

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 that resulted in the applicant being arrested and her car being seized and subsequently disposed of. Two complaints were raised, namely:

- that officers failed to return an asthma inhaler to the applicant upon her release from custody; and
- that the applicant was not provided with a sufficient explanation of the incident involving her vehicle and the events leading to its disposal.

The review found that both complaints were handled to a reasonable standard. No recommendations were made but a learning point was identified.

3. Background

In November 2016, the applicant's driving licence was revoked on medical grounds.

On the night of 1 February 2017, the applicant was arrested for driving without a licence and was therefore considered also to be driving without insurance. As a result, the applicant's car was seized under section 165(A) of the Road Traffic Act 1988 ("the RTA") and the Road Traffic Act 1988 (Retention and Disposal of Seized Motor Vehicle) Regulations 2005 ("the Regulations"). The applicant was taken to a police station whilst her vehicle was passed to a local garage for storage. The applicant was held in police custody and released in the early hours of 2 February on an undertaking to attend court at a later date.

On 23 February 2017, the applicant telephoned Police Scotland to complain about the incident. The applicant's complaints were allocated to Inspector A for enquiry.

Officers attended at the applicant's home on 16 March 2017 in relation to her complaints but she refused to allow them entry. Inspector A states that this resulted in a conversation taking place "through a locked front door".

Chief Inspector B responded to the applicant's complaints in a letter dated 30 March 2017.

4. The Review

Complaint 1: Inhaler not returned

The applicant complained that an asthma inhaler was taken from her at the time of her arrest but not returned to her when she was released.

Police Handling of Complaint 1

In responding to the complaint, Chief Inspector B stated that the custody record had been examined and showed that, during the applicant's time in custody, she had two inhalers. Chief Inspector B advised that, according to the custody officers involved, both inhalers were returned to the applicant upon her release. Chief Inspector B stated that the custody record showed that the applicant signed for receipt of her property, which included the two inhalers. Chief Inspector B added that no inhalers had been found in the custody suite thereafter. Chief Inspector B concluded that the complaint was not upheld.

Consideration of Complaint 1

Police Scotland supplied the PIRC with a copy of the records relating to the applicant's time in custody. These show the applicant signing to confirm receipt of "Inhaler 2X". In addition, Constable C states that he observed the applicant's property being returned and that this included her inhalers. Inspector A

states that he was informed of the same by another officer. Accordingly, in view of the evidence available, Chief Inspector B was justified in not upholding the complaint on the balance of probabilities.

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

Complaint 2: Seizure of vehicle

The call handler who spoke with the applicant noted the following details in relation to this complaint:

"[Applicant] also wants to complain about her car being impounded and wants an explanation as to why it is being crushed."

Police Handling of Complaint 2

In responding to the complaint, Chief Inspector B outlined the relevant powers available to the police under the RTA and the Regulations, and described the process for removing, storing and disposing of vehicles. Chief Inspector B advised that, according to the officers involved in the uplift of the applicant's vehicle, she was provided with an explanation of the process at the time and given a copy of the seizure notice which repeated that explanation. Chief Inspector B explained that Inspector A had established that the applicant contacted the police station on several occasions and was given information about her vehicle by various officers.

Chief Inspector B advised that the garage staff had stated that a letter about the uplift of the applicant's vehicle was sent by recorded delivery on 3 February 2017 but returned on 6 February 2017 as having been refused by the occupant. Chief Inspector B added that the garage staff had stated that the applicant attended the garage in person whereupon the circumstances around her vehicle were further explained to her.

Chief Inspector B stated that, as the applicant had failed to comply with the Regulations within the specified time period, her vehicle had been "duly scrapped". Chief Inspector B concluded that the applicant had been provided with relevant information about the incident and her vehicle, and did not uphold the complaint.

Consideration of Complaint 2

In her initial complaint call to Police Scotland, the applicant referred to her vehicle as having being "crushed". The applicant advised the PIRC that, despite Chief Inspector B's letter referring to her car as having been "scrapped", she had since been contacted by the DVLA in relation to the vehicle having a new owner. When the PIRC contacted Police Scotland to clarify what had happened to the applicant's car, Inspector A advised that, on 22 February 2017, the car was collected from the garage by another company under the Contractual Vehicle Recovery Scheme, and that its "final disposal is unknown". Accordingly, the response to the complaint is inaccurate in stating that the vehicle was "scrapped" when the method of disposal was in fact unknown to Police Scotland.

Notwithstanding, the response contains an accurate representation of the legislative provisions and the material information available. Police Scotland supplied the PIRC with a copy of the seizure notice provided to the applicant which details the legislation under which the vehicle was seized and, as indicated by Chief Inspector B, the procedure for reclaiming the vehicle. The evidence available supports that the process was explained to the applicant on several occasions.

For the above reasons, it is concluded that this complaint was handled to a reasonable standard. No further action is required in this connection.

5. Conclusions

Complaints 1 and 2

It is concluded that both complaints were handled to a reasonable standard. No recommendations are made in respect of these complaints.

Learning Point

When the method by which a vehicle has ultimately been disposed of is not known to the police, officers should record and refer to it simply as having been “disposed of”.

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