

[applicant's name and address]

PCCS/00390/09
19 December 2011

Dear [applicant]

I refer to your application to this office and write to inform you of my decision in your case.

Following an incident on 17 April 2006 you made two complaints about Tayside Police, namely:

- that police officers failed to properly investigate your allegations that you had been threatened and that a bottle had been thrown at you brother's car; and
- that [Constable A] spoke inappropriately to you on the telephone.

On 8 May 2007 you received a letter of response to these complaints from the Deputy Chief Constable. In respect of the first complaint, the Deputy Chief Constable noted that [Sergeant B] had failed to record your complaints about [Constable A] when you spoke to him on 19 April 2006. In addition, the Deputy Chief Constable found that [Sergeant B] should have directed [Constable A] to carry out further enquiries into your allegations, as the original investigation had been inadequate. In this regard he offered you an unreserved apology. The Deputy Chief Constable also advised you that [Constable A] and [Sergeant B] had received corrective advice in this connection. In my view, this was a reasonable outcome to your complaints and I have nothing to add to what you have been told by Tayside Police in this connection.

In respect of the second complaint, the Deputy Chief Constable advised that the telephone call had not been recorded and that [Constable A] had denied talking to you in an inappropriate manner. The Deputy Chief Constable therefore found that, as there was no evidence to support either version of events, the complaint was unsubstantiated.

In your correspondence both with Tayside Police and my office, you allege that you have received a lower standard of service from Tayside Police due to your being a member of [a social group]. The Deputy Chief Constable has refuted this allegation. It is clear that you received a poor standard of service in relation to the incident in question; however, I am satisfied that there is no evidence within Tayside Police's file which might support your allegation of discrimination in this connection.

You also complained to Tayside Police regarding an incident on 14 August 2009 in which you alleged that a van was being driven near your home playing very loud music. You alleged that this was being

done in an attempt to harass you. I understand that you telephoned Tayside Police and that officers attended at your home a short while later. According to the file supplied by Tayside Police, the officers found the van in question parked a short distance from your home being washed by three males at the time. The officers noted that volume of the music coming from the van seemed to be "a little excessive" and they asked one of the males to turn it down, which he did.

The officers then attended at your home during which time you identified one of the three males as being the driver of the van. The officers also viewed a recording you had made of the van being reversed three times within a short timescale at the side of the property adjacent to your own. A copy of this recording has been provided to my office. The officers then spoke to the male you identified as the driver and he denied that any of his actions had been intended to harass or otherwise upset you. The officers thereafter advised you that they did not believe a crime had been committed and that no further action would be taken.


You subsequently complained to Tayside Police that the officers failed properly to investigate your allegation and that the driver of the van should have been reported to the Procurator Fiscal. You received a letter of response from the Deputy Chief Constable dated 8 December 2009 in which he advised you that the alleged conduct was of "of a sufficiently minor nature that the Procurator Fiscal would not have been prepared to take any further action in respect of the alleged matters". According to the Deputy Chief Constable this was the reason why the matter had not been reported to the Procurator Fiscal.

The Deputy Chief Constable's comments differ substantially from the position taken by the officers who attended the incident. Based on the statements submitted by the attending officers it is clear that they believed the alleged conduct did not amount to a crime. Conversely, the Deputy Chief Constable implied in his letter that the alleged conduct may have constituted a crime but that it was sufficiently minor to justify not reporting the matter to the Procurator Fiscal. Having read the officers' statements and viewed the video recording supplied I am of the view that the alleged conduct did not amount to a crime. Consequently, I am satisfied that Tayside Police's decision not to refer the matter to the Procurator Fiscal was reasonable.

Please note my involvement in your case is now at an end.

In accordance with my office's procedures, a copy of this letter will be published, in fully anonymised form, on my office's website. This will occur on 22 December 2011.

Yours sincerely



John McNeill
Police Complaints Commissioner for Scotland