



Police Investigations &
Review Commissioner

Report of a Complaint Handling Review in relation to Police Scotland

PIRC/00238/19
February 2020



What we do

Under the terms of the Police, Public Order and Criminal Justice (Scotland) Act 2006, as amended (“the Act”), we examine the manner in which non-criminal complaints about the police have been dealt with.

How we do it

First, we obtain the relevant information from the police and the applicant. We then use this to review how the complaint was dealt with by the police and we reach a conclusion on whether the complaint was handled to a reasonable standard. In carrying out our review, we consider factors such as:

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

Finally, where we deem appropriate, we give reconsideration directions, make recommendations and identify learning points for the police.



Executive Summary

The complaint in this case arose after the applicant reported to the police that a work colleague had threatened to kill him.

The Complaints

We have reviewed a single complaint, namely that the applicant believed that the report he made to the police should have resulted in his work colleague being questioned with a view to proceeding with criminal charges.

Police Scotland's Decision

Police Scotland did not uphold the complaint.

Our Findings

We have found that Police Scotland handled the complaint to a reasonable standard. There is no further action required of Police Scotland.



Background

On 25 September 2018, the applicant reported to Police Scotland that, on 4 October 2017, he overheard a conversation between two of his work colleagues (Mr A and Mr B), during which Mr A threatened to kill the applicant. An incident report was raised in response to the applicant's allegation; however was subsequently closed as no crime had been established.

The applicant submitted his complaint on 21 December 2018 via Police Scotland's online reporting form. The complaint was initially dealt with by Front Line Resolution (FLR). However, on 29 January 2019, the applicant had further contact with the police, and advised that he was not satisfied with the explanation he had been given.

Inspector C was appointed as the enquiry officer. The applicant attended [named police office] to speak with Inspector C and was content for Inspector C to make enquiries and provide him with an update. Inspector C met with the applicant on 13 May 2019 and addressed his issues and informed him that no crime had been committed. Following this meeting, a letter dated 17 May 2019 was sent to the applicant from Chief Inspector D re-iterating this position.

The applicant contacted Police Scotland's professional standards department via telephone on 26 June 2019. He advised that he did not agree with Police Scotland's position that the circumstances he reported did not amount to a crime. The complaint was reopened and Inspector C remained as the enquiry officer. The applicant provided a statement of complaint and agreed and signed the Heads of Complaint form with Inspector C on 8 July 2019.

Chief Inspector D responded to the applicant's complaint in a letter dated 20 August 2019.



The Complaint

The applicant complained that, the report he made should have resulted in his work colleague, Mr A, being questioned with a view to proceeding with criminal charges.

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

Chief Inspector D detailed the applicant's complaint as per the statement he provided to Inspector C on 8 July 2019.

Chief Inspector D informed the applicant that statements were obtained from Constable E, Constable F and Sergeant G to inform the complaint enquiry. He detailed each of their positions and the actions that they took in relation to the applicant's report.

Chief Inspector D also confirmed that Mr B was spoken to due to him having been a potential witness.

Chief Inspector D said that, following the applicant's complaint, the circumstances were provided to the Crime Registrar to review. He explained the purpose of the Crime Registrar and said that they confirmed the criminal activity alleged by the applicant did not amount to a crime by definition and did not merit recording or investigation.

Chief Inspector D concluded his response by stating that, in light of the enquiries detailed in his response; the statements provided; and the view of the Crime Registrar, he was satisfied that no crime had been committed and that he found the complaint not to be upheld.¹

Our Review of the Complaint

We can confirm that Chief Inspector D has accurately reflected the applicant's statement of complaint.

To inform our review, we have been provided with the statements given by Constable E, Constable F and Sergeant G. Having reviewed these statements, we can confirm that Chief Inspector D has accurately reflected the content of each officer's statements relative to their involvement with the applicant's report against Mr A.

From an entry in the notebook belonging to Constable F, we can confirm that Mr B was spoken to on 27 September 2018 - the same date in which the applicant provided his statement to the officers. Although the notebook does not contain further detail as to what Mr B is alleged to have said, we have been provided with a copy of a statement provided by Mr B on 20 March 2019. Accordingly, we can confirm that the officers statements, alongside Chief Inspector D's response in this connection, is supported by the material information available.

¹ Chief Inspector D's full response can be found contained in the attached appendix in paragraph's 1 to 18.



We can further confirm that, as per Chief Inspector D's response, the Crime Registrar was apprised of the circumstances of the applicant's report against Mr A. We have been provided with an email trail between Inspector C and the Crime Registrar, from which we can confirm that Chief Inspector D has accurately reflected that the Crime Registrar was of the opinion that no crime had been committed. We consider that Chief Inspector D's response would have been strengthened had he explained to the applicant the Crime Registrar's rationale for not recording a crime. However, from the paperwork we have been provided, we can advise that the Crime Registrar's rationale was that: i) there had been no direct threat made to the applicant; ii) there was nothing to suggest that the comment had been made whilst knowing that the applicant was in earshot; iii) there was nothing to suggest that the comment was real and deliverable, and iv) that through enquiries, it was established that the comment had been "*banter between work colleagues*".

Based on the available information, we consider that Chief Inspector D has provided the applicant with a detailed response that enables him to understand the enquiries that were carried out. Furthermore, the response has explained the officer's positions that no crime had been committed, with their position being supported by that of their sergeant and the opinion of the Crime Registrar. Accordingly, there was no requirement for officers to have questioned Mr A with a view to proceeding with criminal charges against him.

We therefore conclude that this complaint has been handled to a reasonable standard.

Our Conclusion on Complaint 1

We conclude that Police Scotland handled this complaint to a reasonable standard. There is no further action required of Police Scotland in this connection.

What happens next

There is no further action required of Police Scotland in this connection.

Nicola Mayes
Review Officer

Jacqui Jeffrey
Senior Review Officer



Appendix

Copy of Police Scotland's response letter dated 20 August 2019

(Redacted and paragraphs numbered)

1. *"I refer to the above and the initial correspondence supplied by you on 12th December 2018. I am aware this was initially addressed and you subsequently contacted Professional Standards Department (PSD) requesting further enquiry to be carried out.*
2. *I understand in order to respond to your concerns you were contacted by one of my officers, [Inspector C]. During a meeting on 8th July 2019, your statement was noted and a Heads of Complaint form was completed. Your initial complaint consisted of one allegation following contact with police officers on 27 September 2018, which I will now address...*
3. *...I am aware you provided a statement to [Inspector C] on 8th July 2019 regarding an incident which occurred at your place of work on 4th October 2017. In your statement you provided the circumstances of a conversation between two work colleagues which you overheard and you believed that a crime had been committed by [Mr A] as a result of what he said to [Mr B]. In your statement you believed the comments made were directed at you and this was of a criminal nature.*
4. *The enquiry officer, [Constable E], was contacted by [Inspector C] and requested to provide an operational statement regarding the allegation. [Constable E] thereafter submitted a statement as requested and [Inspector C] has reviewed the content. [Constable E] stated that on 27th September 2018, you informed him of an incident that occurred within your work place during October 2017 with a male named as [Mr A]. [Constable E] added that you stated [Mr A] was talking to [Mr B] within the office and you had overheard [Mr A] talking about a recent incident in Los Angeles. [Constable E] added that you said [Mr A] had said something similar to "that could be me in here one day but I won't need as many bullets".*
5. *[Constable E] stated that you had reported this to your work and you had been off sick since this incident. [Constable E] also stated that your work had carried out an internal investigation but this was not taken any further.*
6. *[Constable E] stated that he advised you of police procedures in relation to this incident and what the potential outcomes could be. This being that [Mr A] could be spoken to and advised of his conduct or a criminal enquiry with a potential report being sent to the Procurator Fiscal. [Constable E] added that he advised you that he would speak to [Mr B] before any decisions would be made.*
7. *[Constable E] also stated that at 1500 hours on the same date, he attended at your workplace with [Constable F] and spoke with the witness [Mr B] and his comments were noted. [Constable E] thereafter spoke with [Sergeant G] in relation to this call and*



appraised him of the circumstances. [Constable E] added that [Sergeant G] agreed that there was not a criminal complaint.

8. *[Constable E] stated on Monday 28th January 2019, you attended at [named police office] for a meeting with [Constable E] and [Sergeant G]. [Constable E] stated that during this meeting [Sergeant G] advised you that police would not be justified bringing [Mr A] in to custody as this was not a criminal complaint. [Constable E] added that you were informed that if you wished, [Mr A] would be spoken to in relation to the complaint. [Constable E] also added that on 4th February 2019, he attended at [named location] and spoke with [Mr A] about the incident and his comments were noted.*
9. *[Constable F] was contacted by [Inspector C] and requested to provide an operational statement regarding the allegation. [Constable F] stated that on 27th September 2018 she noted a statement from you regarding the incident at your workplace from October 2017.*
10. *[Constable F] added that [Constable E] explained to you that pending further investigation, should there be enough for a crime to be established then the male would either be warned of his conduct or officers would submit a report to the Procurator Fiscal.*
11. *[Constable F] also stated that on the same date, along with [Constable E], she attended [named location] and spoke with [Mr B] in relation to this incident as he was a potential witness. [Constable E] also stated that [Mr B's] comments were noted.*
12. *[Sergeant G] was contacted by [Inspector C] and requested to provide an operational statement regarding the allegation. [Sergeant G] stated during the course of 2018 and 2019, he had several contacts with you in relation to a matter you reported to [Constable E].*
13. *[Sergeant G] stated you were contacting police in relation to a matter that had occurred within your place of work approx.. 10-12 months previously. [Sergeant G] added this was a complaint about overhearing a conversation which you felt was directed towards you, by two other males within the office. [Sergeant G] further added that you were unhappy that the matter was not being investigated as a criminal matter. [Sergeant G] added that he explained to you that the circumstances of your complaint were not a criminal matter.*
14. *[Sergeant G] added that he explained to you that all the parties had been spoke to. [Sergeant G] added that breach of the peace laws and Section 38 Criminal Justice etc. were all discussed with you. [Sergeant G] further added that you believed that this matter should be dealt with as a crime and [Sergeant G] stated he continued to explain his reasoning as to why this was not the case, including that you reported the matter to the police between 10-12 months after the incident.*



15. *[Sergeant G] also stated that he was content that this matter was not criminal and this was explained to you however you were of a different opinion.*
16. *A statement was also noted from [Mr B] during the investigation and this has been reviewed during the complaint enquiry.*
17. *[Inspector C] has also informed me that the circumstances were provided to the Crime Registrar to review. This department is responsible for ensuring Police Scotland complies with its statutory obligations to ensure the standards required by the Scottish Crime Recording System are met. On review they confirmed the criminal activity alleged by you did not amount by definition to a crime and did not merit recording or investigation.*
18. *As a result of the foregoing enquiries and statements provided, supported by the review by the Crime Registrar, I am satisfied that no crime has been committed in relation to the incident reported. Therefore I find your complaint as not upheld”.*

