



Police Investigations &
Review Commissioner

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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 when the applicant reported several incidents of damage to property within her garden. Two complaints were reviewed, namely:

- 1) that Police Scotland failed to make sufficient enquiries and take satisfactory action in relation to a number of incidents; and
- 2) that Police Scotland failed to provide sufficient updates to the applicant in relation to the incidents reported by her.

The review found that one of the complaints was handled to a reasonable standard and one was not. No recommendations have been made.

3. Background

The applicant lives in an upper flat. The property has a communal garden area which is shared with the residents of the downstairs flat. In January 2016, the applicant reported to Police Scotland that she was experiencing issues with her downstairs neighbours i.e. threatening and abusive behaviour, damage to the garden gate, and a dispute over access rights. Once the matter had been resolved, Constables A and B met with the applicant and her partner in May 2016. According to both officers, no further incidents were reported by the applicant or her partner during the meeting. General security advice was discussed and the officers provided the applicant with their contact details should they require to discuss matters further.

On 13 June 2016, the applicant reported several incidents of damage to sections of grass, a water feature, and an ornamental windmill that she believed was deliberately caused by her downstairs neighbours. The incidents were investigated by Constables A and B. As the applicant was away on holiday between 14th and 26th June, their enquiry took place in her absence.

On 3 December 2016, the applicant submitted a complaint about the police using Police Scotland's online complaints system. Sergeant C was appointed to investigate the applicant's concerns, and met with her on 26 December 2016 when a statement of complaint was recorded. The Police Scotland Heads of complaint form was also completed on that date. Chief Inspector D responded to the applicant's complaints by letter of 1 June 2017.

4. The Review

Complaint 1: Insufficient enquiry carried out

The applicant complained that damage to her property had occurred whilst she was at work and that the incidents she reported to the police in June 2016 were not properly investigated. The applicant appeared to view the incidents as a continuation of the issues reported in January 2016. She recorded in her statement *"I feel that if police had intervened and took action initially that I would not have been the ongoing victim of these acts of damage. I believe that my neighbours are responsible for damaging my property and that insufficient investigation has been carried out to prove this and take action"*.

Police Handling of Complaint 1

Chief Inspector D provided the following response:

"A review of incidents reported by you in June 2016 to Police Scotland has been carried out and will be addressed with regards to the police action taken on each occasion.

On 13th June you contacted Police Scotland to report three separate incidents of damage to your property which you requested be logged separately.

[Incident 1] related to damage caused to a water feature in your garden on 9th June 2016

[Incident 2] related to weed killer placed on grass in your garden causing damage on 10th June 2016

[Incident 3] related to damage caused to windmill garden feature on 11th June 2016....

Chief Inspector D detailed the level of enquiry carried out into each incident, reaching the following conclusions:

“[Incident 1]

[Constable A] was aware that you had emailed his colleague [Constable B] in relation to the damage caused over several days in which it is reported you have stated that the water feature had run dry due to weather conditions causing the pump to malfunction. The water feature was examined and found to have no damage caused....

With no damage caused this incident which was initially reported by you as a vandalism was reassessed. In order to be recorded as a vandalism, there has to be a wilful or reckless action taken which results in the damage of another's property. As there had been no damage to the property this incident was assessed by the Division's Crime Registrar and recorded as no crime. As such, in this incident there was no crime to investigate.

[Incident 2]

[Constable A] assessed the grass of the communally used garden at your home address and again found there to be no damage along the fence line as reported and no yellowing patches that would indicate weed killer had been used. There was also no evidence of any repairs having been carried out which would indicate that there had been damage caused. As previously stated, [Constable A] was aware of the email you had sent to [Constable B] and had viewed the photographs of the damage sent to him. As a result he carried out a second visit, this time accompanied by [Constable B] in order to compare the photographs with the garden at the present time. Again both officers viewed the grass and found no damage along the fence line. It was noted that the photograph of the garden was taken from the neighbours side and the only damage was patches of grass missing as a result of being dug up for the fence posts which you have stated you erected. The only other patches of discolouration were not along the fence line and believed to be caused by the neighbour's dog urinating.

As with the previous incident due to the fact that no damage has been caused, this was assessed by the Crime Registrar as no crime. This is due to their (sic) being no credible evidence to suggest an act of criminality.

[Incident 3]

[Constable A] noted that he could not assess damage to the windmill as it was not in situ when he attended as you were on holiday. However, having viewed the photograph sent to [Constable B]

showing one of the blades had been snapped, this investigation into vandalism continued. [Constable A] noted that there is a cat and a dog that use the garden and they may have knocked it over, however, it could not be ruled out that this was caused as a deliberate act of Vandalism. In terms of investigation, [Constable A] noted that there was no CCTV covering the garden. He also spoke with neighbours at two properties which overlook your garden. Both have stated that they have not seen or heard anything untoward relating to this incident or any other.

In respect of all of the above I am satisfied that firstly, sufficient enquiry has been carried out to establish criminality or otherwise and secondly that all possible lines of enquiry have been carried out relating to the crime of vandalism. In order to investigate someone as a suspect for an offence there has to be credible evidence linking them to this offence”.

Chief Inspector D also responded to the applicant’s concern about the actions taken by Police Scotland following the incidents reported in January 2016. He explained that the local Community Sergeant discussed the matter with the Local Safer Communities Group which resulted in a letter being sent to the applicant regarding mediation, to which she did not respond. Consequently, the applicant was provided with a point of contact at Police Scotland i.e. Constables A and B. Those officers met with the applicant and her partner to discuss the previous incidents and possible “security prevention measures”. He noted that the applicant raised no further issues at that point.

Chief Inspector D concluded:

“In light of the above and having considered all the information, your complaint regarding Quality of Service is not upheld. I deem that all matters reported by you have been fully investigated in accordance with credible evidence and that sufficient police intervention and support has been offered.”

Consideration of Complaint 1

There appear to be two aspects to the applicant’s complaint:

- 1) that Police Scotland did not take sufficient action following the allegations against her neighbours in January 2016; and,
- 2) that her allegations of vandalism in June 2016 were not sufficiently investigated

1) Insufficient action

The complaint response explained that officers met with the applicant and her partner to discuss the issues that had arisen with their neighbours. According to Constable B’s statement, this meeting was held in May 2016. Both officers stated that the applicant raised no further complaints about her neighbours at that point, and that she was provided with security advice such as considering the use of

CCTV. Furthermore, the information available shows that the applicant's neighbours were issued with a warning in respect of the January 2016 incident and that the matter was referred for mediation. Within her statement of complaint, the applicant recorded that the January 2016 incident had been dealt with by the police. With the exception of the incidents in June 2016, she did not refer to any other incidents since January 2016 that she felt had not been properly addressed. It is therefore unclear what additional action or intervention the applicant had expected Police Scotland to undertake.

Accordingly, based on the material information available, it is considered that Police Scotland was warranted in not upholding this aspect of the applicant's complaint.

2) Insufficient investigation

The Police Scotland response clearly explained the level of enquiry carried out into the applicant's allegations of vandalism, and explained why the reports of damage to the garden water feature and grass area could not be recorded as crimes. In relation to the damage to the ornamental windmill, Police Scotland assessed that deliberate damage could not be "*ruled out*". The complaint response explained the level of enquiry carried out into this allegation, and also explained why no suspect could be identified.

However, the applicant explained to the PIRC that, contrary to the complaint response, she did not state in an email that the pump on the water feature had run dry due to the weather conditions. The exact wording of the applicant's email was recorded within the relevant crimefile that was provided to the PIRC. This shows that the applicant stated the water feature had been emptied, and she was unsure if it would be damaged beyond repair due to the weather conditions. It is therefore considered that the applicant's comments about damage to the water feature may have been mis-understood by Police Scotland.

The applicant also advised the PIRC that police officers could not have examined the water feature during the enquiry as it was locked away whilst she was on holiday. However, the documents updated by the officers who attended at the address recorded that the water feature was examined and that the windmill could not be checked as it was this item that was not in situ. It is therefore considered that this aspect of the response is supported by the material information available to Sergeant C during the complaint investigation.

Although there appears to have been a misunderstanding about the applicant's meaning within her email, and the applicant disputes that the water feature was examined, she noted in her statement of complaint that it is in working order. This supports the police view that a crime of vandalism could not be recorded as, even if the water feature had been deliberately emptied, no damage occurred as a result.

As the complaint response appears to be supported by the material information available, it is considered that Police Scotland was warranted in not upholding this aspect of the applicant's complaint.

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

Complaint 2: Lack of updates

The applicant complained that she did not receive any update or feedback from Police Scotland about the incidents she reported in June 2016.

Police Handling of Complaint 2

Chief Inspector D provided the following response:

“In relation to this aspect of your complaint, you reported that having informed Police Scotland of the incidents which have occurred in your garden you have received no update or communication in anyway. To this end statements from the officers dealing with these complaints have been obtained. I am informed by both officers investigating the matter that they have kept you up to date with all enquiries and decisions both by email and phone call. All crimefiles were also fully updated that should information be sought when they were not on duty, full updates could be provided.

The officers have further stated you informed them you would be on holiday from 14th June 2016 to the 26th June 2016 inclusive and your property would be vacant between these dates. At this time you requested additional patrols be carried out at your address. The officers have stated that they carried out additional patrols and again updated you in relation to this upon your return.

In light of this I have found no evidence of lack of communication or updates being provided and therefore your complaint regarding lack of communication is not upheld.”

Consideration of Complaint 2

The crimefiles raised for each of the applicant’s reports of damage to her property record that she was provided with an update about Police Scotland’s investigation into each report. However, it is unclear how those updates were provided and by whom.

Constable A recorded in his statement that Constable B *“was in contact with [the applicant] on a regular basis via emails”* and that Constable B updated the applicant on her return from holiday. Constable B stated that the applicant *“was kept up to date on all enquiries and decisions, both via email and by phone calls made by [Constable A]”*. During the review, Police Scotland explained that the email conversation between the applicant and Constable B had not been retained and Sergeant C was unsure whether or not these could have been retrieved by IT Department. As the emails do not appear to have been viewed during the complaint investigation, it is considered that the level of information provided to the applicant by that method was not available to be assessed.

In addition, the crimefile raised in connection with the allegation of vandalism to the windmill recorded that the applicant was updated by Inspector E who *“provided feedback along with other matters due to a police complaint being received”*. However, Inspector E recorded in his statement that he had no recollection of speaking with the applicant after dealing with the police complaint.

In summary, Police Scotland does not appear to have confirmed the level of information provided to the applicant by email; the statements provided by Constables A and B could be viewed as slightly contradictory in respect of which officer updated the applicant; and, Inspector E could not recall updating the applicant as described in the crimefile. It is therefore considered that the complaint response is not fully supported by the material information available. Accordingly, it is concluded that this complaint was not handled to a reasonable standard.

As the applicant has been provided with a full update within the complaint response regarding the level of enquiry carried out into her allegations of vandalism, and has been informed of the outcome of those enquiries, no further action is required of Police Scotland in this connection.

5. Conclusions

Complaint 1: Insufficient enquiry carried out

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

Complaint 2: Lack of updates

It is concluded that this complaint was not handled to a reasonable standard. For the reasons already explained, no further action is required of Police Scotland in this connection.

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