

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

## Index

---

- 1. Role of the PIRC**
- 2. Key findings**
- 3. Background**
- 4. The Review**
- 5. Conclusions**

## 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 police officers attending at a property rented by the applicant following an allegation from her landlord that she had been assaulted by the applicant. Two complaints were reviewed, namely:

1. that Police Scotland did not recognise that the applicant’s landlord acted criminally by evicting her from her house; and
2. that officers did not investigate an assault on the applicant by her landlord and his wife.

The review found that one complaint was dealt with to a reasonable standard while one was not. One recommendation was made in this connection.

### 3. Background

---

In October 2013, the applicant began renting a home from Mr A and Mrs B. The applicant had a number of disputes with her landlords in relation to repairs and maintenance of the property. The applicant states that Mr A made a number of unsuccessful attempts to have her evicted from the property.

In October 2014, the applicant's property became uninhabitable due to a hole opening in the floor. The applicant states that she was told by builders that the repairs would take around six weeks but that "*six weeks became six months*". Whilst the applicant was living away from the property, Mr A arranged to have the locks changed.

On 25 May 2015, Mr A was charged with a breach of Section 22(1) of the Rent (Scotland) Act 1984 for changing the locks whilst the applicant was still a tenant.

The applicant arranged to collect some of her belongings from the property on 1 June 2015. The applicant attended at the house on this date along with her daughter, Ms C, and her daughter's boyfriend, Mr D. The applicant states that, upon arriving at the house, she received a message from Mr A advising that he was unable to meet the applicant to allow her access to the house.

As a result, the applicant, Ms C and Mr D began moving some of the applicant's property from a shed to which they did have access. They left the area to take a break and returned around an hour later to find Mr A and Mrs B at the house. The applicant states that her landlords were "throwing" her property into the garden and this damaged some items.

Around this time, the applicant attempted to enter the property. This resulted in Mrs B contacting the police to report that the applicant had forced her way into the property and had assaulted Mrs B in the process. Constables E, F, G and H attended at the house in response to Mrs B's telephone call. The officers spoke with those present and elected to take no further action in relation to Mrs B's allegation.

On 6 June 2015, the applicant completed an online complaint form alleging that she had been "removed from property, not landlord who was there illegally". The applicant further complained that she had been assaulted by Mr A and Mrs B and that nothing had been done about this.

On 25 June 2015, Constable J noted a witness statement from the applicant in connection with her assault allegation. The applicant alleged she was assaulted by Mr A and Mrs B as they had grabbed her by the shoulders and pulled her arms back when trying to prevent her from entering.

On 24 July 2015, Inspector K noted a statement of complaint from the applicant. Chief Inspector L responded to the applicant's complaints in a letter dated 30 September 2015.

## 4. The Review

---

### Complaint 1: Failure to recognise criminal actions

The applicant entered the following details on the online complaint form:

*“4 police officers arrived and contrary to Rent (Scotland) Act 1984 section 22 (of which I advised officers) I was removed from property, not landlord who was there illegally.”*

In her statement of complaint, the applicant stated that her complaint was that “Police Scotland did not recognise that my landlord had acted criminally by evicting me from the house”.

### Police Handling of Complaint 1

Chief Inspector L’s response stated:

*“You have had a long running dispute with your landlord over your tenancy. In particular you were in dispute over the way that the property had been maintained. This culminated in your landlord being charged with a contravention of the Housing Scotland Act 2006 Section 28(1).*

*As a result of this, your landlord contracted work to be carried out on the property, and in October 2014 you vacated the property to allow this work to be undertaken. Your understanding being that this would take 6 weeks.*

*Subsequently you learned that the locks to the house had been changed and despite repeated requests you were denied a key for the property. You reported this to the Police on 5th April 2015. A statement was obtained from you and following investigation your landlord was charged with a contravention of the Rent (Scotland) Act 1984 Section 22 (1) in respect of illegally evicting you from the property. A report outlining the circumstances was forwarded to [the local Procurator Fiscal] and you were updated regarding this.*

*Since this time you had still not been allowed entry to the house and following consultation with a Community Police Officer you attended there on the date in question to uplift some belongings as you were moving into another property. Police were called in relation to the incident detailed below and you stated to them that you had been illegally evicted.*

*The officers who attended the incident have been spoken to and confirm that you stated that you had been illegally evicted and that the matter had already been reported to the Police as has been confirmed above and as such no further investigation was required into this incident. [Inspector K] has confirmed that the Police report submitted highlights that even although your landlord has been charged with denying you access to the property, he has still not allowed you to move back in.*

*As such I do not uphold this aspect of your complaint”*

## Consideration of Complaint 1

The response to this complaint advises the applicant that her complaint has not been upheld on the basis that the applicant's report of an illegal eviction had already been reported to the Procurator Fiscal. However, from the applicant's communications with Police Scotland, it can be seen that the crux of the applicant's complaint is that the officers who attended the incident on 1 June 2015 did not treat the applicant as being the tenant of the property they had attended. This can be seen from her claim that, when the officers attended she "was removed from property, not landlord who was there illegally".

It is therefore considered that the response from Police Scotland has not addressed the complaint raised by the applicant. For this reason, it is concluded that this complaint was not dealt with to a reasonable standard. It is recommended that Police Scotland reassess the applicant's complaint with regard to the comments made in this report. The applicant should be provided with a further response outlining Police Scotland's findings.

## Complaint 2: Failure to investigate assault

The applicant's statement included the following:

*"I kept telling them that I was the tenant and had been illegally evicted and I hadn't assaulted anyone, it was me that he been assaulted."*

That applicant complained that "the officers did not investigate an assault on me by [Mr A and Mrs B]".

## Police Handling of Complaint 2

Chief Inspector L's response stated:

*"On 1<sup>st</sup> June 2015 you attended at [property rented by applicant], after an arrangement had been made with [Mr A and Mrs B] for you to attend and uplift some of your belongings from the house as you were going to move into another property. This arrangement had been mediated by the local Community Police Officer and you attended at the house with your daughter and her boyfriend.*

*Initially on your attendance [Mr A and Mrs B] were not there and in fact they called you to say they would be unable to keep the appointment. You attended anyway and collected items from the shed before leaving to get refreshments.*

*On returning you found [Mr A and Mrs B] at the house and they were taking your belongings out of the house and throwing them into the garden. You then made your way to the house and attempted to force your way past [Mr A and Mrs B] and as a result the Police were called as an allegation had been made that you had assaulted [Mrs B].*

*Officers attended and spoke with both yourself and [Mr A and Mrs B] and it was quickly ascertained that you had not assaulted anyone, and had only been trying to get into the house which they stopped you from doing. Officers then assisted you to collect your belongings and remained present until you left the area.*

*You state that you told the officers that you had been the person who had been assaulted however the officers deny that you made any complaints to them either about being assaulted or having any property damaged. You did later make a complaint to the local Community Police Officer that [Mr A] had grabbed your shoulders to stop you from getting into the house and that [Mrs B] had restrained your hands behind your back.*

*This matter is currently under investigation however despite repeated attempts to contact your daughter and her partner they have not contacted the enquiry officer or Inspector K. You have since informed [Inspector K] that your daughter and her boyfriend have stated to you that they will not be providing any information to the police.*

*The officers who attended the incident state you made no complaint of assault to them and your daughter and her boyfriend are unwilling to verify your version of events. You told [Inspector K] in conversation that this assault consisted only of [Mr A and Mrs B] grabbing your wrists to stop you from gaining entry to the house, however the statement you provided to the local Community Police Officer is as is detailed above and would clearly warrant an investigation into an assault which is ongoing.*

*As such on the evidence available to me at this time I am content that my officers acted appropriately.*

*As such I do not uphold this aspect of your complaint.”*

## **Consideration of Complaint 2**

Chief Inspector L advised that the applicant that her complaint was not upheld on the basis that the officers she had spoken with at the time of the incident deny having received an allegation of assault from the applicant. It is considered that the response to this complaint has accurately represented the available evidence in relation to this complaint.

The attending officers have supported each other's version of events whilst there is no evidence to support the version of events provided by the applicant. It is considered that there is nothing in the evidence as whole to justify the applicant's position being preferred over that of the police officers. Accordingly, it is considered that Chief Inspector L was justified, on balance, in not upholding the complaint.

It is therefore concluded that this complaint was dealt with to a reasonable standard. No further action is required in this connection

## 5. Conclusions

---

### Complaint 1: Failure to recognise criminal actions

It is concluded that this complaint was not dealt with to a reasonable standard. It is recommended that Police Scotland reassess the applicant's complaint with regard to the comments made in this report. The applicant should be provided with a further response outlining Police Scotland's findings.

### Complaint 2: Failure to investigate assault

It is concluded that this complaint was dealt with to a reasonable standard. No further action is required in this connection.

### Learning Point

During the course of the review it was noted that the statements provided by Constables E and F follow a very similar format, with some sentences having only minor differences. The same is also true of the statements provided by Constable G and H. As such, it is difficult to avoid the impression that a degree of collusion has occurred between the constables when preparing their statements. Were civilian witnesses to submit such statements, it would naturally give rise to doubts over the reliability of their accounts. The situation is no different for police officers. The PIRC has raised similar concerns in previous reviews (e.g. PIRC/00412/15, PIRC/00509/15 and PIRC/00403/16).

It does not appear from the papers provided that this issue was identified by Inspector K or Chief Inspector L during their handling of the complaint. As a learning point, Police Scotland should remind all officers that, as per section 6.8.10 of the Complaints About the Police Standard Operating Procedure, their statement must be their own version of events rather than a copy of a colleague's statement.

**Euan Toner**  
Review Officer

**Catherine Cumming**  
Acting Senior Review Officer