

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 complaint in this case arose from the applicant being informed that Police Scotland had received enquiries from the press regarding him being subject to a misconduct investigation.

A single complaint was considered, namely that Police Scotland failed to appropriately investigate possible leaks to the media, and did not advise the applicant of the outcome of this investigation.

The review found that this complaint was dealt with to a reasonable standard, however it was considered necessary to make a recommendation in this connection.

3. Background

The applicant is a former police officer who retired from Police Scotland in June 2014. He had previously been a Detective Inspector within a legacy force area Counter Corruption Unit (CCU), and had additionally temporarily performed the role of acting Detective Chief Inspector in the same Unit. He was removed from his post within the legacy area's CCU in February 2013 after a misconduct investigation.

Following this, the applicant raised several concerns about the police relating to investigations conducted by CCU. The applicant first raised these concerns with the then Temporary Deputy Chief Constable and subsequently with the Crown Office and Procurator Fiscal Service (COPFS).

In October 2013 the applicant submitted a letter to Superintendent A stating that it was also his belief that information about him had been leaked to the media.

As a result of the applicant's continued correspondence, Chief Superintendent B was designated the applicant's point of contact. On 17 April 2014, the applicant submitted a statement to Chief Superintendent B providing substantial background information and listing the areas of "complaint" that he wished to be treated as formal Complaints About the Police.

Chief Superintendent B investigated the matters reported by the applicant, and in May 2015 submitted a report into the applicant's allegations to Deputy Chief Constable C.

Further enquiries were subsequently made by Inspector D of the Professional Standards Department, who submitted a report to the then Head of the Professional Standards Department, in December 2015.

A final letter dated 8 February 2016 responding to allegations made by the applicant was ultimately issued by Chief Superintendent E, the new Head of the Professional Standards Department.

4. The Review

Complaint: Failure to record or investigate media leaks

In his statement of complaint provided to Chief Superintendent B on 17 April 2014, the applicant stated:

“Following reporting unfit for duty on 11 Feb 2013, I was twice on separate occasions, months apart, contacted by [Temporary Chief Superintendent F] to be informed that a reporter... had made enquiries about me (twice; separate enquiries) asking if I were being investigated. Solcara media system recorded the exact request I have not seen same though. All such requests made are recorded and initially investigated by the [legacy force] CCU as press leaks. This has been procedure for at least the 12 or so years... No one from CCU contacted me regarding this, although in fact, I did have one

call from [Detective Chief Inspector G] to say that she hadn't heard of this because she was not "on call" that particular weekend, so she did actually know about it.

In any case my belief is nothing is or was recorded within [legacy force] CCU as it should have been and certainly no investigation took place, or any contact with me about any such investigation from the CCU."

Police Handling of Complaint

In her letter of response dated 8 February 2016, Chief Superintendent E wrote:

"You also provide that on two occasions you were contacted and advised that a member of the media had contacted Police Scotland asking if you were being investigated.

You further provide in correspondence submitted to the Deputy Chief Constable's Office dated the 13 January 2014 that you were also approached by a member of the media outside your home address.

You allege that no investigation was conducted into this potential breach of your personal data.

I have assessed and recorded this allegation as an Irregularity in Procedure.

I have reviewed this incident and established that an enquiry was carried out and I have identified documentation which clearly shows the appropriate Counter Corruption Unit checks were indeed conducted.

Your allegation is therefore not upheld"

Consideration of Complaint

Paperwork provided to the PIRC by Inspector D confirms that the reported "leaks" were analysed by the CCU at the time and systems audits conducted to establish if there had been any unauthorised access, however no breach of the Data Protection Act was established. Furthermore, the Solcara system notes that the information volunteered in the press enquiry itself was "totally inaccurate". As a result, CCU concluded that any media interest was "external to the organisation and amounted to proactive journalism".

Chief Superintendent E has also confirmed to the PIRC that in the cases the applicant has outlined, Temporary Chief Superintendent F contacted the applicant at "the earliest opportunity" to ensure he was aware of any media interest in him.

In this respect, Chief Superintendent E has correctly explained to the applicant that the source of the alleged "leaks" had not been investigated as it could not be established that any "leaks" had occurred at all. In this respect, there would have been no requirement to update the applicant regarding the outcome of any investigation as no investigation took place.

However it is considered that not all aspects of the applicant's complaint have been addressed. Paragraph 6.12.8 of the Complaints SOP provides that if during the complaint investigation information is uncovered which shows a failing on the part of the police, which has not been made as a specific allegation but which would likely be upheld if it had been, then this should not be ignored. In multiple pieces of correspondence dated between August 2013 and March 2014 addressed to both Superintendent A and Deputy Chief Constable C, the applicant queries whether or not any potential media leaks have been investigated, and asks to be informed of the outcome of any such investigation. It is therefore considered that the reason for the applicant's making this particular complaint is that he was not provided with an outcome, i.e. it was not explained to him at any time that no investigation had been conducted or the reason for this. Had an explanation regarding the lack of investigation been provided to the applicant when he first queried this, then it is reasonable to assume that the applicant may not have complained about this particular matter.

As the substantive aspects of the applicant's complaint have been addressed and the response is supported by the material information available, it is concluded that this complaint was dealt with to a reasonable standard. However it is recommended that a further letter of response be sent to the complainer apologising for their oversight in not advising him of this position sooner.

5. Conclusions

Complaint: Failure to record or investigate media leaks

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