.



Although it is noted that Police Scotland would not have sight of the information the applicant provided to the PIRC in this respect, Police Scotland has not itself provided the PIRC with any information or evidence to substantiate the basis for the concern report or to support the justification offered in the response.

Accordingly, it is considered the response is inadequately reasoned and not supported by the material evidence. It is therefore concluded that this complaint was not dealt with to a reasonable standard.

It is recommended that the applicant's complaint be revisited to take into account the points highlighted above and the information that has become available during the course of the review. A further response should thereafter be sent to the applicant addressing his concern that the decision to place him on the VPD was not justified given the circumstances outlined above and the further information he has provided.

## Complaint 2: VPD investigation

The applicant complains that Detective Chief Inspector B carried out an investigation into the VPD entry without discussing the matter with him and thereafter failed to meet with him to discuss the outcome, despite his repeated requests to do so.

### Police Handling of Complaint 2

Superintendent A responded to the applicant's complaint as follows:

*"...In an email to [Lead Disclosure Officer C] on 14 December 2015 you asked why you were deemed to be a vulnerable person resulting in the information being processed on the Vulnerable Person's Database and as such she sought guidance from Detective Chief Inspector [B] as the Head of the Public Protection Unit for the local division. The review undertaken by the Detective Chief Inspector [B] was therefore ultimately commenced at your request.*

*It was his assessment that as this was the only information held on you on VPD and without any further incident being raised about you in this regard, he instructed that there was no requirement for this information to be retained and as such it was deleted from VPD...."*

### Consideration of Complaint 2

As explained in the response, when the applicant highlighted his concern that he had been entered onto the VPD to the Information Management Unit (IMU), the IMU sought advice from Detective Chief Inspector B from the Public Protection Unit (PPU) who looked into the circumstances of the report. As stated in the response, Detective Chief Inspector B formed the opinion that, as it was the only incident

recorded relating to the applicant, and as the applicant had not come to police attention since the alleged incident, there was no requirement to retain this information. The information concerning the applicant was then removed from the database.

This decision was communicated to the applicant in a letter from the IMU dated 18 February 2016.

Following receipt of this letter, the applicant made repeated requests via the IMU to speak with Detective Chief Inspector B to discuss his investigation before he eventually submitted his complaint online on 22 May 2016.

The response in this connection addresses why a review or investigation was undertaken by Detective Chief Inspector B and thereafter explains the outcome of the review. However, Superintendent A does not specifically address the applicant's concern that Detective Chief Inspector B did not contact him before investigating the matter in the first instance, and thereafter failed to meet him to discuss his findings, despite the applicant's repeated requests.

In addition, although it is noted that Detective Chief Inspector B communicated with the applicant in a letter dated 23 June 2016, the purpose of this letter was to inform the applicant it would be inappropriate to discuss his concerns because of the applicant's on-going complaint. From the evidence available however, it is clear the applicant's requests to meet with Detective Chief Inspector B or another suitable officer from the Public Protection Unit were made some time before he submitted a formal complaint.

Accordingly, it is considered that the response does not address the crux of the applicant's complaint and does not reflect the material evidence available. It is therefore concluded that this complaint was not dealt with to a reasonable standard.

It is recommended that Police Scotland issue the applicant with a fresh response which clearly addresses his complaint and takes into account the points raised above.

### **Complaint 3: failed to inform**

The applicant complains that he was not informed by Police Scotland that he was the subject of a concern report.

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

Police Scotland have not responded to this complaint.

### ***Consideration of Complaint***

It is noted that the applicant has raised this complaint as an additional concern in an email to the Professional Standard Department dated 23 May 2016.

The response to the applicant in this connection acknowledges this concern but does not provide the applicant with an explanation as to why it was not communicated to him that he had been entered onto the VPD in the first instance.

Accordingly, as the response has not addressed this concern, it is concluded this complaint was not dealt with to a reasonable standard.

It is recommended that Police Scotland issue the applicant with a further response which addresses this complaint.

## *Delay*

In his application to the PIRC, the applicant highlighted a further concern relating to the length of time taken for the police to respond to his complaint.

From reviewing the evidence available, the applicant made his complaint online on 22 May 2016. On 18 August 2016, the applicant was contacted by an officer to discuss his concerns. The applicant thereafter received a response to his complaints in writing in a letter dated 21 October 2016.

Accordingly, 88 days passed before Police Scotland made contact with the applicant and a further 64 days passed before the applicant received a final response to his complaints.

This is directly at odds with the Police Scotland Complaints about the Police Standard Operating Procedure which sets a target date of 56 days from receipt of the original complaint to conclusion of the investigation.

However, as it is noted that acting Superintendent A acknowledges this delay and offers the applicant an apology, no further action is required.

## *Impartiality*

In application to the PIRC, the applicant raises a further concern about the impartiality of the professional standards department who investigated his complaint.

Objectivity and impartiality must be demonstrable throughout the handling of a complaint. Paragraph 6.8.2 of the Police Scotland Complaints about the Police Standard Operating Procedure ("Complaints SOP") provides that the enquiry officer should have had no prior involvement in the matter being investigated and should be sufficiently independent from the officer complained about.

In the applicant's case, there is nothing in the evidence available to suggest that any of the investigating officers, including the officers within the professional standards department, had any prior involvement or knowledge of the complaint. Therefore, it is considered that the officers involved in the investigation were sufficiently independent. No further action is required.

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## 5. Conclusions

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### Complaint 1: Entry on VPD

It is considered that this complaint was not dealt with to a reasonable standard. It is recommended that the applicant's complaint be revisited to take into account the points highlighted above and the information that has become available during the course of the review. A further response should thereafter be sent to the applicant addressing his concern that the decision to place him on the VPD was not justified given the circumstances outlined above and the further information provided.

### Complaint 2: VPD Investigation

It is considered that the response does not address the crux of the applicant's complaint and does not reflect the material evidence available. It is therefore concluded that this complaint was not dealt with to a reasonable standard.

It is recommended that Police Scotland issue the applicant with a fresh response which clearly addresses his complaint and takes into account the points raised above.

### Complaint 3: Failed to inform

It is concluded this complaint was not dealt with to a reasonable standard.

It is recommended that Police Scotland issue the applicant with a further response which addresses this complaint.

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