



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-GPB

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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 complaints that she has made about Grampian Police in relation to two separate events. The complainer has detailed five complaints, two of which are considered in this review. The remaining three complaints have been considered in a separate review published alongside this document¹. The complaints subject to this review originate from events which occurred on 21 August 2007. Her grounds of complaint are as follows:

Complaint 1 – That Grampian Police issued the complainer with a Formal Adult Warning; and

Complaint 2 – That an employee of Grampian Police abused his position which resulted in the complainer being victimised 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 21 August 2007 a relative of the complainer (Relative A) called her husband, who is employed by Grampian Police, while he was at work to inform him that the complainer had approached her in the street and began to shout and swear at her. Relative A's husband informed his line manager of this and asked that the complainer be warned regarding her conduct.

On 26 August 2007, Constable B attended the complainer's home to look into the allegations that Relative A had made. Constable B's statement shows that, during this meeting, the complainer had admitted that she had called her relative 'wicked' but that she could not remember anything else that had occurred during the incident. Constable B's statement shows that as a result of this, and following consultation

with his line manager Inspector C, he sent a Formal Adult Warning letter in relation to an offence of Breach of the Peace to the complainer.

The complainer's subsequent correspondence with the force asserts that, whilst shopping with a friend, she had met Relative A by chance. The complainer also denied the allegation that she had been verbally abusive towards her relative.

4. Force internal handling

The complainer submitted her complaints to the force by letter and e-mail:

- Letter 1, 2 and 3, all dated 9 September 2007 detailed Complaint 1;
- Letter 4, dated 17 September 2007, reiterated Complaint 1;
- Letter 5, dated 21 September 2007, reiterated Complaint 1 and detailed Complaint 2;
- Letter 6, dated 4 October 2007, reiterated Complaints 1 and 2;
- E-mail 1, dated 7 October 2007, reiterated Complaints 1 and 2;
- E-mail 2, dated 15 October 2007, reiterated Complaints 1 and 2; and
- E-mail 3, dated 23 October 2007, reiterated complaint 2.

Following receipt of the complainer's first letter, the Professional Standards and Conduct Department completed an initial assessment of the complaint. The force viewed the complainer's concern as being:

'On 21 August 2007 the complainer approached her [Relative A].....and allegedly shouted and swore at her. She was subsequently warned for Breach of the Peace. On 9 September 2007 she received the standard letter by post regarding the Adult Warning Scheme in which she was advised that her name would [be] held on [the] [Scottish Criminal Records Office] record for the period of two years. She is aggrieved about the latter action, as she believes the matter was so trivial that it did not merit such action'.

The initial assessment also recommended that 'a supervisory officer contact the complainer to explain the policy with a view to resolving this complaint'. It does not appear that a Complaint Against the Police form (CAP form) was completed. On 12 October 2007, Inspector D met the complainer at her home. The complainer signed a statement which noted the following information:

'I recently raised a complaint against Grampian Police over the receipt of an Adult Warning letter for a trivial offence involving my [Relative A]. Today, 12 October 2007, I was visited by inspector [D], the Investigating Officer. The current legal position and procedures were explained to me. Whilst I am angry at [Relative A], I now understand the Police process better and realise this is a trivial matter. I shall not be pursuing this action any further'.

Complaint 1 – That Grampian Police issued the complainer with a Formal Adult Warning.

On 23 October 2007, Superintendent E sent a letter to the complainer advising that the matter had been concluded. The letter stated:

'I appointed Inspector [D] to investigate the matter. I understand he has since met with you to clarify legal procedures. He is satisfied that the Officers involved followed due process. As a result, unfortunately your name will be held on SCRO for two years. As you are now satisfied with the explanation, I consider the matter concluded. I note, however, in a subsequent e-mail dated 15 October 2007, that you intend to raise the matter with the [Police Complaints Commissioner for Scotland]. It is your prerogative to pursue this course of action'.

Following my office writing to the force on 22 October 2007 requesting the case papers relating to the complainer's complaints, on 19 December 2007, Chief Inspector F responded that he had reviewed the circumstances behind the complainer being issued the Formal Adult Warning. Chief Inspector F also advised my office that he was conducting further enquiry into the matter and that he would update both the complainer and my office with the results of his enquiry. On 18 January 2008, the friend with whom the complainer had been shopping when the incident occurred was interviewed by the force regarding the events occurring on 21 August 2007. The complainer's friend advised that he did not witness anything that would have constituted a Breach of the Peace.

On 4 February 2008, Superintendent G wrote to the complainer advising:

'Inspector [D] has now noted the statement of [your friend] and having reconsidered the evidence in your case, I have decided to rescind your Adult Warning Letter. As a result, your name has been removed from the Criminal Records database'.

Superintendent G apologised for any distress that the case had caused and further advised that:

'Grampian Police prides itself on a high level of service delivery and on this occasion we have failed to meet this standard and for that, I apologise. Inspector [D] has taken appropriate management action against the Officer who investigated the original offence'.

Complaint 2 – That an employee of Grampian Police abused his position which resulted in the complainer being victimised by Grampian Police.

On 23 November 2007, Inspector D sent an e-mail to the complainer with the force's position on Complaint 2. The e-mail detailed the complaint as being that:

'Following your initial complaint an allegation that [Relative A's husband] informed Police against you, using his position as member of police staff'.

Inspector D's also detailed the force conclusion as being:

'I have since spoken at length with [Relative A's husband] and he denies using his position to inform the Police about you.....I am satisfied that on both occasions [Relative A's husband] acted within the spirit of the law and will be advising Professional Standards of this in my findings'.

5. PCCS review

On 15 October 2007, the complainer called my office to ask for a review on the manner in which her complaint had been dealt with by Grampian Police. The complainer was asked to complete and sign an application for review form which was received on 19 October 2007 along with other relevant documentation. A number of telephone calls between my office and the complainer took place during the course of enquiries by my office.

On 22 October 2007 my office requested that Grampian Police provide the relevant complaint case papers by 3 November 2007. On 29 October 2007, files were received from the force relating to separate complaints which the complainer has asked my office to review². As noted above, on 19 December 2008 Chief Inspector F advised my office that he intended to conduct a further review of the circumstances behind the complainer being issued with the Formal Police Warning.

On 11 February 2008 the complainer advised my office that the Formal Adult Warning had been rescinded. She also advised that, despite the outcome of the police review, she wished my office to continue with the review of her complaints about the police.

On 27 June 2008, my office asked Grampian Police to provide the relevant complaint case papers relating to both the complaints contained in this review, including the remedial action taken by Chief Inspector F. These files were received from the force on 2 July 2008.

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

6. Consideration

There are a number of distinct issues raised by the complainer. These are outlined below along with my consideration of the facts relating to these complaints.

Complaint 1 – That Grampian Police issued the complainer with a Formal Adult Warning.

I note that the complainer was of the view that she did not conduct herself in a manner which justified the Formal Adult Warning being issued to her. The

complainer was also concerned that as a result of being issued with this warning, her name would be held on a criminal records database for 2 years.

The complainer's various letters and e-mails state that she was told by the force that the matter for which she was reported was trivial. As a result of this, the complainer does not understand why she was issued with the warning.

The complainer's letter of 17 September 2007 and e-mail of 15 November 2007 explains the position that meeting Relative A on 21 August 2007 was accidental and that the friend who witnessed the event could verify this. I also note that the complainer's friend wrote to the force on 14 December 2007 advising that he did not witness anything that would merit the complainer being issued with a Formal Adult Warning.

It is clear that the complainer signed the statement conciliating the complaint. However, as acknowledged by Chief Inspector F, there were flaws surrounding the way in which the force issued the Formal Adult Warning. It is unfortunate that Inspector D did not appear to identify and remedy the flaws before conciliating the complaint. It is also unfortunate that having been informed that there was a potential witness to the events of 21 August 2007, Inspector D chose not to interview this witness before taking the view that the Formal Adult Warning was justified.

However, following the complainer's friend being interviewed on 18 January 2008, a file note prepared by Inspector D stated that there was now *'sufficient doubt upon the evidence led which resulted in an Adult Warning letter being issued to [the complainer] for a Breach of the Peace'*.

From the information supplied to my office by the force, Inspector D took *'appropriate management action'* regarding Constable B and advice was given to him regarding the procedure for issuing Formal Adult Warnings. It appears that this action was taken because Constable B did not interview the complainer's friend before the Formal Adult Warning was issued. It is unfortunate, particularly since Constable B had only six weeks service at the time of the Formal Adult Warning being issued to the complainer, that these defects, as acknowledged by the force, were not picked up by Constable B's line manager or Inspector D in his original investigation into the complaint.

Complaint 2 – That an employee of Grampian Police abused his position which resulted in the complainer being victimised by Grampian Police.

Throughout her correspondence with the force, the complainer consistently details her belief that Relative A's husband used his position to have the force take action against her, that the force took his word against hers and that this only occurred since Relative A's husband started working for the force. It is also the complainer's belief that Relative A's husband abused his position by misrepresenting incidents which he reported the complainer for in the past. As a result of this, the complainer has complained that she has been the subject of victimisation by her relative's husband. The complainer's letters to the force also contain a suggestion that unnamed police officers exchanged personal information about the complainer with Relative A's husband.

As noted in Section 4, the complainer made this complaint to the force on 21 September 2007. From the files provided by the force, it appears that it was not recorded until Chief Inspector F's intervention on 2 November 2007 resulting in Relative A's husband being interviewed by Inspector D on 17 November 2007. I note that following this meeting, Inspector D completed a file note which advised that Relative A's husband '*categorically denied ever using his position to generate police action against [the complainer]*' and that Relative A's husband only reported incidents involving the complainer following his wife contacting him at his place of work.

Although the force has given the complainer a reasonable response based on its investigation, it does not appear to have completed a CAP form regarding this complaint and I can find no formal statement to confirm the content of the interview between Inspector D and Relative A's husband. Additionally, I note, from the information available to me, that the force does not appear to have interviewed Relative A in relation to the incident on 21 August 2007 and appear to have relied upon the information provided by Relative A's husband.

7. Conclusion

Complaint 1 – That Grampian Police issued the complainer with a Formal Adult Warning.

Since the complainer brought this complaint to me, the force has rescinded the Formal Adult Warning and apologised for the errors that led to it being issued. As such, **this complaint has been overtaken by events and no further action by the force is required.**

Complaint 2 – That an employee of Grampian Police abused his position which resulted in the complainer being victimised by Grampian Police.

This matter is a recurring theme throughout this and a previous complaint made by the complainer³. It is my view that the force has given the complainer a reasonable explanation based on its investigation, although the force should satisfy itself that its complaint handling Standard Operating Procedure is being consistently followed. As such, **I do not uphold this complaint.**

Jim Martin
Police Complaints Commissioner for Scotland
August 2008

Footnotes 1,2 and 3 PCCS/0808/00157/PF-GPA