

PCCS



Police Complaints Commissioner
for Scotland

Request for complaint handling review of a complaint about

Fife Constabulary

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

August 2008

Case reference: PCCS/0808/00215/PF-FC

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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 his complaint about Fife Constabulary. The complainer's concerns relate to the policing of a pedestrianised area in a town centre:

Complaint – That Fife Constabulary fail to enforce vehicle restrictions in a pedestrianised area in a local town.

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

The complainer's complaint relates to the enforcement of vehicle regulations in a pedestrianised zone which forms part of a local town centre.

The complainer maintains that Fife Constabulary is failing in its duty of care to the public by failing to enforce the regulations in The Fife Regional Council ([Local Town] Town Centre) (Pedestrian Priority, One-Way Traffic, Prohibition and Restriction of Waiting) Order 1991. In a letter to my office dated 6 December 2007, the complainer stated that many vehicles ignored the regulations, particularly in the evening and that the force was making no attempt to tackle this problem.

4. Force internal handling

The complainer first wrote to Fife Constabulary regarding this complaint on 30 July 2007. The complainer stated that he wished to make a formal complaint regarding

the force failing to fulfil its duty of care to pedestrians in the local pedestrian precinct by not enforcing the vehicle restrictions. The complainer maintains that if there are police officers in the pedestrianised area, they should enforce the regulations. He stated in this letter:

"I wish to make a formal complaint against Fife Constabulary regarding the fact that [the force] are failing to fulfil their primary role which is to protect life and are failing in their duty of care responsibilities by refusing...to enforce the regulations which are in place..."

Temporary Chief Inspector A responded to the complainer in a letter dated 8 August 2007 in which he advised that Temporary Superintendent B was to be passed the complainer's letter for his consideration and response.

The complainer wrote to the force again regarding this complaint on 14 August 2007. On 29 August 2008 the complainer wrote reiterating the complaint and commented that he had not yet received a response from Temporary Superintendent B. Superintendent C wrote to the complainer acknowledging receipt of an unspecified letter on 5 September 2007. Superintendent C stated that the complainer's letter had been passed to the Deputy Divisional Commander, T/Superintendent B and that a local Inspector would be in contact shortly to progress the complaint.

T/Superintendent B wrote to the complainer on 14 September 2007 in response to his complaint about the police. T/Superintendent B referred to a meeting between the complainer and an Inspector prior to the complainer's letter of 30 July 2007 during which the force's response to traffic issues was discussed. In this letter T/Superintendent B stated that the complainer was mistaken in his assertion that Fife Constabulary did not enforce vehicle restrictions, and that action was taken by the force according to the resources available. The officer also provided details regarding the number of fixed penalties issued in that area.

In his letter to the force dated 2 October 2007, the complainer stated that the response provided by the force was not to his satisfaction and requested advice on how to raise the complaint outwith Fife Constabulary. Superintendent C responded on 12 October 2007 advising the complainer that the next step would be to contact the PCCS but that a formal complaint must be made to Fife Constabulary in the first instance. Superintendent C stated that the complainer should contact him if this was his intention. On 9 November 2007 the complainer replied by letter reiterating the complaint and stating that he found the response of the force unacceptable. A handwritten note by Superintendent C noted that this letter should be treated as a formal complaint and recorded/progressed as appropriate. Superintendent C also noted that this complaint could not be passed to the PCCS until such time as this action has been taken by the force.

The Deputy Chief Constable sent a memorandum to Temporary Chief Superintendent D on 16 November 2007 which stated that an Inspector unconnected with the matter should be appointed to contact the complainer and prepare a report.

The complainer wrote to the force again on 18 November 2007 reiterating his complaint. The force wrote to the complainer on 3 December 2007 although in this

letter, Inspector E appears to refer to a separate complaint raised by the complainer which I have not been asked to consider as part of my review.

Copies of internal emails dated 7 December 2007 provided by the force indicate that Chief Inspector F obtained policing statistics for the area to assist with the response to this complaint. Superintendent B provided the complainer with the force's final conclusions in a letter erroneously dated 11 November 2007 (a force note indicates that this should be dated 11 December 2007). In this correspondence, Superintendent B stated that while he understood the complainer's concerns, the policing resources at his disposal were finite and prioritisation had to be used to ensure an effective service was provided by the force. He also advised the complainer that if he remained dissatisfied that he should write to Fife Constabulary's Complaints, Conduct and Professional Standards Department and thereafter the PCCS.

A Complaint Against the Police (CAP) form was completed by Inspector E on 24 December 2007 detailing the nature of this complaint. This complaint was recorded as unsubstantiated by T/Chief Superintendent D on 27 December 2007. A memorandum from Chief Inspector F to Superintendent C dated 31 December 2007 detailed the circumstances of the complaint and stated that his attempts to arrange a meeting with the complainer were unsuccessful. The CAP form recorded that the complaint case was completed on 31 December 2007.

5. PCCS review

A letter of complaint was received at my office on 30 November 2007. The complainer was asked to complete and sign an application form which was received on 17 December 2007.

On 17 December 2007, my office sent a letter to Fife Constabulary requesting the case files for this complaint by 31 December 2007. These were received at my office on 7 January 2008. On 14 May 2008 my office wrote to the force to request confirmation that all the papers in relation to this complaint had been provided by the force. Superintendent C contacted my office by telephone on 16 May 2008 to advise that there were further papers related to this complaint. These papers were received by the PCCS on 30 May 2008. My office contacted Superintendent C on 19 June 2008 to request copies of further letters along with details of the order that restricts vehicle access to the local town centre. These documents were received on 1 July 2008.

My office received additional correspondence from the complainer regarding his complaint about the police on 19 December 2007, 19 February 2008, 2 May 2008, 14 May 2008 and 21 July 2008.

The complainer was updated on the progress of his complaint every 28 days in accordance with the PCCS published standards of service.

6. Consideration

There is one distinct complaint raised by the complainer:

Complaint – That Fife Constabulary fail to enforce vehicle restrictions in a pedestrianised area in a local town.

In his letter to the force dated 30 July 2007 the complainer stated that when police officers are present in the pedestrianised area of the local town centre they are failing in their duty of care by refusing to enforce the vehicle regulations.

The force chose to deal with this matter at a divisional level and the Deputy Divisional Commander for the area was allocated the complaint. In his response to this complaint dated 14 September 2007, T/Superintendent B stated:

“We will, as I believe Inspector [E] explained at length take action about any issue of this type according to the resources available to us, and the priority of the call at any given time.

In fact Police Officers in [local town] have issued more than 320 fixed penalty tickets relating to Road Policing matters since January this year. 44 of these tickets have addressed the specific problem about which you complain...Fife Constabulary...cannot guarantee to immediately attend to every report of a traffic misdemeanour...”

In response to T/Superintendent B's letter, the complainer wrote to the force on 2 October 2007, maintaining that over 3,000 vehicles had entered the restricted zone in the period referred by the force and that the police officers on patrol had not been tasked to deal with these violations.

A final response was issued to the complainer by the force on 11 December 2007. In this correspondence (erroneously dated 11 November 2007) Superintendent B stated:

“Whilst I understand your frustration in regard to these matters, I would ask that you take into account the conflicting demands being placed upon the Police service, not just in Fife but also across the country as a whole. The resources at my disposal are finite and in order to provide an effective service to the people of [region] Fife it is important that effective prioritisation takes place. Clearly the issues you raise are important but in the grand scheme of things I do not consider them a policing priority.”

Superintendent B also provided the complainer with statistical information to illustrate the demands placed upon the police in this region including crime and detection rates.

In the force memorandum dated 31 December 2007 Chief Inspector F stated that due to the exemptions of the pedestrian area in the local town centre, there were

times when there may be several vehicles in the restricted area. He noted that while the majority of these were there legitimately, some entered by accident and others deliberately ignored the regulations. Chief Inspector F stated that enforcement action had and would continue to take place as resources allowed.

I note that The Fife Regional Council ([*Local Town*] Town Centre) (Pedestrian Priority, One-Way Traffic, Prohibition and Restriction of Waiting) Order 1991 restricts the access of vehicles to specified streets. For example, between 12.00 noon and 3.00pm only Royal Mail vehicles making deliveries and emergency vehicles have unrestricted access to this area. Access is allowed for delivery vehicles and vehicles for disabled persons between 3.00pm and 12.00 noon.

In my view, Fife Constabulary has provided a detailed final response to the complainer in relation to this matter. Given that the complainer has not indicated any specific instances that the force could investigate, I am of the view that this is a satisfactory response.

Other matters arising from this review

I note that while this complaint was acknowledged by the force on 8 August 2007, no CAP form was completed until over four months later on 24 December 2007. I am concerned that this complaint was not recorded as such until the force became aware that the complainer intended to bring the matter to my office for review. Fife Constabulary has a clear policy on the recording of complaints as set out in its General Guidance – Complaints Against the Police document. This case has highlighted an area where the force may be able to improve its service in future. This complaint is about a quality of service issue. The requirements for recording such complaints has changed and as of 1 April 2007 these matters should have been recorded as formal complaints about the police. I recommend that Fife Constabulary satisfies itself that all officers and staff are aware of the correct procedures for the recording of complaints about the police.

7. Conclusion

Complaint – That Fife Constabulary fail to enforce vehicle restrictions in a pedestrianised area in a local town.

Fife Constabulary has investigated this complaint and the Deputy Divisional Commander has provided a detailed explanation of police resourcing with regard to this matter. As such, **I do not uphold this complaint.**

Jim Martin
Police Complaints Commissioner for Scotland
August 2008