

# PCA

POLICE COMPLAINTS AUTHORITY

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SIR LEONARD PEACH  
*Chairman*

4th November 1992

D92/714/65

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*Dear Mr. Webb,*

I apologise for the delay in responding to your letter of the 25th September. However, in view of the points you raised, we have sought advice from the Treasury Solicitor's department and your representations on this matter have again been given very careful consideration.

I refer to the former Chairman's letter to you dated 30 June and my Deputy's dated 11 August. I adhere to the reasoning contained in those letters. In the present case the PCA referred your complaint to the appropriate authority in accordance with its obligations under the General Regulations 1985, believing that it was in the public interest to do so, for the very purpose that the appropriate authority itself should have the opportunity to consider your representations and decide whether they constituted a complaint under the Act.

The Metropolitan Police have considered this question and have come to the conclusion that it does not, and have declined to record it as a complaint. That is not the decision of the PCA but of the Metropolitan Police and it may be that is the decision which you should take up more properly with the Metropolitan Police.

Given these circumstances we are advised that the powers of the PCA under section 87 (2) and section 89 of the 1984 Act do not come into play. So far as section 87 (2) is concerned, this sub-section does not confer on the PCA a power to compel the appropriate authority to recognise a complaint as a complaint under the Act, but to call in for consideration the investigation of a complaint which has been so recognised.

So far as section 89 is concerned, this section provides for the supervision of the investigation of complaints by the appropriate authority. In the present case, there is no investigation for the PCA to supervise. I should add that the particular subject matter of your complaint does not fall within any of the categories of complaints subject to mandatory referral under the 1985 Regulations. For the reasons already stated however neither of these powers has yet come into play.

We are re-inforced in our view that the "recording responsibilities" lies with the police force since in our first Triennial Review 1985-88 (HC466) the Authority sought to change this responsibility by giving the last word in this area to the Authority rather than the police force. The Authority's recommendation was not accepted by the then Home Secretary and the procedure remained unchanged; that is to say that the complaints procedure is triggered by the recording of the complaint. In view of the advice which we are given I am unable to assist you further.

Yours sincerely

*Len Peach*

SIR LEONARD PEACH