

Report of a Complaint Handling Review in relation to Police Scotland

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1. Role of 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 the police officers attending to search the applicant’s address under warrant. Two complaints were reviewed, namely:

- 1) that an officer refused to let the applicant take his medication; and
- 2) that an officer activated the blue lights and siren, and overtook other vehicles whilst the applicant was being transported to the police office

The review found that neither of the complaints were dealt with to a reasonable standard. Two recommendations were made.

3. Background

About 10:00 am on 5 November 2016, police officers attended at the applicant's home address to execute a search warrant for counterfeit goods.

The terms of the warrant were read over and explained to the applicant who was within the property when police gained entry. About this time, the applicant was seated on the couch in the living room when he reached for his medication which was lying on the living room table. The medication consisted of several small tablets within a dosset box and an inhaler. According to the applicant, one of the officers in attendance, Constable A, took the medication from him and prevented him from taking it.

A systematic search of the property then commenced and officers found a quantity of controlled drugs within the premises. About 10:45 am, the applicant was detained under the terms of Section 14 of the Criminal Procedure Scotland Act 1995.

The applicant was then transported to Police Office Q within a vehicle driven by Constable A. At some point during the journey Constable A activated the blue lights and siren and overtook several other vehicles.

The applicant made his complaint via telephone on 5 November 2016. Inspector B was appointed as the enquiry officer and the applicant received a response to his complaints in writing from Chief Inspector C in a letter dated 28 January 2017.

4. The Review

Complaint 1: Refused medication

The applicant complains that, at his home address, Constable A prevented him from taking his inhaler and prescribed tablets.

Police Handling of Complaint 1

Chief Inspector C responded to the applicant's complaint as follows:

"Firstly you state that you were in bed when officers entered [address P], and that you were taken from the bedroom to the living room and told to put your trousers on. Whilst in the living room, you say that you reached for your tablets at which time the foreign officer took them from you and stated that , 'you'll get done with obstruction and Police assault' thus preventing you from taking your medication. The officers then read over a warrant before taking you around the house to carry out a search..."

The officers involved have provided their accounts of the incident.

In relation to you not being allowed to take your medication, the officer referred to states that he did indeed prevent you from taking tablets, which is in line with standard operating procedures. The management of medication given to an individual in police custody is the responsibility of a health care professional. The officer does state that you were permitted to use your inhaler. Which is supported by all other officers present. I am therefore unable to find that the officer acted incorrectly or beyond his powers and I cannot uphold your complaint."

Consideration of Complaint 1

The applicant in this respect complains that he was prevented from taking both his inhaler and his prescribed tablets.

The response in this connection acknowledges that the applicant was prevented from taking his prescribed tablets, but reasons this course of action was consistent with the relevant standard operating procedures which dictate that when an individual is in police custody, it is the responsibility of a Health Care Professional (HCP) to administer their medication.

The police response in this respect is supported by paragraph 18.3.1 of the Care and Welfare of Person in Police Custody Standard Operating Procedure ('Care and Welfare SOP') which states:

"The management of all medication given to an individual whilst in police custody is the responsibility of the HCP."

However, the response thereafter refers to evidence to support the position that the applicant was allowed to take his inhaler. As an inhaler is also prescribed medication, and arguably subject to the same provisions of the Care and Welfare SOP, it is difficult to understand why the response reasons that officers were justified in preventing the applicant from taking one form of medication but allowed him to take another.

In addition, it is also clear that the relevant provisions of the Care and Welfare SOP refer to persons in police custody. From the evidence available, the applicant was not detained or arrested when he was prevented from taking the tablets and the search of his property had not yet commenced.

Furthermore, the officer who read the terms of the search warrant to the applicant, Constable D, records within his account that he informed the applicant that he was not required to remain at the property for the duration of the search.

Accordingly, as the applicant was not formally detained, and as the evidence would suggest that he was offered the opportunity to leave the property while the search took place, it is difficult to follow the reasoning within the response that officers were justified in preventing the applicant taking his tablets because he was in police custody. In addition, as above, this approach is inconsistent with the decision to allow him to take his inhaler.

Accordingly, and for these reasons, it is considered that the response is inadequately reasoned.

It is therefore concluded that this complaint has not been dealt with to a reasonable standard.

It is recommended that Police Scotland reassess the complaint on the basis of the points outlined above and issue the applicant with a fresh response.

Complaint 2: Activated blue lights and siren

The applicant complains that Constable A activated his blue lights and siren and overtook other vehicles whilst the applicant was in the rear of the police vehicle.

Police Handling of Complaint 2

Chief Inspector C responded to the applicant's complaint as follows:

"...You further state that whilst being taken to [Police Office Q], the same officer, while driving was putting on the blue lights and overtaking with you in the back, which you believe was unnecessary..."

In relation to your complaint regarding the manner of driving, the officers who were present state that whilst en route to [Police Office Q] you complained of feeling unwell, and having confirmed that there was a doctor at the police office, they wanted to attend without delay. The

officer driving states that whilst travelling on a 'national speed limit' road, you were being held up unnecessarily by slow moving traffic and he chose to carry out overtaking manoeuvres in a safe manner, which is supported by the other officer present. From your custody record, you arrived at Hamilton at 1114hrs and were seen by a doctor at 1150hrs. I am therefore unable to find that he officer acted incorrectly or beyond his powers and cannot uphold your complaint."

Consideration of Complaint 2

As reflected in the response, it is a matter of concession that Constable A activated his blue lights and siren and overtook several other vehicles when he was transporting the applicant to Police Office Q.

The officers in the vehicle have both provided a statement outlining their respective versions of events in relation to the activation and use of the blue lights and siren. According to Constable A the applicant complained of feeling unwell when in the vehicle and disclosed to him that he suffered from a heart condition and was experiencing abdominal pains. Constable A then states that the control room confirmed there was a police casualty surgeon at Police Office Q, and he made the decision to activate his blue lights and siren and performed an overtaking manoeuvre in order to convey the applicant to the police office as quickly as possible. Constable A's account is supported by the account provided by Constable E. The position of both officers in this respect is accurately reflected in the response.

The response thereafter explains that the applicant was then seen by a doctor 45 minutes after his initial arrival at the police office.

Based on this fact, and in light of the concern for the applicant's welfare, Chief Inspector C determines that she is unable to uphold the applicant's complaint or find that the officer, Constable A, acted out with his powers.

However, it is noted from the applicant's statement of complaint that he makes no reference to telling officers that he felt unwell. Furthermore, from reviewing the relevant STORM incident, there is no update to confirm that Constable A contacted the control room based on this information to verify there was a casualty surgeon at the police office so that the applicant could be provided with medical assistance upon arrival.

In addition, although the use of emergency blue lights and a siren are only permitted in certain situations based on their relative degree of importance and/or urgency, the response in this connection fails to address why, in light of the allegedly serious and imminent concerns for the applicant's health and wellbeing, the officers did not convey him to a hospital in the first instance. The response also fails to address why, given these concerns, there was the aforementioned delay of 45 minutes before the applicant was seen by a doctor during which time he was taken through the solicitor access procedure and was placed in a cell.

It is therefore considered that this response is inadequately reasoned and does not properly reflect the evidence available.

It is therefore concluded that this complaint was not dealt with to a reasonable standard.

It is recommended that Police Scotland reassess the complaint in light of the points outlined above and issue the applicant with a fresh response.

5. Conclusions

Complaint 1: Medication refused

It is concluded that this complaint has not been dealt with to a reasonable standard.

It is recommended that Police Scotland reassess the complaint on the basis of the points outlined above and issue the applicant with a fresh response.

Complaint 2: Activated blue lights and siren

It is concluded that this complaint was not dealt with to a reasonable standard.

It is recommended that Police Scotland reassess the complaint in light of the points outlined above and issue the applicant with a fresh response.

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