

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 after Police Scotland responded to an allegation that the applicant’s mother was being attacked at her home address. Two complaints were reviewed, namely:

- 1) that the applicant does not believe that officers were justified in forcing entry to his house; and
- 2) that the applicant believes there was no investigation to establish who made the allegation.

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

3. Background

The applicant resides with his mother, Mrs A. Constables B and C attended at their address shortly after midnight on Monday 11 July 2016 after Police Scotland received a report, via Crimestoppers, that Mrs A was being assaulted.

Mrs A initially answered the door and spoke briefly with the officers. She thought they may have attended at the wrong address and directed them to a neighbour's property. Constables B and C contacted the Area Control Room to clarify the name and address of the person it was believed was being assaulted, and Mrs A's details were confirmed. Constables B and C then re-attended at the applicant's address.

On the second occasion, the applicant answered the door and was unwilling to admit the officers to the property. The officers informed the applicant that they required to enter the house to ensure Mrs A's wellbeing.

The applicant submitted his complaints about the police by telephone on 12 July 2017. Sergeant D was appointed to investigate the applicant's complaints and noted statements from the applicant and Mrs A on 22 July 2016. Chief Inspector E responded to the applicant's complaints by letter of 19 October 2016.

4. The Review

Complaint 1: Forced entry

The applicant complains that he does not believe Constables B and C were justified in forcing entry to his home.

Police Handling of Complaint 1

Chief Inspector E provided the following response:

"It is clear that the officers entered your home without your permission. They did so by entering through the opened front door, and whilst no physical force was used, they were knowingly entering against your wishes. The question to be determined is whether they were legally justified in this action.

Police officers may force entry into premises as part of a spontaneous incident requiring immediate attention. A police constable is empowered at common law to enter a house without warrant for the purpose of protecting life and property.

Both officers have provided statements that they were exercising their common law powers to enter your home for the purpose of protecting life. Given the information available to them that an elderly

woman was being attacked, it was reasonable for them to suppose that person's life or wellbeing may be in jeopardy if they did not act. The officers did not know at that time whether there was any other persons within the address, either an attacker or victim. I have determined that their decision to enter the property against your wishes was reasonable and justified in the circumstances, this complaint has therefore not been upheld."

Consideration of Complaint 1

The Police Scotland complaint file was provided to the PIRC during the review process. This contains the Police Scotland incident report, the operational statements of Constables B and C and statements noted from the applicant and Mrs A. Guidance available to officers within the Police Scotland Forced Entry to Premises Standard Operating Procedure ("the Forced Entry to Premises SOP") was also provided.

Within her letter of response, Chief Inspector E stated that a Police Constable is empowered at common law to enter a house without a warrant for the purposes of protecting life and property. This is consistent with the guidance provided at Section 2.3 of the Forced Entry to Premises SOP. The Police Scotland complaint investigation considered the nature of the allegation reported to the police (as recorded on the incident report) and the statements provided by Constables B and C which record the officers' concerns about Mrs A's welfare and their rationale for entering the property without the applicant's permission. Chief Inspector E explained in her response why she considered Constables B and C to have acted in accordance with relevant procedures based on her assessment of the information available to them during the incident.

It is considered that the complaint response is supported by the material information available and is adequately reasoned. Accordingly, it is concluded that the complaint was dealt with to a reasonable standard. No further action is required in this connection.

Complaint 2: Lack of investigation

Within his statement of complaint, the applicant recorded that there had been no investigation into who made the original call and that they (the caller) "*haven't been dealt with*". He further noted that he was given contradictory information about whether or not Police Scotland knew the identity of the caller.

Police Handling of Complaint 2

Chief Inspector E provided the following response:

"You told us that there has been no investigation into who made the original allegation to the police, and that you were dissatisfied with the lack of consequences to that person for making a false allegation. You also stated that you have been given contradictory information.

From my enquiries I can confirm that the source of the allegation was an anonymous report to Crimestoppers. Reports made to this organisation are sent to the police force concerned. Where the report refers to an ongoing incident that requires an immediate response, the police officer who

receives the information will contact the Area Control Room to ensure that police officers are sent to deal with the matter.

Crimestoppers is an independent charity which is set up to allow people to report crime anonymously. They are specifically organised in a way that does not record or pass on the details of anyone who contacts them. They do not trace phone calls and have never given the police information about their callers. It is clear that there is no possible method to trace who alleged your mother was being attacked.

As a matter of course the Area Control Room will attempt to identify and, where necessary, contact and update the person who reported an incident to the police. As there was no possible further line of enquiry to identify this person, and that this was apparent to the Area control Room at the time of the incident, I cannot agree with your allegation that no investigation was carried out into this. It was impossible for any further investigation to occur. I will however further examine the contradictory information that was given to you when you made your complaint.

You stated that you had received contradictory information about whether Police Scotland knew the identity of the person who made the allegation. I can confirm to you that we do not know who this person is.

I believe the confusion over this matter is due to the way the information was recorded by the Area Control Room. The computer record that was created states "CRIME STOPPERS VIA [Detective Constable F]". Detective Constable F is a police officer that received the anonymous information from Crimestoppers and who then telephoned the Area Control Room. It is apparent from my investigation that the wording of the computer record wrongly implies that [Detective Constable F] is the name of the caller, and this has misled the officers who examined it. You were told contradictory information and led to believe that the identity of the source was known. I therefore uphold this complaint.

This has been a regrettable error on the part of Police Scotland. I have identified it as a training need and I have taken steps to prevent any reoccurrence. Feedback has been provided to the Area Control Room to be specific when recording incidents involving Crimestoppers that the source has been anonymous.

I wish to extend my apologies for this error."

Consideration of Complaint 2

The Police Scotland response explains that the identity of those providing information to Crimestoppers remains anonymous. This is supported by a guarantee of anonymity which is detailed on the Crimestoppers website as follows:

“Our guarantee of anonymity is vitally important to both you and us. It makes it easier for you to come forward, breaking the silence around criminal activity and removing your fear. Anonymity makes the difference.

We guarantee:

- *You will not be asked to reveal your name or any personal details.*
- *Your call will not be recorded.*
- *We have no caller line display, no 1471 facility and have never traced a call.*
- *Online reports have the same level of anonymity as phone calls.*
- *Our specially trained call agents make sure your report contains no information that could identify you.*
- *We do not make a note of gender, accents, apparent age or ethnicity of any caller.*
- *Even if you give personal details, they will not be recorded or passed on.”*

Accordingly, it is considered that Police Scotland’s explanation about why it was unable to trace the person who contacted Crimestoppers is supported by the material information available.

However, the applicant informed the PIRC that he considers Police Scotland’s position (that the source of the allegation was anonymous) to be incorrect, as records show that Detective Constable F made the initial call to the Area Control Room (ACR). He also noted in his statement that, shortly after he made his complaint on 12 July 2017, he received a telephone call from Sergeant G who *“indicated that he did know who made the original phone call to the police”*.

During the review, Police Scotland confirmed to the PIRC that information can be received from Crimestoppers through several routes. That information is assessed and forwarded to the relevant Police Scotland division. As explained in the complaint response, where more urgent action is required, the officer receiving the information on behalf of Police Scotland would contact the ACR to ensure local officers attend. Outwith office hours (as was the case in the incident involving the applicant), information received through the Crimestoppers system is filtered through a central unit. Detective Constable F, who is based in that central unit, received the anonymous allegation that Mrs A was being assaulted and reported the matter to the ACR, which explains why her name was recorded on the incident log.

Chief Inspector E accepted that this factor led to some confusion as it could be interpreted that Detective Constable F was the original source of the information, rather than relaying an allegation received by Police Scotland anonymously via Crimestoppers. The applicant’s complaint was therefore upheld on the basis that he was provided with contradictory information that led him to believe the identity of the person who made the original allegation was known. Chief Inspector E apologised to the applicant and explained the steps taken by Police Scotland to ensure clarity in the recording of incidents reported through Crimestoppers, which the PIRC considers to be an appropriate and proportionate course of action.

As the complaint response is supported by the material information available and as adequate steps were taken by Police Scotland to ensure that information received from Crimestoppers is correctly

logged in future, it is concluded that the complaint was dealt with to a reasonable standard. No further action is required in this connection.

5. Conclusions

Complaints 1 and 2

It is concluded that the complaints were dealt with to a reasonable standard. No further action is required in this connection.

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