

# PCCS



Police Complaints Commissioner  
for Scotland

**Request for complaint handling review of a complaint about**

**Grampian Police**

**under the provisions of  
the Police, Public Order and Criminal Justice (Scotland) Act 2006**

**August 2008**

Case reference: PCCS/0808/00157/PF-GPA

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## **Introduction**

The role of the Police Complaints Commissioner for Scotland was established by the Police, Public Order and Criminal Justice (Scotland) Act 2006 (“the Act”) to consider and review the way police authorities, police forces and policing agencies handle complaints from the public. I was appointed by the Scottish Ministers as the first Police Complaints Commissioner for Scotland, taking up my powers from 1 April 2007. My office provides a free and independent service, reviewing the handling of complaints fairly, looking at both sides of what has happened and looking at the facts.

I aim to review complaints in an independent, open and fair manner. In line with this aim I will publish the reports of my complaint handling reviews, whilst bearing in mind individuals’ rights to confidentiality. The following report therefore details my consideration, but does not include individual names of complainers, police officers or others affected by the events detailed therein.

## **1. Request for review**

The complainer has requested that I review the handling of her complaints about Grampian Police. The complainer has detailed a number of complaints that she wishes me to consider. The complaints originate from events which occurred on 25 July 2006. Her grounds of complaint are as follows:

**Complaint 1** – That the complainer was unjustifiably warned by Grampian Police;

**Complaint 2** – That Grampian Police only took the word of relatives before issuing a warning to the complainer; and

**Complaint 3** – That a warning given to the complainer and the details behind it were not fully explained to her by Grampian Police.

## **2. Power to conduct a complaint handling review**

Section 35 of the Act provides me with the authority to examine the manner in which an appropriate authority has handled a complaint about a police officer, member of police staff or the service provided by a relevant authority.

In order to carry out such a complaint handling review I request the complaint case papers from the force in question. I examine the facts of the complaint case, looking at information provided to me by both the complainer and the police force. I consider whether the information available does, or does not, support the complaint, and whether or not the force has responded to the complaint in a reasonable manner. I also consider whether the force communicated with the complainer in a reasonable manner, including whether the police force handled the complaint within a reasonable timescale. I then come to a view whether the conclusions drawn by the force in handling the complaint were reasonable in all the circumstances.

Once I have reached my conclusions I prepare a report which details the findings of my case handling review. This is then forwarded the relevant authority in accordance with section 35(3) of the Act. The complainer will be advised of the conclusions of this review and of what action, if any, I propose to take in consequence of those conclusions. Where the complaint is in respect of an act or omission by an individual police officer that person will also be informed of the conclusions of this review.

### **2.1 Relevant complaint**

Section 34 of the Act provides that I may review the handling of a complaint where the complaint is “a relevant complaint”, defined as

*(1) ... a complaint which is given or sent ... to the appropriate authority in relation to the complaint.*

*(2) .... “complaint” means a written statement expressing dissatisfaction about an act or omission...*

*(3) But “complaint” does not include*

*(a) any statement made by a person serving with, or who has served with, the police, about the terms and conditions of that person's service with the police; or*

*(b) a statement which consists of or includes an allegation of an act or omission which constitutes a crime.*

The complainer has supplied a written statement expressing dissatisfaction about an act or omission by a force. The complaint is therefore a relevant complaint.

## **2.2 Relevant complainer**

The Act further provides that I may review the handling of a complaint where the complainer falls within one of the following categories (section 34(6)):

*(a) a member of the public who claims to be the person in relation to whom the act or omission took place;*

*(b) a member of the public not falling within paragraph (a) who claims to have been adversely affected by the act or omission;*

*(c) a member of the public who claims to have witnessed the act or omission;*

*(d) a person acting on behalf of a person falling within any of paragraphs (a) to (c)*

The complainer is a member of the public who claims to have been adversely affected by an act or omission by the police. The complainer is therefore a relevant complainer under the terms of section 34(6)(a).

## **3. Background**

On 28 June 2006, Grampian Police was called regarding an alleged disturbance that the complainer was involved in outside the home of a relative, Relative A. Police Officers were called to the scene and asked the complainer to ‘move on’.

On 4 and 5 July 2006 respectively, Relative A received two letters from the complainer. The force files show that Relative A and her husband viewed these letters as malicious and her husband, who is an employee of Grampian Police, informed the force of this in order that it warn the complainer about her conduct. Relative A’s husband also asked the police to instruct the complainer to cease all contact with him and his wife in future.

On 25 July 2006, Constables B and C attended the home of the complainer to advise her that Relative A had made a complaint against her. Both Constable's statements show that Constable B outlined the circumstances of the complaint to the complainer and that the complainer acknowledged that she fully understood the complaint being made about her. Both Constable's statements also show that that the complainer acknowledged that she had been in regular contact with Relative A despite being asked not to do so by her. Constable B and C's statements show that the complainer was then warned in relation to sending the letters and warned not to make any further contact with Relative A in future.

#### **4. Force internal handling**

Grampian Police received notification of the complainers complaints through a letter dated 13 November 2006. A 'Complaint Against the Police' form (CAP form) detailing these complaints was completed on 16 November 2006.

Having received the complainer's letter, Inspector D submitted an initial report and assessment to Superintendent E on 16 November 2006. This report viewed the complainer's complaint as being:

*'that on 24 July 2006, two Police officers attended at home address where they warned [the complainer's friend] in relation to a complaint of Breach of the Peace made, with the details of the complaint and the warning not being fully explained to [the complainer].*

On 20 November 2006, Superintendent F of the Professional Standards and Conduct Department asked that, due to the nature of the circumstances, Inspector G meet the complainer to resolve her complaint.

Inspector G and Inspector H met with the complainer at her home on 15 December 2006 and a statement was taken from the complainer. The statement detailed the complainer's position as:

*'My complaint against the Police was that the warning was not fully explained to me and that [friend A] was also warned not to make any contact with [Relative A], despite him being there at the time the warning was given.....Inspector G has fully explained the warning and the fact that [friend A] has not been warned. I now fully understand the situation. I am happy with the outcome of my complaint and now consider the matter closed'.*

Following Inspector G's meeting with the complainer, he prepared a report on the circumstances of the complaint. The report stated that the complaint had been resolved to the complainer's satisfaction. The report, which was then submitted to Superintendent E concluded:

*'I eventually managed to deal with the main points of the complaint made by [the complainer].....I fully explained the nature of the complaint by [Relative A] and also the rules of evidence that must be adhered*

*to.....Following this explanation, [the complainer was] happy and wished no further action’.*

On 17 January 2007, Superintendent E sent a letter to the complainer setting out the force’s position on the complaint which it had noted. The letter stated:

*‘having had Police procedures for dealing with such matters fully explained, you are satisfied that the Officers acted fully within their Police powers and in accordance with normal procedures’.*

## **5. PCCS review**

A telephone call was received by my office on 15 October 2007 from the complainer. The complainer was asked to complete and sign an application for review form which was received on 19 October 2007. The complainer advised that following her meeting with Inspector G on 15 December 2006, she was not aware of the nature of the document that she had signed and felt that this should not preclude an application for review by my office.

On 22 October 2007, my office asked Grampian Police to provide the complaint case file by 3 November 2007. The case file relating to the complaint was received from the force on 29 October 2007.

The complainer remained updated on this correspondence and on the progress of his complaint in accordance with the PCCS published standards of service.

## **6. Consideration**

**Complaint 1** – That the complainer was unjustifiably warned by Grampian Police.

It is clear that the complainer’s original letter of complaint to the force on 13 November 2006 detailed her complaint that she was unjustifiably warned by Constables B and C. I note that this letter also stated that the complainer felt that she *‘never threatened [Relative A] or done anything that justifies being given such a warning’.*

Following Inspector G’s meeting with the complainer on 15 December 2006, his report states that he explained to the complainer the nature of the complaint which had been made against her and the rules of evidence which must be adhered to in such circumstances.

Although it is the complainer’s view that she did not understand what Inspector G had communicated, having considered the explanation detailed in Inspector G’s report to Superintendent E and the descriptive statement signed by the complainer, it is my view that the force has acted in a reasonable manner by attempting to

conciliate the complaint. It is also my view that the explanation which the complainer acknowledged was given to her was appropriate and reasonable in the circumstances.

**Complaint 2** – That Grampian Police only took the word of relatives before issuing a warning to the complainer.

The complainer was unhappy that no statements were taken from her or the witness to the events of 28 June 2006 and she complained that the warning she received was based solely on the information provided to the police by Relative A and her husband.

From the information supplied to my office, the complainer was not warned for the incident which occurred on 28 June 2006. She was warned for the letters which she admitted sending on 4 and 5 July 2006.

As noted in my consideration of Complaint 1, it is my view that the force has acted in a reasonable manner by attempting to conciliate the complaint. It is also my view that the explanation which the complainer acknowledged was given to her was appropriate and reasonable in the circumstances.

**Complaint 3** – That a warning given to the complainer and the details behind it were not fully explained to her by Grampian Police.

From the information supplied to my office, the complaints which the complainer raised are Complaints 1 and 2 as listed in this review. However, the statement signed by the complainer shows that she accepted the force's interpretation of her complaint and was happy with the explanation provided.

Although it is the complainer's view that she did not understand what Inspector G had communicated to her, having considered the explanation detailed in Inspector G's report to Superintendent E and the descriptive statement signed by the complainer, it is my view that the force has acted in a reasonable manner by attempting to conciliate the complaint. It is also my view that the explanation which the complainer acknowledged was given to her was appropriate in the circumstances and it was reasonable for the force to have considered the complaint as having been conciliated.

## **7. Conclusion**

From the information supplied to my office it is my view that as the complainer specifically agreed what her complaint was and that the matter had been closed, the force has acted in a reasonable manner by attempting to conciliate the complaint which it recorded. As such, **I do not uphold Complaints 1, 2 or 3.**

Jim Martin  
Police Complaints Commissioner for Scotland  
August 2008