

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**

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’s car being seized by Police Scotland.

The single complaint considered was that police officers arranged for the removal of the applicant’s vehicle when it was not causing an obstruction and without giving the applicant the opportunity to move the car herself.

It was found that the complaint was dealt with to a reasonable standard. No recommendations were made.

3. Background

On the evening of 4 November 2016 Police Scotland's Area Control Room (ACR) received a call from Mr A, who reported that the applicant's car was parked on a residential street in such a way that it was causing an obstruction.

The call was attended by Constables B and C. Constable B conducted a Police National Computer (PNC) check on the vehicle's registration, identified the applicant as the owner and obtained her address from the ACR.

Constables B and C thereafter attended at the applicant's home address however did not receive an answer at the door. Constable B also attempted to call the applicant on the telephone number provided by the ACR however likewise did not receive a response, thus Constable B posted a contact card through the applicant's front door. Constable C thereafter contacted the ACR to arrange for a recovery vehicle to attend and uplift the applicant's car.

The following morning, the applicant contacted Police Scotland to report that her car had been stolen, however was informed that it had in fact been removed and was available to uplift from a local storage facility.

The applicant submitted a letter of complaint to Police Scotland dated 23 November 2016. The applicant's complaint was allocated to Inspector D, who attempted to make arrangements with the applicant to obtain a statement of complaint from her, however this was unsuccessful. The matter was thereafter passed to Sergeant E, who was similarly unsuccessful in engaging with the applicant.

A final letter dated 23 December 2016 responding to the applicant's complaint was issued by Chief Inspector F.

4. The Review

Complaint: Not contacted to facilitate removal

In her letter dated 23 November 2016, the applicant complained that she had not been contacted to advise that her car was causing an obstruction, nor was she given the opportunity to "witness" the obstruction. The applicant further stated that she did not believe her car was causing an obstruction at the material time, and that she felt she had been unfairly treated by Police Scotland as she believed the situation could have been resolved differently.

Police Handling of Complaint

In her letter of response dated 23 December 2016 Chief Inspector F wrote:

“You described that you had parked your [car] near to you home on the evening of Friday 4th November. When you returned to drive the car again on Saturday 5th November, you found that it was no longer where you left it and you assumed it had been stolen. You stated that the car was not causing an obstruction as it was parked fully on a leaf covered, sloped and muddy grass verge, not suitable for pedestrians. You supplied photographic evidence to support your position, including photographs of your car as previously described, although presumably on a subsequent date. You stated that other vehicles often park in the same position and emphasise that when you had parked your car, the road was clear to drive up and down. You further informed us that, after previous involvement with Police, our organisation had possession of contact numbers for you and should have made efforts to call you, attend your home address or leave a note on your windscreen if necessary. You also cited occasions, during large scale events [locally], when cars have been uplifted and re-positioned elsewhere on street [sic]. You feel that on this occasion your vehicle could have been similarly re-positioned rather than be removed to the [recovery garage].

The first police officer [Constable C], who requested the removal of your vehicle, has provided a statement. He describes how he was sent to [the locus] after a member of the public had reported that large vehicles and emergency vehicles would not be able to drive along the road because of the position of your car. When the officer arrived about 6.45pm he saw your car... parked with two tyres on the grass/mud and the other two tyres on the roadway. He reports that yours was the only car parked on that side of the road. He was unable to drive his police van along the road because of the obstruction your car was causing. He confirms that checks of the Police National Computer revealed your details as the car owner, including your address. He confirms that he attended, but received no reply when he rang your buzzer. He was granted access to the close by a neighbour. The officer noted that there appeared to be lights on within your home and had seen that window blinds were half open, but received no reply from knocking repeatedly at your door. His colleague attempted to contact you using the mobile number available on police systems, to no avail. His colleague then filled out a Police Scotland contact card with details of the incident and contact numbers before posting it through your door. The officer then implemented the standard Police Procedure for the removal of vehicles causing obstructions – namely arranging the attendance of [recovery service] who took your car to their yard. He finally described how the [recovery operative] was unable to drive his van into the road due to the position of your car. The officer left the area about 8.35pm.

The second officer [Constable B] also confirms his attendance following a report from a member of the public about your car causing an obstruction. He arrived, to see your [car] parked on the mud/grass verge with two tyres on the roadway. He also describes how there was insufficient room for the police van to be driven past your car. The officer then conducted a search of the Police National Computer, before requesting efforts be made to gain contact numbers for you. He made several attempts to contact you by phone. He attended at your flat, repeatedly knocked loudly on your door, but received no reply. He then filled out and posted through your front door, a Police Scotland contact card with the incident number and his contact details. Before leaving, he again tried contacting your

telephone, but could not hear it ringing within your flat. The officer also describes how, when the removal van attended, the driver had to reverse into the street due to the obstruction your vehicle was causing. During this time, and due to the presence of the brightly lit removal truck, several members of the public approached him to enquire what was happening.

[Sergeant E] has traced the member of the public who initially alerted police to the obstruction your car was causing. He confirms that your car was parked on the grass verge in such a manner that it narrowed the road severely. He had seen it parked in similar circumstances previously and some days earlier he had left a note on your windscreen advising that if the car continued to cause an obstruction, he would call the police. The note was later removed, but the car continued to be left in the street. On the night he called us, he had concerns that the manner in which your car was parked would prevent large or emergency vehicles entering the street.

It is your belief that your car was parked in a manner which did not constitute an obstruction. However, it is clear from the evidence of the witness and the police officers concerned that this is not the case. This matter did not constitute an incident where a Temporary Traffic Regulation Order would have allowed for a re-positioning of your vehicle. In addition, the officers made concerted efforts to alert you prior to removing your vehicle. Officers followed the clearly set out Police Scotland Seizure of Vehicles Standard Operating Procedure. Given these circumstances, your complaint is not upheld.”

Consideration of Complaint

The bulk of the evidence available from the paperwork provided by Police Scotland, i.e. the statements of Constables B and C and of Mr A, the radio transmissions between the officers and the ACR, and the photographs taken by the driver of the recovery vehicle before the car was removed – points to the applicant’s vehicle causing an obstruction at the time Constables B and C attended. The statements of Constables B and C further support that their Police Scotland vehicle and later the recovery vehicle itself could not access the road beyond the applicant’s car due to the manner in which it had been parked. On this basis Chief Inspector F is correct to conclude that Constables B and C were acting in accordance with the provisions of Police Scotland’s standard operating procedure in relation to Seizure of Vehicles (the “Vehicle Seizure SOP”) by requesting it be moved.

However it is considered that the crux of the applicant’s complaint is not that her vehicle was removed for causing an obstruction, but that she was not contacted by Police Scotland to advise that her car was considered an obstruction and therefore needed to be moved, or to advise that it had been moved at the request of Police Scotland and would require to be collected from a different location.

In this respect, both Constables B and C state that they obtained the applicant’s contact details from the Area Control Room and telephoned her several times with no response, attended at her address with no response, and thereafter posted a calling card through her door. These statements are supported by the radio transmissions, where Constable B can clearly be heard advising the ACR that

they have attended at the applicant's home however received no response, and thereafter had attempted to call the number provided by the ACR with no success.

Enquiry by the PIRC has established that the telephone number passed to the officers by the Area Control Room was not the mobile telephone number in use for the applicant at that time, albeit the number was provided to officers with the proviso that the information dated from 2015 and therefore may be no longer valid. However there is no question that the officers attended at the correct address for the applicant yet received no response from her flat buzzer or by knocking at her door.

The applicant believes that officers should not have moved her car if they could not get in contact with her, or could have moved her car to a different location rather than having it taken to the recovery garage. That the applicant's car was causing an obstruction on the road and therefore required to be moved in accordance with the Vehicle Seizure SOP is discussed above. However the applicant has also stated that she did not receive the calling card left by Constables B and C and was therefore unaware that her car had been moved on instruction of Police Scotland, and instead believed it had been stolen. Had the applicant's car been moved to a different location as she suggests, then the calling card would still be the means by which she was alerted to this fact, therefore the ultimate location of the car is irrelevant to the question of whether or not Constables B and C made reasonable efforts to inform the applicant that the car was being moved at all.

In this respect, the evidence available from the paperwork provided by Police supports that Constables B and C made reasonable attempts, with the information they had been given, to advise the applicant that her car required to be moved before instructing the recovery agent to remove it. It is accepted that the telephone number for the applicant which was passed to officers was not correct, and this could have been highlighted in Chief Inspector F in his letter of response. However as this was not the only method used by officers to try to contact the applicant, and as the statements of Constables B and C provide mutual support in respect of a calling card being posted through the applicant's front door, it is considered that Chief Inspector's F's conclusion that "*the officers made concerted efforts to alert you prior to removing your vehicle*" is well-reasoned.

Furthermore, Chief Inspector F has supported her conclusion with reference to the relevant Police Scotland procedures and has provided the applicant with a detailed response which addresses the areas of concern raised by the applicant in her original correspondence and describes the evidence which has been utilised by Chief Inspector F to inform her conclusion.

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

Jennifer Millar
Review Officer

Catherine Cumming
Acting Senior Review Officer