

Report of a Complaint Handling Review in relation to Police Scotland

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1. Role of the 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 officers’ attendance at the applicant’s home.

Two complaints were reviewed, namely:

1. that the officers gained entry to the applicant’s home without authority by “badgering” her daughter; and
2. that officers questioned the applicant’s daughter in relation to a matter they were investigating without an adult being present.

The review found that both complaints were dealt with to a reasonable standard. No recommendations were made in this connection.

3. Background

On 8 August 2016, Detective Constables A and B attended at the applicant's home seeking the applicant's son, Mr C, in relation to an ongoing police enquiry. The officers were allowed entry to the applicant's home by her fifteen-year-old daughter, Miss D. The officers asked Miss D a few questions, established that Mr C was not at home, and thereafter left.

The following day, Constables A and B re-attended and spoke to the applicant, who advised that she would arrange for Mr C to contact them.

On 11 October 2016, the applicant submitted an online complaint form via the Police Scotland website. The applicant's complaint was allocated to Detective Inspector E, who obtained a statement from the applicant and agreed with her the complaints she wished to be investigated on 25 October 2016.

A letter dated 24 November 2016 responding to the applicant's complaints was subsequently issued by Detective Chief Inspector F.

4. The Review

Complaint 1: Officers "*badgered*" daughter

The applicant complained that Detective Constables A and B had no authority to enter her home, and that they gained entry by "badgering" Miss D to let them in.

Police Handling of Complaint 1

In his letter responding to the applicant's complaints, Detective Chief Inspector F wrote:

"The officers concerned refute the allegation and state that on attending your home address on 8 August 2016 the door was opened by your daughter. They identified themselves as Police Officers and showed your daughter their warrant card. Due to the nature of the enquiries they were conducting, coupled with the fact that there was an unknown man in a nearby garden, they asked your daughter if they could speak to her in private. Your daughter then allowed them to enter your house. The officers concerned have also stated that they had no reason to believe from your daughter's demeanour or appearance that she was a juvenile.

Having considered the evidence available to me I am unable to uphold this allegation."

Consideration of Complaint 1

In order to address this allegation, accounts were obtained from Detective Constables A and B. No account was obtained from Miss D as the applicant stated that she was not willing to allow officers to

speak to her daughter again, as she did not want her distressed further. As a result, there is no first-hand information available to support the applicant's interpretation of events.

Both Detective Constables A and B state that when Miss D opened the door to the applicant's home, they asked if, due to the nature of their enquiries, they could speak with her in private as there was a man working in an adjacent garden and they did not wish him to overhear. Both officers state that Miss D then invited them into the house. Although both officers acknowledge that Miss D was "*initially hesitant*", both explicitly deny that they "*badgered*" her to allow them entry to the house. Accordingly, it is considered that Detective Constable F's response reflects the material information available.

In her application to the PIRC, the applicant has expressed dissatisfaction that Detective Constable F's response in her view contradicts "*the facts as agreed by both parties*", and asserts that when she spoke to the same officers the following day, they "*did not deny*" that they had requested to be allowed into the applicant's home three times before Miss D invited them inside.

However, it is considered that the circumstances described would not appear to amount to "*badgering*" as the applicant has contended. This is because the evidence available indicates that a reasonable explanation was provided to Miss D as to why the officers wished to speak to her inside the house, namely the nature of the investigation and the fact that there was a third party in a nearby garden. On the basis of the information available, it is considered that Detective Chief Inspector F is therefore justified on the balance of probabilities in his determination that the applicant's complaint should not be upheld.

For this reason, it is concluded that this complaint was dealt with to a reasonable standard. No further action is required of Police Scotland in this connection.

Complaint 2: Questioned a child

The applicant complained that Detective Constables A and B questioned Miss D, a minor, about an ongoing investigation without an adult being present, which had caused Miss D distress.

Police Handling of Complaint 2

In his letter responding to the applicant's complaints, Detective Chief Inspector F wrote:

"[Detective Constables A and B] also refute this allegation and state that once within your house they explained the reason for their attendance to your daughter and that they wished to speak to your son. Your daughter advised that he was not at home and was working. The officers asked your daughter when he was due to finish work before leaving a police calling card you're your [sic] daughter that contained the officers [sic] names and contact telephone number. They state that, at no time, did they ask your daughter anything about the enquiry they were investigating however, your daughter freely provided information in relation to whose company your son had been in on the night under investigation. The officers concerned have reiterated that they had no reason to believe your daughter was a juvenile.

Having considered the evidence available to me I am unable to uphold this allegation.”

Consideration of Complaint 2

Similarly to Complaint 1, accounts were obtained from Detective Constables A and B in relation to the incident, however no direct account was obtained from Miss D and, as a result, there is no first-hand information available to support the applicant's interpretation of events.

Both Detective Constables A and B state that they advised Miss D they were seeking her brother Mr C to make enquiries with him in relation to an ongoing police investigation. Both state that they advised Miss D of the nature of the investigation and that she told them she was aware of the incident in question. Both state that Miss D advised them that Mr C ordinarily resided in the house however was at that time at work. Both officers deny that they asked Miss D any questions in relation to their investigation, however state that she voluntarily provided them with some information regarding Mr C in relation to the incident under investigation.

It would have been useful for Detective Chief Inspector F to have explained to the applicant that Miss D's age did not preclude her from being asked questions about Mr C in the terms described above. Notwithstanding, both Detective Constables A and B, and indeed the applicant, all state that Miss D provided the officers of her own volition with information regarding Mr C in relation to the incident under investigation. Accordingly, it is considered that Detective Chief Inspector F's response is in line with the material information available.

As the officers' accounts support each other and there is no evidence available to support the position of Miss D as relayed to the police by the applicant, it is considered justified on the balance of probabilities for Detective Chief Inspector F not to have upheld this complaint. It is therefore concluded that this complaint was dealt with to a reasonable standard. No further action is required of Police Scotland in this connection.

5. Conclusions

Complaints 1 and 2

It is concluded that these complaints were dealt with to a reasonable standard with no further action required of Police Scotland.

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