

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 complaints in this case arose from an incident in which the applicant’s car was stopped by two police officers. Two complaints were reviewed, namely:

- (1) That an officer accused the applicant of speeding but later dropped this; and
- (2) That an officer threatened the applicant with arrest.

The review found that one complaint was dealt with to a reasonable standard and one was not. One recommendation is made.

3. Background

At around 4:45pm on 27 November 2014, the applicant was driving his car when he was stopped by Constables A and B.

The officers state that the applicant was informed that the reason for the stop was because they had observed a faulty tail light on his car and wanted to bring it to his attention. The applicant states that he was initially accused of speeding however upon being challenged by the applicant, Constable B then changed his mind and stated that it was due to a faulty tail light.

Constable B asked the applicant to alight from his vehicle, and the applicant complied with this request. The officers then state that the applicant started to act aggressively, keeping his hand in his trouser pocket despite them making several requests for him to remove it. The applicant denies acting aggressively or keeping his hand in his pocket. The applicant was informed that he was going to be searched under section 48 of the Criminal Law (Consolidation) (Scotland) Act 1995 as he was suspected of concealing an offensive weapon. The applicant was searched and no weapons were found.

Constable B requested the attendance of road policing officers to carry out an inspection of the applicant's car. The inspection found no faults with the applicant's car and he was allowed to drive away.

The applicant made various complaints which were responded to by Chief Inspector C in a letter dated 6 July 2016. Although this letter did specifically address two of the applicant's complaints, a complaint handling review conducted by the PIRC at the request of the applicant identified that a further response was required by Police Scotland to fully address other complaints raised by the applicant.

Police Scotland have since provided the applicant with a further response in writing from Chief Inspector D in a letter dated 24 January 2017

4. The Review

Complaint 1: Accused of speeding

The applicant complains that when he was stopped the officer initially accused him of speeding but changed his mind when challenged.

Police Handling of Complaint 1

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

'You told us that when you were stopped by the Police on the first occasion you were initially accused of speeding but the officer changed his mind when challenged

Both officers concerned have submitted further statements and both deny that you were stopped for or accused of speeding. The officers state that the reason for stopping your vehicle was that they believed that your vehicle had a fault with one of the tail lights.

It is therefore my determination that based on the information presented to me your complaint is not upheld.'

Consideration of Complaint 1

The response to the applicant advises that the officers concerned have provided their version of events in which both deny that the applicant was stopped for, or accused of speeding and instead confirms that the applicant was stopped for an alleged faulty tail light.

Having reviewed the statements of both officers, both record that the applicant's vehicle was stopped because of a faulty tail light and deny that the reason for the stop was because the applicant was speeding.

However, it appears to be a point of concession that the tail light was not faulty. Therefore, it is considered that the response has failed to take cognisance of this fact and the weight it potentially lends to the applicant's account. In addition, from reviewing the statements of both officers, neither actually explains why they formed the opinion that the tail light might be broken in the first place.

For this reason, it is considered that the complaint enquiry is insufficient and the response inadequately reasoned. It is therefore concluded that this complaint was not dealt with to a reasonable standard.

It is recommended that Police Scotland:

- a) Obtain further accounts from Constables A and B in which they are asked to explain the reason for the belief that the tail light was faulty;
- b) Based on the further accounts provided, issue the applicant with a further response which considers all the evidence available, including the fact that the officers' belief the tail light was broken was erroneous.

Complaint 2: Threat of arrest

The applicant complains that he was threatened with arrest about the time the officers were searching him.

Police Handling of Complaint 2

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

'Sergeant [E] has reviewed the previous statements submitted by the officers concerned. The male officer states that you were warned regarding your obstructive actions when he was carrying out the search of your person. The female officer states that she requested that you stop struggling and calm down shortly before the search was carried out.'

Further statements were also submitted from the officers to provide clarity and both state that at no time did they threaten you with arrest.

It is therefore my determination that based on the information provided to me, your complaint is not upheld.'

Consideration of Complaint 2

Chief Inspector D's response advises that the officers have both stated that at no time did they threaten the applicant with arrest. This accurately reflects the content of the officers' statements. There is nothing in the papers provided to support the applicant's position that he was threatened with arrest. Accordingly, as there is nothing in the evidence as a whole to warrant the applicant's account being preferred to those of the officers, it is considered that, on the balance of probabilities, the decision not to uphold the applicant's complaint is justified.

It is therefore considered that this complaint was dealt with to a reasonable standard. No further action is required.

5. Conclusions

Complaint 1

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

It is recommended that Police Scotland:

- a) Obtain further accounts from Constables A and B in which they are asked to explain the reason for the belief that the tail light was faulty;
- b) Based on the further accounts provided, issue the applicant with a further response which considers all the evidence available, including the fact that the officers' belief the tail light was broken was erroneous.

Complaint 2

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

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