

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 the applicant telephoning Police Scotland’s Service Centre.

Two complaints were considered, namely:

1. that Service Centre Advisors gave the applicant’s daughter more information about his wife’s welfare than they gave to him; and
2. that a Service Centre Advisor gave the applicant incorrect information about his wife’s welfare.

It was found that neither complaint was handled to a reasonable standard. Two recommendations and a learning point were issued in this connection.

3. Background

The applicant lives with his daughters. His estranged wife, Ms A, does not live at the same address as her family and her address varies. Ms A was known to have used homeless accommodation and also occasionally slept in a summerhouse in the applicant's garden.

At the time of the applicant's complaints, Ms A was awaiting trial in respect of an assault charge and was subject to special bail conditions preventing her from entering the applicant's home.

Between 16 March and 24 March 2017, the applicant and his daughter Ms B telephoned Police Scotland on more than ten occasions to report concerns for Ms A. They informed Police that they were concerned Ms A was sleeping rough; that she may be suicidal; that there was CCTV evidence she had breached her bail conditions by entering their home; and that she should be recorded as a Missing Person as she had not been in contact and they were unaware of her whereabouts.

On 20 March 2017 the applicant submitted an online complaint form to Police Scotland regarding their response to these calls.

Constable C of the Professional Standards Department enquired into the applicant's complaints and on 27 March 2017 spoke to the applicant on the telephone and clarified the grounds for his complaint. The applicant confirmed to Constable C that his dissatisfaction also included events which had taken place since his original complaint was made.

A letter dated April 2017 responding to the applicant's complaint was issued by Chief Inspector D.

4. The Review

Complaint 1: Daughter given more information

The applicant complained that when he telephones the Service Centre with concern for his wife, he will only be told that she is "safe and well"; however when his daughter Ms B telephoned with concern, she was provided with more information than he had been given. Specifically, Ms B was told that her mother was not in police custody but had been in court some days previously.

The applicant argued that he believed an adult should be given more information than "a child" and that those providing information should not discriminate for reasons of age or gender.

Police Handling of Complaint 1

In her letter addressing the applicant's complaints, Chief Inspector D wrote:

"Whenever concern is reported for a person and the concern is assessed as being credible, Officers will make attempts to trace that person and ensure their wellbeing."

When the person is traced consideration is given to their wishes and if they do not want further information disclosed to family members this will be respected unless there are extenuating circumstances.

When someone is apprehended and brought into Police custody, they are afforded certain rights which include the right to have a reasonably named person informed they are in custody.

If your wife was in custody and had not nominated you as her reasonably named person then we would not disclose she has been apprehended.

That being said, if it is to eliminate a line of enquiry as to whether someone is missing, it may be appropriate for a member of staff to share this information to assess the concern.

During the afternoon of 19 March 2017, your daughter telephoned '101' to report your wife missing, she spoke with a Service Centre Advisor but could not provide sufficient detail at that time to substantiate a missing person file being raised. During her conversation with the advisor, your daughter was informed your wife was not in Police custody and a court appearance she queried was confirmed.

As your daughter was not in a position to provide any further details at that time, the call terminated with the Advisor providing advice to call back if there was still concern.

Each incident is assessed on its own merit and in this instance I am satisfied it was appropriate for your daughter to be provided with this information to alleviate concerns and allow her to obtain further information. I therefore find this element of your complaint not upheld."

Consideration of Complaint 1

The review of the available material information determined that Chief Inspector D's response is not well-reasoned nor does it adhere to the provisions of Police Scotland's standard operating procedure in respect of Complaints About Police (the "Complaints SOP"), for the following reasons..

Firstly, it is considered that Chief Inspector D's response to the applicant does not address the crux of his complaint. This is because the applicant has complained that his daughter was provided with more information than he was when reporting the same matter. However Chief Inspector D has provided no explanation as to why this response was considered appropriate i.e. Chief Inspector D has not clearly demonstrated the difference in circumstances which led to his daughter being provided with information which was not provided to him.

Furthermore, Chief Inspector D's response to the applicant explains that were his wife to be in custody, this information would not be provided to anyone who asked unless Ms A had specifically requested that they be informed. However in the applicant's case, his wife was *not* in custody, and his daughter was told this. It is therefore unclear from Chief Inspector D's response why the applicant could not also be provided with this information.

Finally, Paragraph 6.11.8 of the Complaints SOP provides that:

“During the complaint investigation, information may be uncovered which shows a failing on the part of the Police that has not been made as a specific allegation by the complainer. However, if it had been made as a complaint, it would most likely have been upheld,. This should not be ignored. Appropriate action should be taken...”

Chief Inspector D has determined not to uphold the applicant’s complaint as she has assessed that it was necessary to provide Ms B with information *“to eliminate a line of enquiry as to whether someone is missing”*, ultimately concluding that *“it was appropriate for your daughter to be provided with this information to alleviate concerns and allow her to obtain further information”*.

However this conclusion contradicts the advice which Ms B was given when reporting a concern for her mother earlier that same day. Specifically, the call recordings confirm Ms B was advised earlier in the day that she would *not* be told whether or not her mother was in Police custody; and that she could not report her mother as a missing person as she was not *“next of kin”*. It therefore follows that if it was indeed appropriate to provide Ms B with the information she was ultimately given, then the earlier advice was incorrect. It does not appear, in coming to a determination in regards to this complaint, that either Constable C or Chief Inspector D has assessed *all* of the information which was provided to Ms B throughout her calls.

For the reasons above, it is concluded that this complaint was not handled to a reasonable standard.

As it is evident that Ms B was provided with inconsistent advice, it is recommended that Police Scotland specifically consider what advice given to Ms B during her calls to the Service Centre on 19 March 2017 was correct. If it was correct to provide Ms B with the information she was ultimately given, then a further response should be sent to the applicant clearly explaining why he could not also be provided with this information. If it was correct to deny this information to Ms B then the applicant should be provided with a further response explaining this and reassessing, on that basis, whether or not his complaint should be upheld.

Complaint 2: Incorrect update given

The applicant complained that, on a second occasion that he had telephoned the Service Centre with concern for his wife, he was told that she was *“safe and well”* however this was incorrect as she had not yet been traced.

Police Handling of Complaint 2

In her letter addressing the applicant’s complaints Chief Inspector D wrote:

“A review of your records reveal seven incidents were created in relation to you reporting various matters involving your wife between 13 and 24 March 2017.

During the period your complaint relates to, you called ‘101’ on four occasions within a half hour period. The recordings of these calls have been reviewed. Throughout these calls your tone and the manner in which you address the Advisors was challenging and

confrontational. You often spoke over the various Advisors and would not answer pertinent questions they asked of you.

One Advisor told you your wife was safe and well. This appears to have been her initial assessment when trying to read through the details recorded on the previous incidents documented during your several calls. You immediately challenged this and a further call a short time later was transferred to a divisional Sergeant who advised you your wife had not been traced and therefore we were not in a position to say she was safe and well.

Having carefully considered the circumstances, I am minded that based on the manner and tone of your conversation with the Service Centre Advisor, she initially provided information based on a quick assessment. Due to the dubiety she later transferred your call to a Sergeant with personal knowledge of the incident and within a short period you were made aware of the true circumstances. In light of these events I find this element of your complaint not upheld.”

Consideration of Complaint 2

The calls referred to in Chief Inspector D's response have been provided to the PIRC. It is considered that Chief Inspector D's assessment that the applicant's manner and tone was “*challenging and confrontational*” is reasonable on the basis of these calls.

A copy of the incident logs has also been provided to the PIRC and it is evident that, had the log not been read thoroughly, it would be easy to read the information presented incorrectly. On the basis of the foregoing, it is also reasonable to conclude that the call handler was put under pressure by the applicant's manner and thus provided the information that his wife was “*safe and well*” based on a brief reading of the relevant incidents on Police systems.

Nevertheless, the applicant's complaint is that he was provided with incorrect information by the call handler. As above, it is accepted there may be mitigating circumstances for the call handler's confusion. Furthermore, it could be considered that the applicant was being deliberately provocative by calling the service centre for information whilst being reasonably sure that Police did not have any additional information to give him, to the point where he immediately challenged the information provided. However it is clear that the call handler did provide the applicant with information which was incorrect by confirming to him that his wife had been traced safe and well when she had not. It is therefore unclear why the applicant's complaint has not been upheld on that basis.

For this reason, it is concluded that this complaint was not handled to a reasonable standard. It is recommended that the applicant's complaint be reassessed on the basis of the points made in this report. A further letter should thereafter be sent to the applicant explaining the outcome of this assessment and confirming whether or not his complaint is now upheld.

5. Conclusions

Complaint 1: Daughter given more information

It is concluded that this complaint was not handled to a reasonable standard. As it is evident that Ms B was provided with inconsistent advice, it is recommended that Police Scotland specifically consider what advice given to Ms B during her calls to the Service Centre on 19 March 2017 was correct. If it was correct to provide Ms B with the information she was ultimately given, then a further response should be sent to the applicant clearly explaining why he could not also be provided with this information. If it was correct to deny this information to Ms B then the applicant should be provided with a further response explaining this and reassessing, on that basis, whether or not his complaint should be upheld.

Complaint 2: Incorrect update given

It is concluded that this complaint was not handled to a reasonable standard. It is recommended that the applicant's complaint be reassessed on the basis of the points made in this report. A further letter should thereafter be sent to the applicant explaining the outcome of this assessment and confirming whether or not his complaint is now upheld.

Learning Point

In an email to the PIRC dated 10 August 2017, Constable C confirmed that he had not obtained a statement of complaint from the applicant and would not ordinarily do so *“unless specifically requested or there was a suggestion of criminality”*.

Paragraph 6.7.4 of the Complaints SOP provides that:

“During the course of any investigation it is considered best practice to note full statements from the complainer... The statement should cover all the complaints contained within the initial correspondence, and should note any allegation that the complainer no longer wishes to pursue.”

It is accepted that the applicant did agree a list of complaints with Constable C via email. There is also a detailed telephone note of Constable C's conversation with the applicant on 27 March 2017. However Constable C should be reminded of the provisions of paragraph 6.7.4 of the Complaints SOP, i.e. that it is best practice to obtain a statement from the complainer.

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