

# PCCS



Police Complaints Commissioner  
for Scotland

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

**Grampian Police & Fife Constabulary**

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

**October 2008**

Case reference: PCCS/0810/00261/PF-GP&FC

# CONTENTS

<i>Section</i>	<i>Page no</i>
<b>Introduction</b>	<b>3</b>
<hr/>	
<b>Case reference: PCCS/0809/00261/PF-GP – GRAMPIAN POLICE</b>	
1. Request for review	4
2. Power to conduct a complaint handling review	4
3. Background	5
4. Force internal handling	6
5. PCCS review	9
6. Consideration	10
7. Conclusion	11
<hr/>	
<b>Case reference: PCCS/0809/00261/PF-FC – FIFE CONSTABULARY</b>	
1. Request for review	12
2. Power to conduct a complaint handling review	12
3. Background	14
4. Force internal handling	14
5. PCCS review	17
6. Consideration	17
7. Conclusion	19

## **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 reports therefore details my consideration, but do not include individual names of complainers, police officers or others affected by the events detailed therein.

## **CASE REFERENCE: PCCS/0809/00261/PF-GP**

### **1. Request for review**

The complainer has requested that I review the handling of his complaint about Grampian Police.

**Complaint 1:** Grampian Police and Fife Constabulary colluded to have the complainer charged with Breach of the Peace.

The complainer states that at the same time he requested a personal criminal record check from Fife Constabulary in October 2007, Grampian Police charged him with Breach of the Peace regarding an incident reported to the police several months previously. The complainer believes that if he had not requested a criminal records check from Fife Constabulary he would not have been charged with Breach of the Peace.

### **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, who lives in the Fife area, was in a relationship which ended in March 2007. The complainer believes that his ex-partner had had an affair with Person A, whom he had previously worked with. The complainer stated that in April or May 2007 he contacted Person A's relative at her workplace regarding the affair.

On 31 July 2007 Person A complained to Grampian Police about several letters and telephone calls he and his relative had received from the complainer which he perceived as threatening.

In October 2007 the complainer, on the instruction of his solicitor, requested a personal criminal records check from Fife Constabulary as he was seeking a residence order for his children who resided with his ex-partner.

On 25 October 2007 the complainer was contacted by Sergeant B of Grampian Police who made arrangements for the complainer to be interviewed by Fife Constabulary on behalf of Grampian Police regarding his contact with Person A and his relative. On 29 October 2007 the complainer was interviewed under caution by Constable C and Constable D at a police office in the Fife area regarding the alleged contact with Person A. Thereafter, the complainer was charged with an offence of Breach of the Peace.

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

The complainer wrote a letter of complaint dated 29 October 2007 to both Grampian Police and Fife Constabulary. The complainer stated in this letter that he found it very strange that he received a telephone call from Sergeant B of Grampian Police looking to press charges some 5 months after he had contacted Person A and his relative. The complainer noted that he received this phone call from Grampian Police at the same time that he contacted Fife Constabulary requesting a criminal records check. The complainer stated:

*"In other words if my solicitor didn't ask me to pay £10 for a computer check through [a] Police Station, I would have never heard from Grampian Police."*

Following receipt of this letter by Grampian Police, an Initial Report and Assessment was completed by Mr E, Complaints Officer, on 1 November 2007. Mr E noted that the complainer had made an application to Fife Constabulary under Data Protection legislation for a criminal record check because he was taking legal action in an attempt to gain access to his children who lived with his ex-partner. Mr E stated that the complainer found it *"too much of a coincidence"* that the Grampian Police enquiry into the complaint of Breach of the Peace came about so close to the criminal record check. He stated that the complainer felt that because of his history with Fife Constabulary they *"somehow engineered the enquiry"*.

Mr E also summarised the enquiry carried out by Grampian Police into the complaint of Breach of the Peace. He stated that when enquiry began the only information the enquiry officer had to contact the complainer was a mobile telephone number. Mr E stated that unsuccessful attempts were made to identify an address for the complainer and as a result, in October 2007, the enquiry officer's supervisor, Sergeant B, decided to telephone the complainer on his mobile phone. Mr E stated that during this call Sergeant B arranged for the complainer to be interviewed at a

police office in the Fife area on behalf of Grampian Police in relation to the offence of Breach of the Peace.

It is noted that following receipt of the complainer's letter of complaint Mr E had a lengthy discussion with the complainer on 31 October 2007 during which he provided him with an explanation regarding the circumstances and timing of the Grampian enquiry. Mr E stated that the complainer accepted that there was no conspiracy and no significance to the timing of the request by Grampian Police for Fife Constabulary to interview him in relation to the charge of Breach of the Peace. Mr E noted that the complainer was happy with the explanation provided and considered the complaint resolved. He asserted that Fife Constabulary's Complaint and Conduct Unit was contacted and advised of the resolution of the complaint.

On 6 November 2007 Chief Inspector F wrote to the complainer referring to the complainer's letter of complaint dated 29 October 2007 and to his subsequent conversation with Mr E. In this letter Chief Inspector F confirmed that on 31 July 2007 Person A contacted Grampian Police regarding the correspondence and telephone calls from the complainer. He stated that at that time the force did not know the complainer's address and did not wish to contact him by mobile telephone until all other enquiries into his address had been exhausted. The force also advised the complainer that when Sergeant B contacted him by telephone he did not know that the complainer had submitted a request for data to Fife Constabulary. Chief Inspector F confirmed that there had been no collusion between Grampian Police and Fife Constabulary to instigate the enquiry.

A File Note completed by Mr E on 26 November 2007 noted that although the complainer was initially happy with the explanation provided to him and considered the complaint resolved and closed, following Chief Inspector F's letter of 6 November 2007 the complainer subsequently advised that he wished to retract his agreement to the resolution, and requested a full enquiry into his complaint.

On 3 December 2007 Inspector G was instructed to prepare a report regarding the complainer's complaint which was completed on 21 February 2008. Inspector G stated in the Subject Report that the complainer had alleged that Fife Constabulary had colluded with Grampian Police to initiate the enquiry into the Breach of the Peace.

On 8 January 2008 Inspector G telephoned the complainer stating that he wished to meet with him to obtain a statement regarding his complaint about the police. It was noted that during the telephone call the complainer discussed his ongoing dispute with Fife Constabulary and despite being offered the choice of different meeting arrangements, the complainer refused. Inspector G stated that whilst he explained to the complainer that any contact Grampian Police had with Fife Constabulary was purely to facilitate an interview in relation to the complaint of Breach of the Peace made by Person A, the complainer refused to accept this position. It was noted that although the complainer had not specifically complained about the length of time it had taken to complete the enquiry into the incident, Inspector G apologised to the complainer for the delay in contacting him regarding the allegations by Person A.

In the Subject Report dated 21 February 2008 Inspector G outlined the enquiry into the Breach of the Peace complaint stating that on 31 July 2007 Constable H noted a statement of complaint from Person A who alleged that over a period of time he and his relative had received telephone calls and letters from the complainer. Inspector G noted that following this complaint various unsuccessful attempts were made by Constable H to “*fully identify*” the complainer. Inspector G stated that when Sergeant B contacted the complainer on his mobile phone on 25 October 2007, he admitted to sending the letters and making the telephone calls. He stated that Sergeant B informed the complainer that he would be required to be formally interviewed at a police office in the Fife area on 29 October 2007 in relation to the complaint of Breach of the Peace.

In the course of the enquiry into the complainer’s complaint, Inspector G requested statements from Sergeant B and Constable H which were compiled on 28 January 2008.

Inspector G concluded that he was content that the enquiry carried out by Sergeant B and Constable H into the complaint of Breach of the Peace was appropriate and proper. He noted however that there was a delay from the complaint being made by Person A and the complainer being contacted by the force. He stated that, although there were genuine reasons for the delay in the enquiry into the Breach of the Peace complaint, matters could have been progressed quicker. He stated that he subsequently highlighted this matter to Sergeant B who concurred.

Superintendent J wrote to the complainer on 21 February 2008. He stated that it was regrettable that the complainer was unable to meet with Inspector G, but he was aware that, during a telephone conversation on 8 January 2008, the complainer and Inspector G had discussed the content of letter of complaint dated 29 October 2007. Superintendent J outlined the conclusions of the enquiry, stating that although the complainer’s mobile telephone number was known to the officers, enquiry was instigated to try and establish the complainer’s home address and that this resulted in a delay in contacting the complainer. He stated that Sergeant B was instructed to contact the complainer by mobile telephone because attempts to obtain his address were unsuccessful. Superintendent J concluded that he could see no evidence to support a contention that there was any collusion between Grampian Police and Fife Constabulary. He stated that the evidence available lead him to conclude that the timing of the Grampian Police enquiry and the contact that the complainer instigated with Fife Constabulary was purely coincidental. He noted that Inspector G apologised for the time taken for Grampian Police to contact the complainer in relation to the Breach of the Peace complaint and reinforced the apology in the letter.

On 7 April 2008 Chief Inspector F wrote to the complainer referring to Superintendent J’s letter of 21 February 2008, summarising the enquiry and apologising for the delay in concluding his complaint about the police. He also enquired whether the complainer was satisfied with the outcome of the complaint and if not, what matters still caused him dissatisfaction.

The complainer responded to Chief Inspector F on 9 April 2008 detailing the issues that he remained dissatisfied with. The complainer asked why the force did not contact him for five months regarding a complaint made by Person A in April or May.

He stated that he strongly believed that Grampian Police had contacted him about the incident because the week previously he had asked Fife Constabulary to carry out a police check and that Fife Constabulary had influenced Grampian to pursue the case against him. Finally the complainer did not accept the explanation for the delay in the force contacting him and stated that Grampian Police could have contacted Fife Constabulary to request that they contact the complainer.

On receipt of this letter Chief Inspector F completed a File Note on 8 May 2008 which stated that he had instructed Mr E to make enquiry to the head of the Information Disclosure Unit to establish whether, since 15 June 2007, Fife Constabulary had made any requests to the Information Disclosure Unit regarding the complainer and an incident in Grampian on that date; whether any disclosure requests had been made to Grampian Police regarding the complainer since 31 July 2007 and whether the complainer had made any Freedom of Information or Access of Information requests to Grampian Police. He stated that on 28 April 2008 he was informed that no such contact or requests had been made.

Chief Inspector F subsequently responded to the complainer's letter on 28 May 2008 stating that he believed that the points addressed by the complainer had been, in the main, addressed previously by Superintendent J in his letter of 21 February 2008. Chief Inspector F confirmed that, following investigation with Grampian Police Information Disclosure Unit, there was no record of any request being made for information in relation to the complainer's personal details.

## **5. PCCS review**

A letter of complaint was received on 17 January 2007. The complainer was asked to complete and sign an application for review form which was received on 29 January 2007.

My office asked Grampian Police to provide the relevant complaint case papers on 31 January 2007. A letter was received by my office on 13 February 2008 from Grampian Police confirming that they had not yet concluded their enquiries into the complainer's complaints. The complainer was advised by my office on 13 February 2008 that the PCCS can only review a force's handling of a complaint once its full internal investigation has been concluded and the force has provided a response.

On conclusion of the force's investigation into his complaints, my office wrote to the complainer on 7 May 2008 to ascertain if he wished the PCCS to review the manner in which the force had handled his complaint. The complainer responded on 13 May 2008 requesting that the PCCS conduct a complaint handling review.

The relevant complaint case papers were requested from Grampian Police on 15 May 2008 and were received on 3 June 2008.

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

## 6. Consideration

### **Complaint 1: That Grampian Police and Fife Constabulary colluded to charge the complainer with Breach of the Peace.**

I note that in correspondence to the force the complainer expresses clearly why he believes that Grampian Police and Fife Constabulary colluded to have him charged with the offence of Breach of the Peace.

Following enquiries conducted by Mr E and Inspector G, both Chief Inspector F and Superintendent J advised the complainer that there was no evidence to support his suggestion that there was collusion between Grampian Police and Fife Constabulary to instigate the enquiry into the charge of Breach of the Peace. I note that when Sergeant B made contact with the complainer, he stated that he was unaware that the complainer had submitted a request to Fife Constabulary for information about himself. I also note that Superintendent J reiterated the view that the evidence available lead him to determine that the timing of the Grampian Police enquiry and the contact that the complainer instigated with Fife Constabulary was purely coincidental. Chief Inspector F also confirmed to the complainer in a letter dated 28 May 2008 that following enquiry with the Information Disclosure Unit he could confirm that there had been no request for information about the complainer.

In relation to the delay in contacting the complainer regarding the offence of Breach of the Peace, Chief Inspector F stated that Sergeant B did not wish to contact the complainer by mobile phone in case he chose not to cooperate. Superintendent J explained that this resulted in a delay in Grampian Police contacting the complainer. He stated that the enquiry into tracing the complainer's home address was unsuccessful and as such Sergeant B was instructed to contact the complainer by mobile telephone. I note that in the course of Inspector G's enquiries statements were obtained from the enquiry officer Constable H and Sergeant B. I note from Constable H's statement that the force knew the complainer's name and mobile telephone number however Person A did not know his address or whereabouts and believed that he possibly stayed in the Central Scotland area. I note that following further unsuccessful enquiry, Constable H advised Person A that if he received further contact from the complainer then he should advise the force. Constable H stated that in September 2007 Person A provided the force with another letter that he had received from the complainer and as such Sergeant B then contacted the complainer in October 2007. Sergeant B's statement supported the account provided by Constable H.

I note that in the Subject Report dated 21 February 2008, Inspector G observed that although there were genuine reasons for the delay in contacting the complainer regarding the enquiry into Breach of the Peace, the enquiry should have been progressed quicker. This learning point was highlighted to Sergeant B who concurred. The force apologised to the complainer in writing for this delay.

While the complainer's complaint about the police was not completed within the timescales set out by Grampian Police in their Standard Operating Procedures, I

note that Chief Inspector F apologised to the complainer for the delay in his letter dated 7 April 2007.

From the information provided by the force and the complainer, there is no evidence to support the complainer's assertion that Fife Constabulary colluded with Grampian Police to charge the complainer with Breach of the Peace. I note that Grampian Information Disclosure Unit holds no record of any request for information about the complainer. There is no evidence to suggest that Grampian Police was aware of the request for a criminal records check from Fife Constabulary or that the timing of the enquiry into the complaint of Breach of the Peace and the criminal record check was anything other than a coincidence.

In my view the force communicated its response to the complainer effectively and endeavoured to ensure that they had addressed all the complainer's concerns. I commend the force for their thorough approach to this complaint. It is unfortunate that the complainer cannot accept the explanation provided.

## **7. Conclusion**

### **Complaint 1: Grampian Police and Fife Constabulary colluded to have you charged with Breach of the Peace.**

In my view there is no evidence to suggest that Grampian Police and Fife Constabulary colluded to charge to the complainer with Breach of the Peace and the information provided suggests that the timing of the enquiry into the complaint of Breach of the Peace and the complainer's request for his criminal record was purely coincidental. A comprehensive enquiry was conducted into the complaint and a response was communicated effectively to the complainer. As such **I do not uphold this complaint.**

Jim Martin  
Police Complaints Commissioner for Scotland  
October 2008

## CASE REFERENCE: PCCS/0809/00261/PF- FC

### 1. Request for review

The complainer has requested that I review the handling of his complaint about Fife Constabulary.

**Complaint 1:** Fife Constabulary and Grampian Police colluded to have the complainer charged with Breach of the Peace;

**Complaint 2:** Fife Constabulary has victimised the complainer because he has made complaints to the Police Complaints Commissioner for Scotland; and

**Complaint 3:** When the complainer provided a statement to officers he was rushed and not afforded the opportunity to have the statement read back to him.

The complainer states that at the same time he requested a personal criminal record check from Fife Constabulary in October 2007, Grampian Police charged him with Breach of the Peace regarding an incident reported to the police several months previously. The complainer believes that if he had not requested a criminal records check from Fife Constabulary he would not have been charged with Breach of the Peace.

### 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, who lives in the Fife area, was in a relationship which ended in March 2007. The complainer believes that his ex-partner had had an affair with Person A, whom he had previously worked with. The complainer stated that in April or May 2007 he contacted Person A's relative at her workplace regarding the affair.

On 31 July 2007 Person A complained to Grampian Police about several letters and telephone calls he and his relative had received from the complainer which he perceived as threatening.

In October 2007 the complainer, on the instruction of his solicitor, requested a personal criminal records check from Fife Constabulary as he was seeking a residence order for his children who resided with his ex-partner.

On 25 October 2007 the complainer was contacted by Sergeant B of Grampian Police who made arrangements for the complainer to be interviewed by Fife Constabulary on behalf of Grampian Police regarding his contact with Person A and his relative. On 29 October 2007 the complainer was interviewed under caution by Constable C and Constable D at a police office in the Fife area regarding the alleged contact with Person A and a statement was taken. Thereafter, the complainer was charged with an offence of Breach of the Peace.

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

The complainer wrote a letter of complaint dated 29 October 2007 to both Fife Constabulary and Grampian Police. The complainer stated in this letter that he found it very strange that he received a telephone call from Sergeant B of Grampian Police looking to press charges some 5 months after he had contacted Person A and his relative. The complainer noted that he received this phone call from Grampian Police at the same time that he contacted Fife Constabulary requesting a criminal records check. The complainer stated:

*"In other words if my solicitor didn't ask me to pay £10 for a computer check through [a] Police Station, I would have never heard from Grampian Police."*

The complainer maintained that there is "bad blood" between himself and Fife Constabulary and that he feels victimised by Fife Constabulary as he had lodged a complaint about them which was being reviewed by the PCCS. The complainer also stated that on 28 January 2008 an interview at a local police office with Constable C had been rushed and he was not given the opportunity to have his statement to read back to him before he signed it.

Grampian Police contacted Fife Constabulary on 1 November 2007 to advise that they had received a complaint from the complainer regarding collusion between the forces and that the matter had been resolved to the complainer's satisfaction. Grampian Police subsequently forwarded a copy of its Initial Report and

Assessment, Crime File record and final letter to the complainer to Fife Constabulary for information.

On 14 November 2007 Superintendent E wrote to the complainer stating that he understood that Mr F, Complaints Officer from Grampian Police, had explained that both Forces had been unaware of the other's contact with the complainer. Superintendent E also stated that he understood that the complainer was satisfied that the matter had been resolved and that if he could be of further assistance then the complainer should contact him.

The complainer wrote to Superintendent E on 20 November 2007 stating that he wanted Fife Constabulary to investigate his complaint. He said that he had a change of mind and felt that he had been victimised. In response Superintendent E wrote to the complainer on 27 November 2007 asking him to specifically confirm his complaint and state which force it is against.

Superintendent E noted in an internal memorandum to Chief Superintendent H on 12 December 2007 that on 10 December 2007 he received from the complainer a copy of the original complaint letter dated 29 October 2007. Superintendent E stated that he did not receive any further documentation supporting the complainer's complaints. Subsequently Superintendent E requested that an officer contact the complainer to ascertain if he was making a complaint.

Inspector G stated in an internal memorandum dated 27 December 2007 that on 16 December 2007 she was asked to note a statement from the complainer in order to clarify his complaint. She stated that following two attempts to contact the complainer by telephone on 16 and 18 December 2007, she arranged for a calling card to be put through the complainer's door on 19 December 2007 asking him to confirm receipt of the messages she had left on his telephone. Inspector G stated that consequently the complainer telephoned the Force Contact Centre to acknowledge that he had received the calling card and to express anger that the police had been to his home.

Inspector G stated that when commencing duty at 9.00 pm on 20 December 2007 she telephoned the complainer having been advised that he had contacted the force the previous day. She stated that she asked the complainer if he would meet her so that she could obtain a statement regarding his complaint. Inspector G noted that the complainer refused, informing her that he did not trust the police and that he believed that his letter dated 29 October 2007 fully explained his complaint. It was noted that the complainer offered to explain and answer any questions via the telephone.

In the memo dated 27 December 2007, Inspector G recorded that the complainer believed that Fife Constabulary and Grampian Police were in collusion in an effort to prevent him obtaining a residence order to see his children. She noted that the complainer had applied to Fife Constabulary for access to data held on Police Computers to prove to a court that he had no previous convictions as this could have an impact on his request for access to his children. Inspector G stated that the complainer informed her that Grampian Police had contacted him on 25 October 2007 regarding a letter he had sent to Person A in April or May 2007 and he was

suspicious why it took five months for Grampian Police to contact him. Inspector G noted that the complainer told her that he did not believe Grampian Police's explanation that the timing of the phone call from Sergeant B and the criminal record request was a coincidence. She stated that the complainer believed that if he had not submitted his application for a computer check then he would not have been contacted by Grampian Police at all. Inspector G noted that she subsequently contacted Fife Constabulary Central Division, Operational Support Unit and confirmed that there was no trace of correspondence received from Grampian Police.

Inspector G noted that the complainer stated in his letter of complaint that when he attended for interview at a police office in the Fife area in relation to the charge of Breach of the Peace he felt that he was rushed into signing the officer's notebook. Inspector G noted that the complainer maintained that the interviewing officer, Constable C, did not read the statement back to him, but that he agreed to sign it as he knew the contents after observing the statement being taken. Inspector G noted that the complainer felt that he was obliged to sign the notebook and that he regrets doing so as he was not fully aware of the content of the statement.

On 28 January 2008 a statement was provided by Constable C who outlined an account of the interview he conducted with the complainer from his notebook. Constable D, who was present during the interview with the complainer, also provided a statement.

Superintendent E wrote to the complainer on 5 February 2008 outlining the following conclusions of the enquiry into his complaints:

Complaint 1: Fife Constabulary and Grampian Police colluded to have the complainer charged with Breach of the Peace

*"The request for caution and charge was initiated by Grampian Police and as a result of a complaint made known to them. I understand that you have already been advised of this by Grampian Police. I find this complaint is unsubstantiated."*

Complaint 2: Fife Constabulary have victimised the complainer because he has made complaints to the Police Complaints Commissioner for Scotland

*"There is no evidence to substantiate this complaint. I understand that your contact with the Investigating Officer has been limited at your request. If you are in possession of any evidence that supports your complaint, which has not been made known, I would urge you to make this available to me."*

Complaint 3: When the complainer provided a statement to officers he was rushed and not afforded the opportunity to have the statement read back to him

*"It is the position of the two officers that conducted the interview that you declined the opportunity of having the statement read over to you. The officer's position is supported by the fact that you were afforded and took the opportunity to sign the record of the interview recorded in the Investigating*

*Officer's notebook. Your complaint is not substantiated by the evidence available."*

Superintendent E concluded:

*"I regret that you found it necessary to complain about Fife Constabulary officers and you feel victimised by the Force. I can assure you that the Force has no agenda against you and there is no evidence of individual officers acting on their own to target you."*

## **5. PCCS review**

A letter of complaint was received on 17 January 2008. The complainer was asked to complete and sign an application for review form which was received on 29 January 2008.

On 29 January 2008 my office asked Fife Constabulary to provide the relevant complaint case papers by 12 February 2008. Fife Constabulary sent the required information on 8 February 2008 which was received by my office on 13 February 2008.

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

## **6. Consideration**

### **Complaint 1: Fife Constabulary and Grampian Police colluded to have the complainer charged with Breach of the Peace;**

I note that in correspondence to the force the complainer expresses clearly why he believes that Grampian Police and Fife Constabulary colluded to have him charged with the offence of Breach of the Peace.

Superintendent E responded to the complainer stating that the caution and charge was initiated by Grampian Police as a result of the complaint made to them and that he believed that Grampian Police had explained the circumstances to the complainer. He also assured the complainer that the force has no "*agenda*" against him and there is no evidence of individual officers acting on their own to target him.

From the information supplied to my office I note that this complaint had previously been addressed in detail by Grampian Police and the findings forwarded to Fife Constabulary. In my view, as Grampian Police initiated the investigation into the allegation of an offence of Breach of the Peace and subsequently provided a full response to the complainer regarding this, the final response to the complainer by Superintendent E is appropriate.

**Complaint 2: Fife Constabulary has victimised the complainer because he has made complaints to the Police Complaints Commissioner for Scotland**

The complainer believes that he has been victimised by Fife Constabulary as a result of complaints he has made to the PCCS. In the course of her enquiries Inspector G attempted to contact the complainer in order to obtain a statement to clarify the reasoning behind his complaints. I note that the complainer was unwilling to provide Inspector G with a statement of complaint. From the information available to my office there is no evidence that the complainer provided Inspector G with additional information, other than the circumstances surrounding Complaint 1, to support his view that he has been victimised as a result of his contact with the PCCS.

I note that Superintendent E responded to the complainer stating that there was no evidence to substantiate the complaint, however if the complainer had any evidence that supported the complaint then he was to make it known to the police. He also noted that contact with the Investigating Officer had been limited at the complainer's request. In my view, in the absence of a statement to Fife Constabulary or further evidence provided to my office to support his belief that he has been victimised, the response provided by the force was appropriate.

**Complaint 3: When the complainer provided a statement to officers he was rushed and not afforded the opportunity to have the statement read back to him.**

The complainer states in his letter of complaint that when he was interviewed by Constable C he was not offered the opportunity to have his statement read back to him before he signed it and was rushed into signing it.

I note that both Constable C and Constable D record in their statements that when the complainer was asked if he wished to have the statement read back to him he said it was not necessary as he was aware of what had been written. Additionally, Inspector G noted in an internal memorandum that the complainer advised her that he had informed Constable C that he had observed what had been written during the meeting and therefore knew the contents of the statement and as such did not require Constable C to read the statement back to him.

In my view, from the information provided to my office, there is no evidence to suggest that Constable C did not provide the complainer the opportunity to have his statement read back to him or was rushed in any way.

The response provided by Superintendent E, that the two officers that interviewed the complainer recall the complainer declining the opportunity to have the statement read back to him, was appropriate.

## **7. Conclusion**

### **Complaint 1: Fife Constabulary and Grampian Police colluded to have the complainer charged with Breach of the Peace**

The action taken by Grampian Police in relation to the complainer being charged with an offence has been fully explained by Grampian Police. Fife Constabulary have also confirmed to the complainer that there was no “agenda” against him. In my view, the explanation provided by Fife Constabulary was an appropriate response to the complainer’s concerns and as such **I do not uphold this complaint.**

### **Complaint 2: Fife Constabulary has victimised the complainer because he has made complaints to the Police Complaints Commissioner for Scotland**

From the information supplied to my office it is evident that the complainer declined to provide further information which may have supported his complaint. In the absence of a statement to Fife Constabulary or further evidence provided to my office to support the complainer’s belief that he has been victimised, in my view, there is no evidence to suggest that the complainer has been victimised by Fife Constabulary as a result of his complaint with the PCCS. The response provided by the force was appropriate and therefore, **I do not uphold this complaint.**

### **Complaint 3: When the complainer provided a statement to officers he was rushed and not afforded the opportunity to have the statement read back to him.**

Statements of the two interviewing officers, and the account of the complainer himself as provided to Inspector G, confirm that the complainer declined the offer to have his statement read back to him. There is no evidence to support the complainer’s contention that he did not have the opportunity to have his statement read back to him or was rushed and as such the response provided by the force was appropriate. Therefore, **I do not uphold this complaint.**

Jim Martin  
Police Complaints Commissioner for Scotland  
October 2008