

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

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## 1. Role of the PIRC

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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

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The complaint in this case arose from Police Scotland’s decision to refuse the applicant’s firearms certificate application. One complaint was reviewed, namely:

- that the applicant was unhappy with the information provided to him by an Inspector during a meeting in November 2015.

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

### 3. Background

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The applicant was twice refused a shotgun certificate by Police Scotland in August 2009 and October 2015. After receiving the second refusal letter, he contacted Police Scotland to discuss the matter as he had concerns about the firearms licensing process. A meeting was arranged between the applicant and staff from Firearms Licensing Department on 17 November 2015 to discuss the applicant's concerns. During the meeting, the applicant informed Police Scotland that he also had air weapons. Due to a legislative change, these would require to be licensed with effect from 31 December 2016. According to the applicant, the inspector present at the meeting advised him on the storage of his weapons and stated that he should reapply for a shotgun certificate in approximately 18 months. The applicant informed the PIRC that the inspector also stated *"with confidence"* that his air weapons certificate would be granted before the December 2016 deadline. The applicant subsequently submitted an application for an air weapons certificate which was refused on 28 November 2016.

The applicant submitted his complaint about the police by telephone on 29 November 2016. Chief Inspector A contacted the applicant by telephone on 14 December 2016 to discuss his complaints, and responded formally by letter of 22 December 2016.

### 4. The Review

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#### The Complaint

The applicant complains that he was unhappy with the information provided to him by Inspector B during his meeting with Police Scotland in November 2015.

Within an email to Firearms Licensing Department (on 22 November 2016, during the application process) the applicant stated, in relation to his air weapons certificate, that the inspector had told him *"just to apply and I would have my certificate"*.

#### Police Handling of the Complaint

Chief Inspector A provided the following response:

*"I refer to your recent complaint about the police in which, upon your initial contact with Police Scotland via telephone on 29 November 2016, you expressed concerns about the information provided to you by [Inspector B] in October 2015. You allege that he advised you to obtain a gun cabinet for your guns and to reapply for a firearms/air weapon licence in future, which was not granted, and as such you felt that you were being 'picked on'.*

*Firearms Licensing retain a record of meetings conducted with applicants regarding firearms certificate applications and have no record of a meeting between yourself and [Inspector B]; now retired, however we have a record of a meeting between yourself, [Inspector C] and [Sergeant D]*

*on 17 November 2015, which was requested by you following refusal of your shot gun application. I understand that the aforementioned officers took the time to explain the reason for the refusal of your application, further to you being sent a letter outlining the reasons, and advised you regarding any future applications and the associated security to store firearms that would be required, should any subsequent application be successful.*

*You will recall that I contacted you by telephone on 14 December 2016 to discuss your complaint and ascertained that this complaint had been prompted by a recent refusal from Police Scotland of your application for an air weapon certificate also. During our conversation I established the nature of your complaint and can summarise this as you being dissatisfied with the decisions taken by Police Scotland to refuse your application for a shotgun certificate in 2015 and more recently, an air weapon certificate, which you deem to be unfair.*

*You were sent a letter from Police Scotland outlining the details of the decision and rationale for being refused both a shotgun and air weapon certificate; letters dated 09 October 2015 and 28 November 2016 respectively, and both refused on the grounds that the Chief Constable is not satisfied that you can be permitted to possess a shot gun or air weapon without danger to public safety. You were also provided with information in both letters regarding how you may appeal the decisions to refuse these applications.*

*Accordingly, I am now in a position to advise you that your complaint is not upheld and, as agreed during our aforementioned telephone conversation, in considering all the circumstances I do not propose to take this matter further.”*

## **Consideration of the Complaint**

As a separate route of appeal is available in relation to the refusal of firearms certificates, this aspect of the applicant's complaint cannot be considered within the PIRC's complaint handling review. The review is therefore focused on the applicant's complaint that he was provided with misleading information by Inspector B.

The applicant informed the PIRC that he was unhappy with Police Scotland's response to this aspect of his complaint, as he was informed that the meeting of 17 November 2015 was attended by Inspector C and not Inspector B. The applicant was asked to provide the PIRC with any letters or emails that may evidence his meeting with Inspector B, however he was unable to do so as he recalled the meeting being arranged by telephone.

Section 6.12.6 of the Police Scotland Complaints about the Police Standard Operating Procedure (“the Complaints SOP”) provides that the decision whether to uphold a complaint must be taken based on the ‘balance of probabilities’. That is whether, based on all available evidence, one version of events is considered to be more probable than another. Where conflicting accounts cannot be reconciled, the complaint will not be upheld, however an explanation as to why must be provided.

In the applicant's case, it is not in dispute that a meeting took place between the applicant and firearms licensing staff. Although there is some disagreement about which inspector attended the meeting, the Police Scotland records provided to the PIRC support Police Scotland's position that the applicant met with Inspector C rather than Inspector B. Sergeant D was also present. The meeting was not tape recorded, however a short file note of the meeting shows that the applicant's air weapons were discussed. It is therefore considered that Inspector C and Sergeant D should have been asked to provide statements clarifying the content of the discussion, and to confirm whether or not the applicant was given any expectation that his air weapons certificate would be granted prior to the December 2016 deadline. As no accounts were obtained from Inspector C and Sergeant D, it is considered that insufficient enquiry was carried out to allow Chief Inspector A to assess 'on balance' whether the complaint should be upheld. It is therefore concluded that the complaint was not dealt with to a reasonable standard.

It is recommended that statements be obtained from Inspector C and Sergeant D to clarify the content of their discussion with the applicant about his air weapons. Police Scotland should ascertain whether the applicant was given any expectation that an air weapons certificate would be granted and, if so, whether it was appropriate to raise his expectations in that regard. A further response should then be issued to the applicant that re-assesses whether or not his complaint should be upheld.

## 5. Conclusions

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### Complaint

It is concluded that this complaint was not dealt with to a reasonable standard. It is recommended that statements be obtained from Inspector C and Sergeant D to clarify the content of their discussion with the applicant about his air weapons. Police Scotland should ascertain whether the applicant was given any expectation that an air weapons certificate would be granted and, if so, whether it was appropriate to raise his expectations in that regard. A further response should then be issued to the applicant that re-assesses whether or not his complaint should be upheld.

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