

independent and effective investigations and reviews

pirc

Police Investigations &
Review Commissioner

PIRC/00636/17
November 2018

Report of a Complaint Handling Review in relation to Police Scotland

What we do

We obtain all the material information from Police Scotland and the applicant. We then use this to review how the complaint was dealt with and conclude whether the complaint was handled to a reasonable standard*. In doing so, we consider factors such as:

- whether Police Scotland carried out sufficient enquiries into the complaint;
- whether Police Scotland's response to the complaint was supported by the material information available;
- whether Police Scotland adhered to the relevant policies, procedures and legal provisions in dealing with the complaint;
- whether Police Scotland's response was adequately reasoned; and
- where the complaint resulted in Police Scotland identifying measures necessary to improve its service, that these measures were adequate and have been implemented.

Finally, where we consider appropriate, we make recommendations, issue reconsideration directions and identify learning points for Police Scotland.

*Sections 34 and 35 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 as amended ("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.

Executive Summary

The Complaints

The complaints in this case arose from an ongoing dispute between the applicant and Mr A. We have reviewed three complaints, namely:

1. that, on 24 June 2017, the applicant reported to the police that his neighbour had a flute band in his garden and was playing songs that he knew to be associated with [named paramilitary organisation]. No officers attended;
 2. that, on 31 August 2017, the applicant reported to the police that his neighbour was shouting abuse and threatening him. No one dealt with his complaint; and
 3. that, on an unknown date, the applicant reported to the police that his neighbour was having drugs delivered to his home address. No officers attended.
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Police Scotland's Decision

Police Scotland upheld complaints 1 and 2 but did not uphold complaint 3.

Our Findings

We have found that Police Scotland handled all three of the applicant's complaints to a reasonable standard.

No further action is required of Police Scotland in relation to the complaints considered within this review.

Background

The applicant has been involved in a dispute with his neighbour, Mr A, since 2015. During this time, the applicant alleged that Mr A and his acquaintances had threatened and intimidated him. This resulted in the applicant leaving his home to stay with a friend. A panic alarm was installed at his friend's address for the applicant's safety. Between 2015 and the date of the applicant's complaint on 1 September 2017, the applicant and Mr A were involved in a number of verbal altercations. The applicant was charged after one such incident involving Mr A, and accepted a warning after another. The applicant made a number of reports to Police Scotland regarding Mr A and his suspected involvement in criminal activity, three of which form the basis of the complaints being reviewed within this report.

On 24 June 2017, the applicant called the police to report that Mr A had a flute band playing in his garden. Constables B and C attended Mr A's address later that evening and found there to be no music playing, however the applicant was not provided with an update thereafter.

On 31 August 2017, the applicant activated his panic alarm in response to Mr A and a number of his acquaintances shouting abuse and threats towards him from outside his house. Constables D and E attended and obtained a statement from the applicant, however the applicant was dissatisfied because no action was taken against Mr A.

On 28 August 2016, the applicant reported to the police his suspicions that Mr A was receiving a delivery of drugs. The applicant was dissatisfied that no officers attended following his report.

The applicant submitted his complaints to Police Scotland in a letter dated 1 September 2017. He expressed his dissatisfaction at the action taken by the police in response to the three incidents he had reported. Inspector F was appointed enquiry officer. Inspector F obtained a statement of complaint from the applicant on 6 October 2017, and the Heads of Complaint form was agreed and signed on the same date.

The applicant received a response to his complaints from Chief Inspector G in a letter dated 19 February 2018.

Complaint 1

The applicant complained that, on 24 June 2017, he reported to the police that his neighbour had a flute band playing in his garden and was playing songs that he knew to be associated with [named paramilitary organisation]. No officers attended.

Police Scotland's Handling of Complaint 1 (upheld by the police)

Chief Inspector G's response letter said that police systems had been researched and it was identified that the applicant had called Police Scotland at 1938 hours on 24 June 2017¹. This was to report that Mr A was playing "*flutes and drums in his garden*". Chief Inspector G said that the applicant had said he did not want to see the police as he was concerned Mr A would find out that he had called them. Chief Inspector G advised the applicant that the Police Control Room attempted to call him back at 2151 hours on the same date to ascertain if the noise was still ongoing, however no response was received.

Chief Inspector G said that statements were obtained from Constables B and C. They stated that they were sent to attend Mr A's address in response to the applicant's report at 2354 hours on the same date. They "*noted there were no issues at [Mr A's] address and no noise audible. Given your earlier request not to be contacted and your fear of [Mr A] the call card was updated and matter closed. No approach was made to [Mr A] on this occasion.*"

Chief Inspector C concluded by saying that, having reviewed the incident, it was his opinion that "*my officer's response was justified and proportionate however I uphold your complaint as I feel it would have been appropriate for local officers to contact you and update you with their action and findings*".

Our Review of Complaint 1

applicant's report was graded as a priority 3, meaning that it was not an immediate or priority incident; however, there was the potential for the incident to escalate. This is supported by the attempt that was made by the police to contact the applicant at 2151 hours to ascertain whether the incident was still ongoing. For this reason, the applicant's position that officers did not attend is not supported by the information available.

That said, although we can confirm that officers did indeed attend in response to the applicant's reports, we note that there was a four-hour gap between the applicant having reported the incident, and the officers having attended. Indeed, it can be argued that the four-hour time delay to respond to a potential public disorder incident almost makes the officers eventual attendance redundant. We consider that Chief Inspector G's response would have been strengthened if he had commented on whether he considered the four hour delay between the applicant's report and the attendance of the officers to be reasonable and/or had provided an explanation for this delay.

It would seem reasonable to infer that the applicant's perception that no officer's attended was due to the fact that he was not updated by the officers after they had done so. Chief Inspector G said that the applicant was not updated on the day because he asked "*not to be contacted*". However, from the incident report, we note that it states that the "*Caller does not want to see officers*" – it does not specifically state that he did not want to be contacted. That said, Chief Inspector G's response

¹ The full response to this complaint can be found at paragraphs 4 – 8 of the appendix to this report.

acknowledged that *“it would have been appropriate for local officers to contact you and update you with their action and findings”*. From a complaint handling perspective, we consider that this response demonstrates that Chief Inspector G has acknowledged that the officers could have done more. Police Scotland were in possession of the applicant’s contact details, including his telephone number. This would have allowed local officers to provide the applicant with an update on the enquiries carried out without having attended at his address. For this reason, it was appropriate for Chief Inspector G to uphold the applicant’s complaint.

Accordingly, despite the short-coming we have identified in Chief Inspector G’s response regarding the comment/explanation for the delay, we consider that Police Scotland have handled this complaint to a reasonable standard. No further action is required in this connection.

Our Conclusion on Complaint 1

We conclude that Police Scotland handled this complaint to a reasonable standard.

No further action is required.

Complaint 2

The applicant complained that, on 31 August 2017, he reported to the police that his neighbour was shouting abuse and threatening him. No one dealt with his complaint.

Police Scotland’s Handling of Complaint 2 (not upheld by the police)

Chief Inspector G stated that statements were obtained from Constables D and E regarding their attendance at the applicant’s address on 31 August 2017². Chief Inspector G confirmed that the applicant had activated his panic alarm and had advised the Control Room that *“there was a group of males drunk and within another house”*. Chief Inspector G went on to confirm that the applicant had told Constables D and E about the ongoing dispute he was having with Mr A when they arrived. The letter stated: *“You explained that you had been awakened by this male shouting in the street and hearing him shouting something similar to ‘you will have to face me’”*. Chief Inspector G confirmed that this was when the applicant activated his alarm as he was *“concerned there may be further issues.”*

Chief Inspector G stated that it was his understanding that the applicant believed that Mr A should be charged for his actions. However, *“it was explained that there were no direct threats made towards you. You were currently in bed at the time of the incident and therefore it cannot be established that you were the subject of the shouting in the street”*.

Chief Inspector G advised the applicant that he agreed with the decision Constables D and E made at the time of the incident. However, he stated: *“in order to address your complaint properly the officers*

² The full response to this complaint can be found at paragraphs 9 – 13 of the appendix to this report.

should have visited [Mr A] to inform him of the call". The applicant's complaint was upheld for this reason. He was advised that the officers had been informed of the complaint and the outcome, and an apology was offered.

Our Review of Complaint 2

We note that Chief Inspector G's position is that the applicant had explained to Constables D and E that he had been "*awakened by this male shouting in the street*", and that this information was contained in the statements provided by the applicant and Constables D & E. However, we can confirm that this detail was not contained in the statements as per Chief Inspector G's response, and is instead contained within the relevant incident log. This does not mean that Chief Inspector G's position is factually inaccurate. Instead, while his position is supported by the material information available, he has incorrectly attributed the source of this information in his response.

We note that in the applicant's statement and those provided by both officers, it is documented that the applicant had recorded the incident, and that these recordings were played to the officers when they attended. During the course of our review, a copy of these recordings were requested of the applicant, however he was unable to provide them to us.

The crux of the applicant's complaint is that no action was taken by the police in response to his reports that Mr A and his acquaintances had been shouting abuse and threatening him. However, the statements of both the applicant and Constables D and E, as well as the incident log, show that Constables D and E did indeed attend at the applicant's address and noted a statement from him. Constables D and E determined that, on this occasion, no crime had been committed and this was explained to the applicant at the time. This was based on the fact that it could not be established that the comments of Mr A and his acquaintances were directed at the applicant. Chief Inspector G supported this position.

As Chief Inspector G's response has acknowledged, it appears that the applicant's dissatisfaction stems from the fact that Mr A was not charged with the alleged threats and abuse that the applicant considered were directed at him. Indeed, the applicant's perspective is that no action was taken against Mr A at all. However, notwithstanding the lack of evidence of Mr A having committed an offence on this occasion, the incident log stated: "*efforts will be made to trace [Mr A] and request he refrain from shouting towards caller in future*". It appears that this course of action was intended given the context of the dispute between the applicant and Mr A. Indeed, Chief Inspector G has upheld the applicant's complaint on the basis that Mr A had not been spoken to regarding his behaviour on the date in question. From a complaint-handling perspective, we consider that Chief Inspector G was justified in upholding the complaint and offering an apology to the applicant. We consider that Chief Inspector G's position would have been strengthened if his response had explained this to the applicant.

Notwithstanding the shortcoming that we have identified, we consider that Police Scotland have handled this complaint to a reasonable standard. As we have provided an explanation to the applicant, no further action is required by Police Scotland in this connection.

Our Conclusion on Complaint 2

We conclude that Police Scotland handled this complaint to a reasonable standard.

No further action is required.

Complaint 3

The applicant complained that on an unknown date, he reported to the police that his neighbour was having drugs delivered to his home address. No officers attended.

Police Scotland's Handling of Complaint 3 (not upheld by the police)

In his response, Chief Inspector G advised the applicant that he had contacted Police Scotland and *“although providing your details stated that you wished to remain anonymous and did not wish contacted”*³. Chief Inspector G stated that the applicant provided details of an individual he believed had attended at Mr A's address to buy drugs. Chief Inspector G stated: *“No officers were available to attend that address immediately and as a result the information was assessed to be intelligence at that time and an intelligence entry was submitted”*.

Chief Inspector G advised the applicant that intelligence is *“reviewed and assessed for further action alongside any other information we may hold”*. He stated that, in light of this review, he was satisfied that the actions taken at the time of the applicant's report were *“both proportionate and justified”*. On this basis the applicant's complaint was not upheld.

Our Review of Complaint 3

We have been provided with a copy of the incident report raised in response to the applicant having contacted Police Scotland on this occasion. We note that the incident report does not state that the applicant had wished to remain anonymous and did not want to be contacted regarding this report. Furthermore, it also states that the applicant had reported Mr A as having received a delivery of drugs as opposed to someone having attended to buy drugs from him. The source of the information contained within Chief Inspector G's response letter is therefore unknown to us at this time.

The crux of the applicant's complaint is that no officers attended in response to his report. The applicant is correct insofar as no officers were dispatched to attend. However, that does not mean that no action was taken by Police Scotland in response to the information he provided. Having read the incident report, we note that enquiries were carried out to ascertain the details of the registered keeper for the vehicle the applicant reported. Furthermore, the information provided by the applicant was reviewed by a supervisor within the Area Control Room, who thereafter circulated an update in the local area via the Police Scotland radio network at 2234 hours on the same date. We can also confirm that at 0143 hours on the 29 August 2016, the incident log was updated by a Sergeant to the effect that an intelligence entry was to be created. Given that the applicant had called to report his suspicions regarding the reason for the vehicle having attended at Mr A's address, we consider the response taken by Police Scotland to be appropriate in the circumstances. For this reason, we consider that Police Scotland were correct not to uphold the applicant's complaint.

Accordingly, despite the inconsistencies that we have identified in Chief Inspector G's response letter, we conclude that Police Scotland have handled this complaint to a reasonable standard. No further action is required.

³ The full response to this complaint can be found at paragraphs 14 – 18 of the appendix to this report.

Our Conclusion on Complaint 3

We conclude that Police Scotland handled this complaint to a reasonable standard.

No further action is required.

What happens next

No further action is required of Police Scotland in relation to these complaints.

Ann McGruer
Review Officer

Jacqui Jeffrey
Senior Review Officer

Appendix

Copy of Police Scotland's response letter dated 19 February 2018

(Redacted and paragraphs numbered)

1. *I understand that you made a complaint about the Police on 5th September 2017 and in order to respond to your concerns you I [sic] appointed [Inspector F] to investigate the matter.*
2. *Firstly may I apologise for the time delay however I can confirm that this matter has been thoroughly investigated by [Inspector F] and she has reported the circumstances to me.*
3. *I am aware that [Inspector F] made contact with you and discussed your complaint in detail. You signed a heads of complaint form and I am aware there are three aspects to your complaint and I will address each area in turn.*
4. *1. On 31/08/2017 I called Police about [Mr A], my neighbour, shouting abuse and threatening me and no one dealt with my complaint.*
5. *[Inspector F] has obtained statements from [Constables D and E]. They confirm they attended at [first named location] to speak with you regarding your complaint.*
6. *The callcard confirms that you contacted Police by activating the Police issue alarm that is within this house. When you were contacted by Police Control room you stated that there was a group of males drunk and within another house.*
7. *On arrival of the officers you told them of an ongoing problem you have with your neighbour, [Mr A]. You explained that you had been awakened by this male shouting in the street and hearing him shouting something similar to "you will have to face me". On hearing this you have activated the alarm concerned there may be further issues. I understand that you believed that there should be charges brought against the male for his actions however it was explained that there were no direct threats made towards you. You were currently in bed at the time of the incident and therefore it cannot be established that you were the subject of the shouting in the street.*
8. *Given the circumstances I agree with the decision made by the officers however feel that in order to address your complaint properly the officers should have visited [Mr A] to inform him of the call. Therefore I uphold your complaint in that respect. [Inspector F] has advised the officers of your complaint and advised them of the outcome. Please accept my apologies in relation to this.*
9. *2. On June 2017 I called the Police about [Mr A] having a flute band in his garden playing a song I know to be [named paramilitary group] linked songs and no Police attended.*
10. *[Inspector F] has researched Police systems and found that you phoned the Police at 1938 hours on 24th June 2017 reporting that [Mr A] were [sic] playing flutes and drums in his garden. At this time you stated that you did not wish to see Police as you were concerned about [Mr A] finding out you had called the Police.*
11. *Police Control room carried out the relevant background checks and about 2151 hours, same date, staff from the Control room called you back and did not get a response.*
12. *[Inspector B] has obtained statements from [Constables B and C] and they explain that about 2354 hours, same date, they were dispatched to the call and on attendance in the street noted there were no issues at [Mr A's] address and no noise audible. Given your earlier request not to be contacted and your fear of [Mr A] the call card was updated and matter closed. No approach was made to [Mr A] on this occasion.*
13. *On review of this incident I believe my officer's [sic] response was justified and proportionate however I uphold your complaint as I feel it would have been appropriate for local officers to contact you and update you with their action [sic] and findings.*

14. **3.** *On date unknown I called Police re [Mr A] having drugs delivered to his home and no one attended. I later called and told [sic] there was no evidence.*
15. *[Inspector F] has identified that you contacted Police Scotland and although providing your details stated that you wished to remain anonymous and did not wish contacted.*
16. *You provided details in relation to a male being outside [second named location] and you suspected that he was at this address to buy drugs. No officers were available to attend that address immediately and as a result the information was assessed to be intelligence at that time and an intelligence entry was submitted.*
17. *All intelligence is reviewed and assessed for further action alongside any other information we may hold.*
18. *Given this review I am satisfied that the actions were both proportionate and justified. I do not uphold this part of your complaint.*
19. *Complaints about the Police are treated seriously by the Police Service of Scotland as they provide a valuable opportunity for us to learn and improve our service to the public. It is important that we respond and address matters fairly.*
20. *I would like to thank you for taking the time to express your concerns and wish to assure you that Police Scotland remains committed to achieving and maintaining the highest standards of service delivery to the community.*