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 after the applicant telephoned Police Scotland to report an incident. Four complaints were reviewed, namely:

1) that on 5 May 2017, police officers failed to attend at the applicant’s home address after she reported being verbally abused by a delivery driver;
2) that Police Scotland relied on a statement provided by a named constable that did not accurately reflect her concerns and contained misinformation;
3) that insufficient enquiry was carried out into the incident as officers failed to interview seven potential witnesses; and,
4) that the applicant was not provided with an update following the incident;

The review found that one of the complaints was handled to a reasonable standard and three were not. Three recommendations have been made.
3. Background

On 5 May 2017, the applicant contacted Police Scotland to report that a delivery driver had been abusive towards her outside her home address. Police Scotland created an incident log which recorded the information provided by the applicant and noted her request for police attendance. At the conclusion of the initial call, the delivery driver had already left the applicant's address.

The applicant contacted Police Scotland approximately 30 minutes later. During the second call, she informed the call handler that officers had not attended in response to her initial emergency call. She provided additional information about the incident, explaining that the delivery driver had threatened to "slap her face". She also explained that she was worried about police visiting her home as a result of previous unrelated incidents. The applicant was reassured that officers would attend as soon as possible and would telephone her in advance to make suitable arrangements. In the meantime, she was given details of the incident number should she wish to call back.

The applicant contacted Police Scotland for a third time just over an hour later to complain that no-one had attended and she now had to go out. She explained that she had also contacted the retailer concerned to complain about the delivery driver. She provided the Police Scotland call handler with the contact details and reference number for the retailer's complaints department. This information was added to the incident log. The applicant also explained that she would prefer to attend at a police office to discuss the incident. She later attended at a local police office and met with Constable A and Special Constable B.

Special Constable B recorded the applicant's statement about the incident within her notebook. Constable A thereafter contacted the retailer about the matter, whereby it was explained to Constable A that it would be dealt with internally. The incident log was thereafter updated to the effect that no further police involvement was required.

The applicant attended at the police office on 11 May 2017 to submit a complaint about the police. An officer from the Professional Standards Department contacted her by telephone on 12 May 2017 to discuss the matter and recorded that she was content that the complaint had been concluded by explanation. However, the applicant remained dissatisfied and Sergeant C was subsequently appointed to investigate her concerns. Following an initial telephone discussion about her complaints, Sergeant C emailed a Heads of Complaint Form to her on 19 June 2017 which detailed two points of complaint and outlined the content of their discussion. She replied on the same date, stating that she did not think he had captured all of her points of complaint. She highlighted the elements she considered to be missing, and re-iterated her concerns in a further email dated 4 July 2017. However, the Heads of Complaint were not amended. Chief Inspector C wrote to the applicant on 27 July 2017 to explain the outcome of her complaints as recorded on the Heads of Complaint form.
4. The Review

Complaint 1: Officers failed to attend

The applicant complained that officers did not attend her home address when she reported being verbally abused by a delivery driver.

Police Handling of Complaint 1

The applicant’s complaint was not upheld. Chief Inspector D provided the following response:

“…Incidents reported to the police are prioritised and managed according to the elements existing in each individual call. These are assessed on the risk and vulnerability involved.

As you had advised the delivery driver had left the area, the Controller assessed, while you required to be seen by officers, there was no immediate requirement for them to attend as the incident was not ongoing.

In circumstances such as these, a unit from the Community Policing Team which covers the area would be allocated the call when they became available. Unfortunately in this instance, due to other ongoing calls and commitments, there were no officers available to see you at your home prior to your call advising you were going out.

Having reviewed the circumstances, I am satisfied, based on the information available to me, the controller made an appropriate and reasonable assessment regarding the urgency for officers to attend the incident. I am also satisfied the timescales involved in our response for this type of incident were acceptable. I therefore find this element of your complaint not upheld, however, I do apologise if we have not been able to meet your level of expectation on this occasion.”

Consideration of Complaint 1

The recordings of the applicant’s calls to Police Scotland of 5 May 2017 were provided to the PIRC during the review process. The complaint response broadly reflects the information provided to her during the calls about police attendance at her address. She was informed during the second call that officers would be dispatched as soon as possible.

According to the incident log, the applicant initially contacted Police Scotland at 15:38 hours. The third call, in which she stated that she would go to the police office instead of waiting for officers to attend her address, concluded at 17:26 hours, approximately 1 hour and 45 minutes after the initial call. The complaint response would have been strengthened had it specifically referred to the timescale involved when assessing that it was “acceptable” for the type of incident. Nevertheless, based on the information provided by the applicant about the incident during the telephone calls, the Police Scotland
assessment of the urgency of the situation is considered appropriate. Although officers were not dispatched to her address immediately, it is evident from the call recordings, and the incident log, that officers were to attend. They did not do so as the applicant opted to attend at a police office instead.

For the reasons outlined above, it is considered that Police Scotland’s decision not to uphold the complaint was adequately reasoned. Accordingly, it is concluded that the complaint was handled to a reasonable standard. No further action is required in this connection.

Complaint 2: Reliance on inaccurate statement

The applicant complained that Police Scotland relied on a statement provided by Constable A that did not accurately reflect her concerns and contained misinformation.

Before speaking with the applicant to establish the Heads of Complaint, Sergeant C asked Constable A about his involvement in the incident of 5 May 2017. Constable A emailed Sergeant C on 2 June 2017 to explain the course of action taken during the enquiry into the applicant’s allegation against the delivery driver. Constable A stated that the applicant was satisfied with the outcome i.e. that officers would speak with the retailer/delivery company about the incident.

From the available information, it appears to be the above comment in particular that the applicant states is incorrect, as she informed Sergeant C in her email of 19 June 2017 that she was “not satisfied” with the outcome of the enquiry into the incident.

Police Handling of Complaint 2

Police Scotland did not respond to this aspect of the applicant’s complaint.

Consideration of Complaint 2

Although the applicant stated the contrary during her conversation with Sergeant C, Constable A’s position that the applicant was satisfied with the outcome of the enquiry when she left the police office is supported by Special Constable B. Accordingly, it is considered that Police Scotland would have been justified ‘on balance’ in assessing Constable A’s account to be reliable, and would therefore have been warranted in not upholding the applicant’s complaint.

However, as Police Scotland did not record and respond to the complaint, it is concluded that it was not handled to a reasonable standard. It is recommended that Police Scotland now records the applicant’s complaint, determines whether it is upheld or not upheld, and provides her with a further response that explains any decision reached.
Complaint 3: Insufficient enquiry carried out

The applicant complained that officers failed to carry out sufficient enquiry into the incident as they did not interview seven potential witnesses.

Police Handling of Complaint 3

Police Scotland did not record this complaint or respond to it directly. However, the response detailed below provided by Chief Inspector D as part of the findings to Complaint 4 is considered to be relevant:

“The officers have independently provided their version of events. They have both advised a statement was noted from you and based on the circumstances provided, an assessment was made that the behaviour exhibited did not constitute criminal activity.

The circumstances were assessed as being a customer service complaint between you, [the retailer] and the courier company…The delivery driver’s behaviour can be described as inappropriate and unprofessional, however, there is no suggestion he attempted to assault you.

Though there was no requirement on them to do so, I understand the officers informed you they would speak with staff at [the retailer] to advise them of the police involvement in the incident as you were worried they would not take your complaint seriously. This was subsequently carried out…

Having considered the circumstances, I believe the officers dealt with you in a professional manner, during which they made the correct assessment of the circumstances provided by yourself and it did not require any further investigation as there was no criminality involved.”

Consideration of Complaint 3

The applicant made it clear to Sergeant C within her emails of 19 June 2017 and 4 July 2017 that she was complaining about the lack of enquiry into the incident involving the delivery driver. In particular, she complained that Police Scotland did not interview potential witnesses.

Her concerns about the level of enquiry were not recorded as a head of complaint. However, it is noted that Police Scotland indirectly responded to her complaint within the consideration of complaint 4 in which it was explained that Constable A and Special Constable B assessed that the delivery driver’s behaviour did not constitute an offence and, that there was “no suggestion he attempted to assault [the applicant]”.

However, Section 38 of the Criminal Justice and Licensing (Scotland) Act 2010 (“the Act) states that a person commits an offence if they –

(a) behave in a threatening or abusive manner,
(b) the behaviour would be likely to cause a reasonable person to suffer fear or alarm, and

(c) intend by the behaviour to cause fear or alarm or is reckless as to whether the behaviour would cause fear or alarm.

As the applicant alleged that the driver had been verbally abusive and threatened to slap her, it is considered that Police Scotland should have more clearly explained why they decided that the delivery driver’s actions would not have amounted to an offence under the Act. Furthermore, as the applicant explained that the altercation had been witnessed by several people, particularly gardeners who were working in the street, the response should also have explained why it was not considered necessary to seek accounts from any potential witnesses. It is therefore considered that the response to this complaint is inadequate.

As Police Scotland did not separately record the applicant’s complaint about insufficient enquiry and as an inadequate response was provided, it is concluded that the complaint was not handled to a reasonable standard.

It is recommended that Police Scotland now records the applicant’s complaint that insufficient enquiry was carried out into her allegation that the delivery driver was abusive towards her. A further response should then be issued to the applicant that takes account of all available information and which adequately explains any conclusion reached.

Complaint 4: No update provided

The applicant complained that officers did not provide her with an update following the incident. After her discussion with Sergeant C, the complaint was recorded on the Heads of Complaint form as follows: “Unhappy that I felt I was not provided with a formal update by officers who dealt with me on my attendance at [the police office] as to how the matter had been concluded”.

Police Handling of Complaint 4

The applicant’s complaint was not upheld. Chief Inspector D provided the following response:

“The officers concerned have both advised you were aware staff at [the retailer] would be spoken to and following this, there would be no further police involvement. They were of the opinion you were satisfied with this outcome prior to leaving the building”.

Consideration of Complaint 4

The complaint response relied on the accounts provided by Constable A and Special Constable B.
Sergeant C recorded that he spoke with Special Constable B about her meeting with the applicant. According to the file note, Special Constable B confirmed that the applicant was informed of the course of action that would be taken, i.e. that the retailer/delivery company would be contacted, that she was satisfied with that outcome when she left the office.

In his email of 2 June 2017, Constable A referred to the applicant’s attendance at the police office shortly after the incident. He also stated that the applicant was satisfied with the outcome of the enquiry. The applicant’s position that this assertion is incorrect has been separately addressed under complaint 2. However, Constable A also noted that “[the applicant] said at the time if there would be any further police contact, she would require a phone call to her house telephone…before any police visits”. This suggests that a discussion took place about further police involvement in the matter. It is therefore unclear whether the applicant was given any expectation that she would be provided with an update after the officers spoke with the retailer/delivery company.

As Constable A and Special Constable B were not asked to address this point, it is considered that insufficient enquiry was carried out into this aspect of the complaint. Accordingly, it is concluded that the complaint was not handled to a reasonable standard.

It is recommended that further accounts are obtained from Constable A and Special Constable B to clarify the nature of the discussion with the applicant around further police contact. A further response should then be issued to the applicant that takes account of the information provided by the officers and assesses ‘on balance’ whether the applicant was given any expectation that officers would contact her again about the incident of 5 May 2017.

5. Conclusions

Complaint 1: Officers failed to attend

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

Complaint 2: Reliance on inaccurate statement

It is concluded that this complaint was not handled to a reasonable standard. It is recommended that Police Scotland now records the applicant’s complaint, determines whether it is upheld or not upheld, and provides her with a further response that explains any decision reached.

Complaint 3: Insufficient enquiry

It is concluded that this complaint was not handled to a reasonable standard. It is recommended that Police Scotland now records the applicant’s complaint that insufficient enquiry was carried out into her allegation that the delivery driver was abusive towards her. A response should then be issued to the applicant that takes account of all available information and which adequately explains any conclusion reached.
Complaint 4: No update provided

It is concluded that this complaint was not handled to a reasonable standard. It is recommended that further accounts are obtained from Constable A and Special Constable B to clarify the nature of the discussion with the applicant around further police contact. A further response should then be issued to the applicant that takes account of the information provided by the officers and assesses ‘on balance’ whether she was given any expectation that officers would contact her again about the incident of 5 May 2017.

Learning Point

Section 6.7.5 of the Police Scotland Complaints about the Police Standard Operating Procedure (“the Complaints SOP”) states the following:

“There should be a clear understanding between the person noting the complaint and the complainer as to what is being investigated. At the conclusion of the statement there must be a summary of the agreed Heads of complaint under investigation, and the complainer should be asked to complete and sign a ‘Heads of Complaint’ Form which lists the description of each allegation. This document can be considered as the agreement between the complainer and the enquiry Officer and sets out exactly what is to be investigated. It also assists greatly in the recording process.”

In this case, the applicant’s complaints were discussed by telephone and the Heads of Complaint Form was then emailed to the applicant. As highlighted during the review, the applicant disagreed with the way in which her complaints were represented and explained to the enquiry officer that he had omitted points of concern (Complaints 2 and 3 in this report). Despite this, the heads of complaint were not amended meaning that Police Scotland failed to address the crux of the applicant’s complaints i.e. lack of enquiry into the original incident. As it is evident from the casefile that the applicant sought to clarify her complaints, and as Police Scotland did not record and investigate her concerns, it is considered that Complaints 2 and 3 were not handled to a reasonable standard. This has led to additional work being recommended that will ultimately contribute to the complaint handling process being prolonged for all parties. This could have been prevented had the provisions of the Complaints SOP been properly applied in the early stages.

Lynn McCord
Review Officer

Jacqui Jeffrey
Senior Review Officer