

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 complaint in this case arose from officer repeatedly attending at the home address of the applicant to search for her son who had absconded from prison. One complaint was reviewed, namely that officers stood on top of and damaged the applicant’s fridge/freezer unit.

The review found that the complaint was dealt with to a reasonable standard. No further action is required in this connection.

3. Background

According to the applicant, between December 2015 and January 2016, officers from Police Scotland attended at the applicant's home address on several occasions to search for her son who had absconded from prison.

During these searches the applicant states that her loft space was searched . In order to gain access to her loft, the applicant believes officers stood on top of her fridge freezer which is situated underneath her loft hatch.

On 24 December 2015, the applicant's fridge freezer stopped working and she was forced to replace it.

The applicant made her complaint in a letter dated 16 February 2016 in a letter communicated via her Member of Parliament (MP).

Sergeant A was appointed as the enquiry officer and Chief Inspector B responded to the applicant's complaint in writing in a letter dated 24 November 2016.

4. The Review

The Complaint

The applicant complains that, whilst conducting a search of her house and loft space, officers from Police Scotland stood on and damaged her fridge freezer.

Police Handling of the Complaint

Chief Inspector B responded to the applicant's complaints as follows:

"On 22 February 2016, Dr [C], logged on your behalf via letter, a complaint regarding the manner in which police-officers searched your address whilst involved in efforts to apprehend a prisoner, your son [Mr D], who had absconded from prison.

Dr [C] highlighted how during the searches of your home police-officers stood on your fridge in order 'to search above head height'. The matter was referred to the Professional Standards department and recorded as a Complaint about the Police.,

I would firstly like to apologise for the delay in responding to this complaint which was caused by efforts to speak to officers, one of whom has since left the organisation. That said, the delay in responding to you in unacceptable for which I would sincerely apologise.

Enquiry was passed to Sergeant [A] , [named] police station to investigate. I understand he contacted you by telephone with regard to your concerns and attended at your house where statements were noted from yourself, your son and the heads of complaint form completed. In the heads of complaint form you highlighted one matter that that [sic] you sought to record as a complaint about the police, namely;-

Sergeant [A] recorded your complaint was [sic] that police officers stood on and damaged your fridge freezer whilst searching your house for your son. This was categorised as an on-duty allegation of 'other- non-criminal' which I have not upheld for the following reasons;-

Sergeant [A] noted statements from you and your son. In your statement you described police officers repeatedly attending your home between December 2015 and January 2016 searching for [Mr D] who had absconded from prison. You describe how police searched your house about twenty four times and on at least ten occasions searched the loft area of your home. You describe your home layout, how there was a new fridge freezer located below the loft hatch and that anyone wishing to access the loft area had to move the fridge freezer prior to doing so.

You stated that you accommodated the requests of police officers to search your house, including allowing them access to your loft space. You state the officers who entered your loft stood on top of your fridge freezer, albeit you never personally saw them do this as you were

elsewhere in the house. You state the officers never arrived with ladders to enter the loft space and that you offered them ladders on each occasion which they declined.

You describe how your fridge was working until Christmas after which it stopped resulting in food being destroyed. You state the fridge was only six months old and comment that you believe it stopped working because police were standing on top of it. You confirm that you have since replaced the appliance, but that you did not ascertain the reason why it stopped working.

In the statement from your son [Mr E] he confirms having been present on various occasions when police attended your house as part of search efforts to trace [Mr D].

He described offering a step ladder to enter the loft space which police officers did use sometimes and then stood on the fridge freezer as opposed to pulling themselves up into the loft. He also confirmed he never saw the officers cause any damage to the fridge freezer but that he never saw anyone else, other than police officers, stand on top of it.

As part of his enquiries Sergeant [A] made enquiries to identify police officers who were working in [named area] in December 2015 to clarify whether they attended your address during the period in question and if they did whether they or any of their colleagues used your fridge/freezer to gain access to the loft space. Enquiries in this regard were negative in that of those spoken to, no officer was identified who confirmed they had stood on the fridge freezer.

Having reviewed all the information gathered by Sergeant [A] I note in your statement that you accept that you never personally saw officers stand on your fridge freezer, but state the officers never arrived with any ladders to get into the loft and that you assume they were standing on your fridge freezer.

Your son [Mr E] describes officers standing on your fridge freezer and using it as a climbing aide to get into the loft. I also note his comment that he could not say for definite that the Police using the fridge freezer as a climbing aide was the cause of the break-down, but if they were not, then it was a huge coincidence. Furthermore, your son stated that on all occasions he saw Police stand on the fridge freezer, he never saw any physical external damage be caused.

I also note that following the break-down of your fridge freezer and prior to your complaint to Police regarding the situation referred to above being made, that the fridge freezer had been disposed off [sic] and a qualified report is not available to clarify why the appliance stopped working.

In conclusion, I have not upheld your complaint on the basis that no other person other than your son [Mr E] speaks to any officer standing on the fridge/freezer, none of the police-officers who attended your address had knowledge of your fridge freezer having been stood on or damaged in any way, and there is no evidence available to clarify why your fridge freezer stopped working. For this reason it is my opinion it is not possible to formulate any reasoned argument one way or another as to what caused the appliance to stop working, albeit I accept that a mechanical failure cannot be ruled out."

Consideration of the Complaint

The applicant has provided an account which is accurately reflected in the response. Within her account, the applicant states that her home, including her loft space, was searched on many occasions in the period between December 2015 and January 2016. According to the applicant, on each occasion the loft space was checked she offered the officers a step ladder but this offer was declined. Accordingly the applicant believes the officers who attended must have stood on the fridge/freezer, which is situated underneath the hatch, in order to gain access to the loft.

However, as reflected in the response, the applicant does state within her account that she did not personally see any officer stand on the fridge/freezer and has formed the belief they did based on the position of the unit to the hatch, and the fact they declined to use the step ladders she offered.

During the course of the complaint investigation, a statement was also noted from the applicant's son, Mr E, which lends support to the applicant's position. In this statement, Mr E states that he was present during the searches and did witness officers stand on top of the fridge/freezer both when attempting to gain access to the loft, and when climbing back down. Again, this account is accurately reflected in the response.

The officers involved in the searches were all asked to provide an account in order to ascertain whether any officer had any knowledge of any officer involved in the searches climbing on the fridge/freezer unit. According to a file note within the complaints file, the officers concerned responded and denied any knowledge of damage being caused to the unit or of any officer standing on top of it. However, there is nothing in the file to explain how the officers did gain access to the loft hatch if they did not stand on the fridge freezer unit, nor is an explanation as to how officers did access the loft offered in the response. Within a file note Sergeant A also thereafter makes reference to an officer mentioning "office talk" concerning a now retired officer who allegedly stood on the fridge/freezer. Sergeant A then made reasonable efforts to trace and speak with this particular officer which were unsuccessful. Accordingly, no account was obtained from this officer and this evidence is also not reflected in the response.

Accordingly, in light of this, and in light of the other evidence available, including the accounts of the applicant and Mr E, the relative position of the fridge/freezer unit to the loft hatch and the lack of any other explanation as to how the officers might have gained access to the loft without standing on the fridge/freezer, the evidence would tend to suggest the fridge/freezer was potentially used as a climbing aid.

However, as explained in the response, there is no evidence available to confirm exactly why the fridge/freezer unit stopped working. Without this evidence, it would be difficult to establish any direct causal link between the potential actions of the officers involved, and the fridge/freezer breaking. Accordingly, and for this reason, it is considered that Chief Inspector E is justified in his decision not to uphold the applicant's complaint and his response is therefore adequately reasoned.

It is concluded that this complaint was dealt with to a reasonable standard. No further action is required in this connection.

5. Conclusions

The Complaint

It is therefore concluded that this complaint was dealt with to a reasonable standard.

No further action is required in this connection.

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