

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 stopped and issued a Fixed Penalty Notice for allegedly speeding. Two complaints were reviewed, namely:

- 1) that the information contained within the police officers’ statements was inaccurate and inconsistent; and
- 2) that Police Scotland provided evidence to the COPFS which quoted inaccurate ticket numbers and referred to the applicant as “she”.

The review found that one of the complaints was dealt with to a reasonable standard and one was not. Two recommendations were made.

3. Background

About 10:00 am on 9 March 2016, the applicant was driving on road X which is a 30 mph restricted road.

At this time, Constables A and B were at a static road stop conducting speed checks on moving vehicles using a Unipar device.

According to the officers, the applicant's speed at this time was measured at 42 mph and he was instructed to pull over. The applicant was advised of his alleged speed and was offered a fixed penalty notice (FPN).

The applicant did not comply with the terms of the FPN and his case proceeded to trial.

On 25 October 2016, the applicant attended Court and was advised that the case had been abandoned.

The applicant made his complaint in writing in a letter communicated via email (date unknown). Inspector C was appointed as enquiry officer and the applicant received a response to his complaints from Chief Inspector D in a letter dated 16 December 2016.

4. The Review

Complaint 1: Statements inconsistent and inaccurate

The applicant complains that information contained within two police officers' statements was inaccurate and inconsistent.

Police Handling of Complaint 1

Chief Inspector D responded to the applicant's complaint as follows:

"1- On 9 March 2016, on the[road X] , it is alleged the information contained within the subject Officers police statements for an alleged speeding offence was inaccurate and inconsistent.

In relation to allegation number 1, I understand from [Inspector C's] report, that both Officers conducted the speed check in accordance with the approved National Guidelines, viz, the guidance contained within the current Association of Chief Police Officers (ACPO) 2011 document, for the Operational Use of Speed and Red Light Detection Technology.

I have reviewed the evidence contained within the Conditional Offer ticket you received, and the subsequent statements provided by both Officers.

As I am sure you will appreciate, any attempt to pervert the course of justice, is a serious criminal offence. Having reviewed the aforementioned statements, I am satisfied that neither officer has deliberately attempted to engage in such a course of conduct.

I am also of the view that said Officers have not colluded, and have compiled their statements independently in accordance with the Lord Advocate's Guidelines.

During my review of the Conditional Offer ticket and statement submitted by [Constable A], I do note there are inaccuracies in relation to the road classification, the time your vehicle was stopped and when you were cautioned and charged.

Although I am satisfied there has been no deliberate attempt to mislead the Procurator Fiscal, I am extremely disappointed this issue has arisen, which for me demonstrates a lack of professionalism/ attention to detail, and clearly does not bode well in relation to Organisational reputation.

[The applicant] I offer my sincere apologies in relation to the aforementioned.

I can confirm [Inspector C] has provided [Constable A] with corrective advice, and has stressed the importance of ensuring all information contained within procedural evidential documentation, is carefully checked for accuracy prior to submission to the Procurator Fiscal.”

Consideration of Complaint 1

The response to the applicant in this connection focuses on the information contained within the fixed penalty notice when compared with the statements of Constables A and B. The response concedes that there were inaccuracies in relation to the road classification and the timings recorded on the FPN when compared with the officers' statements. Chief Inspector D thereafter offers an apology for the errors identified and assures the applicant that the officer who issued the ticket was provided with corrective advice.

However, within his original letter of complaint, the applicant also complained that the officers' statements were inaccurate in so far as they “bear no resemblance to the facts of what had happened”. In this regard, the applicant stated in his letter that he was stopped by only one officer, whilst another officer was dealing with the driver of a second car that was stopped shortly before. This is in direct contrast to the statements provided by both officers, which indicate that they were both involved in observing and stopping the applicant's motor vehicle.

Before his case was heard at Court, the applicant submitted a Freedom of Information request to Police Scotland and was provided with information which clearly indicates that two vehicles were stopped at the relevant time within 2 minutes of each other. The applicant contends this information supports his position that only one officer observed his approach to the road stop and measured his speed. This information was available to Police Scotland before the final response was issued to the applicant. Accordingly, it is considered that insufficient enquiry has been carried out in order to properly address applicant's complaint.

However, as the response in this connection has already identified and acknowledged some of the relevant discrepancies in the statements when compared to the fixed penalty notice, upholds the complaint and offers an apology, it is considered this complaint was dealt with to a reasonable standard.

Nevertheless, it is recommended that the applicant's complaint be revisited taking into account the information the applicant received through the freedom of information request, and the relative statements of Constables A and B. A further response should thereafter be sent to the applicant addressing whether, taking into account all the available information, the officers' statements contain any other material or factual inaccuracies.

Complaint 2: Inaccurate information to COPFS

The applicant complains that officers provided evidence to the Crown Office and Procurator Fiscal Service (COPFS) which quotes inaccurate ticket numbers and referred to him as “she”.

Police Handling of Complaint 2

Police Scotland have not responded to this complaint.

Consideration of Complaint 2

Although closely linked to the above complaint and mentioned by the applicant in his original letter of complaint, this was not recorded as a separate complaint by Police Scotland and was not specifically referred to within the response.

As Police Scotland have not recorded or responded to this concern, it is considered this complaint was not dealt with to a reasonable standard. It is recommended Police Scotland now record this complaint and issue the applicant with a fresh response based on the evidence available. The response should acknowledge any inaccuracies identified and, if considered appropriate, issue the applicant with an apology.

5. Conclusions

Complaint 1: Statements inconsistent and inaccurate

It is considered this complaint was dealt with to a reasonable standard.

However, it is recommended that the applicant's complaint be revisited to taking into account the information the applicant received through the information request, and the statements of Constables A and B. A further response should thereafter be sent to the applicant addressing whether, taking into account all the available information, the officers' statements contain any material and factual inaccuracies.

Complaint 2: Inaccurate information to COPFS

It is considered this complaint was not dealt with to a reasonable standard. It is recommended Police Scotland now properly record this complaint and issue the applicant with a fresh response based on the evidence available. The response should acknowledge any inaccuracies identified and, if considered appropriate, issue the applicant with an apology.

Kirstin McPhee
Review Officer

Ilya Zharov
Head of Review and Policy