

# 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**

**March 2009**

Case reference: PCCS/0903/00303/PF-GP

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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 complaint about Grampian Police. Following a road traffic incident involving the complainer's relative (X), the complainer believed that the force were targeting Relative X unfairly and subsequently wrote to the force with her complaints.

**Complaint 1** – That the officer investigating the road traffic incident was not interested in Relative X's story;

**Complaint 2** – The officer investigating the road traffic incident added false information to make the case more believable;

**Complaint 3** – That the same two officers then accused Relative X of housebreaking and took his mobile phone with no reason;

**Complaint 4** – That officers searched Relative X's room without a warrant;

**Complaint 5** – That Relative X was handcuffed and his phone was taken because he would not stop talking on his phone. The officers then gave a different reason for this to their superior officer;

**Complaint 6** – That Relative X was treated differently because of his race;

**Complaint 7** – When the complainer and Relative Y were threatened, the police took a statement over the phone and did not visit the complainer to take a statement;

**Complaint 8** – Following the incident where the complainer was threatened the police did not take a statement from a witness;

**Complaint 9** – That the complainer was told that officers had taken CCTV footage of the incident from a nearby shop, but the shop manager stated they had not;

**Complaint 10** – That the complainer reported an incident when a man with a knife was threatening to injure Relative X, and the force did not investigate the incident or take statements from witnesses;

**Complaint 11** – That officers accused Relative X of carrying a knife and took him to the police office and strip searched him; and

**Complaint 12** – If an officer in court heard Relative X threaten a witness, action should have been taken at the time.

## **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 to 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, not falling within paragraph (a) who claims to have been adversely affected by the act or omission by the police. The complainer is therefore a relevant complainer under the terms of section 34(6)(b).

## 3. Background

On 23 September 2006, the complainer's relative (X) was involved in a road traffic incident. The incident was reported to the police and Relative X was charged with driving dangerously in terms of Section 2 of the Road Traffic Act 1988 (RTA). At the time of the incident the officers involved took possession of the car, which belonged to the complainer and served Relative X an anti-social behaviour order (ASBO). Having made a complaint to the force, the complainer received a letter of apology from the force stating that the car should not have been confiscated nor an ASBO issued.

When officers spoke to the complainer regarding her complaint about the police, she indicated that although the above matter was resolved, she believed that this was the reason behind the further incidents between Relative X and the police.

On 3 November 2006, Relative X was involved in an incident with another male that resulted in him being charged with assault. On 25 January 2007, the force had reason to believe that Relative X and two other people, were responsible for the theft of a number of items from a house. Police Constable A and Police Constable B detained Relative X at the complainer's home and drove him to the police office. While travelling in the police car, Relative X spoke to his friend using his mobile phone. Police Constable A declared in his statement that Relative X ignored the request from both officers to stop using the phone and as a result, he was handcuffed and his phone was taken from him. The officer's returned to the complainer's house and asked for permission to search Relative X's room. Police Constable A stated that the complainer allowed them to carry out a search and she was advised that they would stop if requested to do so. Although Relative X was later released without charge, his mobile phone was retained for further examination.

The complainer and Relative Y were involved in an incident on 6 February 2007 when she stated that a man was threatening and abusive towards them and threatened to stab Relative X. The complainer stated in her letter of 26 March 2007 that during the incident, they had to lock themselves inside her car. Following the incident the complainer reported the matter to the police and provided the name of a witness. The complainer was later informed that the witness had not been contacted by the police.

A further incident allegedly occurred at a local takeaway shop on 6 February 2007. The complainer maintained that a friend had called and advised her that a man had been in a takeaway shop wielding a large knife and making threats relating to Relative X. The complainer stated in her letter that as she drove to the incident to look for Relative X, she passed police officers and she apprised them of the situation. She also maintained that this incident was never investigated although many names of witnesses were given to the force.

The complainer also referred in her letter to another incident that occurred on 2 March 2007 when Relative X was at court because of the assault charge. The witnesses at court stated that Relative X made threats to them regarding giving evidence. Relative X was later charged in relation to this allegation.

On 20 March 2007, Relative X was again detained by officers, on suspicion of concealing a weapon. He was taken to the police office where he was strip searched.

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

**Complaint 1** – That the officer investigating the road traffic incident was not interested in Relative X's story;

**Complaint 2** – The officer investigating the road traffic incident added false information to make the case more believable;

**Complaint 3** – That the same two officers then accused Relative X of housebreaking and took his mobile phone with no reason;

**Complaint 4** – That officers searched Relative X's room without a warrant;

**Complaint 5** – That Relative X was handcuffed and his phone was taken because he would not stop talking on his phone. The officers then gave a different reason for this to their superior officer;

**Complaint 6** – That Relative X was treated differently because of his race;

**Complaint 7** – When complainer and Relative Y were threatened, the police took a statement over the phone and did not visit the complainer to take a statement.

**Complaint 8** – Following the incident when the complainer was threatened the police did not take a statement from a witness;

**Complaint 9** – That the complainer was told that officers had taken CCTV footage of the incident from a nearby shop, but the shop manager stated they had not;

**Complaint 10** – That the complainer reported an incident when a man with a knife was threatening to injure Relative X, and the force did not investigate the incident or take statements from witnesses;

**Complaint 11** – That officers accused Relative X of carrying a knife and took him to the police office and strip searched him; and

**Complaint 12** – If an officer in court heard Relative X threaten a witness, action should have been taken at the time.

The complainer wrote to the force on 26 March 2007, detailing her complaints about the incidents.

The force acknowledged the complainer's letter on 27 March 2007. An initial report and assessment was made by Inspector L on 29 March 2007. Temporary Chief Inspector N wrote to the complainer on 2 April 2007 and acknowledged the complaints stating that the matter would be recorded and an enquiry officer would be appointed. On the same day, Superintendent R sent a memo to Superintendent S asking that an enquiry officer be appointed. Inspector M was appointed and completed a Complaint About the Police form on 4 April 2007. He noted 13 complaints from the complainer.

On 20 May 2007, Inspector M noted a short statement from the complainer, who confirmed that Inspector M had visited her to discuss the contents of her letter. The complainer stated that he had read aloud the list of her complaints which she agreed was accurate. She also stated that she was happy that her concerns about an ASBO issued to Relative X had been resolved by way of an apology from the force.

On 21 and 22 May 2007, Inspector M obtained statements from six officers involved in the incidents from which the complainer's complaints originated. On 29 May 2007 he obtained statements from two further officers.

Inspector M visited the complainer on 17 July 2007 to discuss her complaints in more detail. He noted a second statement from her. The complainer agreed in this statement that Complaint 2, regarding the adding of false information should be dealt with as part of Complaint 1, that the officer was not interested in Relative X's story. She also confirmed in relation to Complaint 5, that she was satisfied Relative X had been handcuffed as he didn't do what was asked of him at the time. The complainer maintained she believed that officers had no reason to take Relative X's phone. In relation to Complaint 6 she maintained that he had been victimised and treated differently. Regarding Complaint 8 the complainer stated that Inspector M had agreed there were "*shortcomings in the police enquiry*" and this would be highlighted

in his report. She stated that with regard to Complaint 9, while she appreciated the CCTV footage may have been of no use, she had been lied to by an officer in order to “*fob her off*”. In relation to Complaint 10, the complainer stated that she did not accept the force’s position that officers acted in a “*prompt and efficient manner*” when investigating the incident, during which a friend of the complainer heard a man with a knife had threatened Relative X. The complainer stated that regarding Complaint 11, she was of the opinion that the search of Relative X was unreasonable and believed that it was another example of the force “*picking on*” Relative X. She also stated that in respect of Complaint 12, while she accepted that the officer involved had other duties to carry out while at court, Relative X should have been dealt with at the time.

Inspector M noted a statement on 19 July 2007 from Police Constable C who was the officer who was present in court when two witnesses claimed that Relative X had threatened them. Police Constable C stated that he had noted the details and ensured the witnesses left court safely, before continuing with his duties at court. He stated that he later raised a computerised incident report when he returned to the police office.

A report about the complainer’s complaints was completed by Inspector M on 10 August 2007, and Superintendent S wrote a letter of response on 17 August 2007 to the complainer that conveyed the findings in the report.

#### **The enquiry officer’s report and the force’s letter of response:**

Complaint 1 – That the officer investigating the road traffic incident was not interested in Relative X’s story; and

Complaint 2 – The officer investigating the road traffic incident added false information to make the case more believable.

Inspector M noted that Police Constable B had entered in his notebook that during his enquiry into the road traffic incident, the complainer was “*continually verbally abusive*” to him and his colleague, and that she was shouting and swearing.

The relevant sections from Police Constable B and Special Constable D’s notebooks were highlighted and included in the report by Inspector M. It was noted by Inspector M that when he raised this with the complainer on 11 July 2007, she conceded that she had acted in this manner and confirmed she had later apologised to Police Constable B. Inspector M informed the complainer that given the circumstances, he understood why Police Constable B had not wanted to take a statement from Relative X at that time.

From the information he acquired during his investigation, Inspector M stated in his report that he understood the complainer believed Police Constable B had altered the statement given by Relative X when he was cautioned and charged. Inspector M stated in his report that when he met with the complainer, he explained to her that he had examined the notebook statement which Relative X had signed and found it was replicated in the report to the Procurator Fiscal.

Superintendent S referred to Complaint 1 in his letter of 17 August 2007. He stated that he believed the action of the officers (advising Relative X if he wished to make a complaint he should attend at the police office) was reasonable due to the complainer's behaviour at the time. Superintendent S referred to Complaint 2, stating he understood this had been dealt with by way of an explanation.

Complaint 3 – That the same two officers then accused Relative X of housebreaking and took his mobile phone with no reason; and

Complaint 5 – That Relative X was handcuffed and his phone was taken because he would not stop talking on his phone. The officers then gave a different reason for this to their superior officer.

Inspector M referred in part to these complaints in his report. He stated he had explained to the complainer that Relative X's mobile phone had been taken from him and he was handcuffed, because he would not stop talking on his phone when he was asked by officers. He stated in his report that the complainer had accepted his explanation regarding this matter.

Superintendent S stated in his letter of 17 August 2007 he was satisfied Relative X was handcuffed because, *"he basically didn't do what was asked of him when he was the subject of a detention."* He also stated that he understood the complainer had accepted Inspector M's explanation regarding this.

He also referred in his letter to the different reasons given for the confiscation of Relative X's mobile phone. He acknowledged the information provided to the complainer; that the phone was taken because Relative X was talking to his friend; and that the phone was taken as the officer suspected he was texting someone regarding the housebreaking incident. Superintendent S stated he was *"unable to confirm exactly who said what but [he could] say that the phone was lawfully taken possession of and the reason for doing so was valid."*

Complaint 6 – That Relative X was treated differently because of his race.

Inspector M's report of 10 August 2007, made reference to an operational statement from Police Constable A dated 22 May 2007. Police Constable A explained his treatment of Relative X and two other people who were allegedly involved in the house breaking incident. In his statement he maintained he had treated all suspects fairly and had not treated Relative X any differently.

Police Constable B stated that he had *"at all times been professional and polite in [his] dealings with [the complainer] and [Relative X]"*

Inspector M stated in his report that there was no evidence to support the complainer's claim.

In his letter of 17 August 2007, Superintendent S informed the complainer that Inspector M had spoken to all of the officers involved with Relative X and that there was nothing to suggest that Relative X was treated differently because of his race. He then stated:

*"I would stress to you the importance that Grampian Police places on diversity issues and the training that is given to all employees so that they have a firm understanding and grasp of diversity related matters regardless of what form they take."*

Complaint 7 – When the complainer and Relative Y were threatened, the police took a statement over the phone and did not visit the complainer to take a statement.

Complaint 8 – Following the incident where the complainer was threatened the police did not take a statement from a witness; and

Complaint 9 – That the complainer was told that officers had taken CCTV footage of the incident from a nearby shop, but the shop manager stated they had not.

In his report, Inspector M stated that he had spoken with Police Constable E who investigated this incident, and she admitted she had not taken a statement from the complainer. Inspector M noted an operational statement from Police Constable E on 22 May 2007. In her statement Police Constable E also admitted that she had not spoken to the independent witness to the incident. She maintained this was because she believed that there was already sufficient evidence. In his report, Inspector M referred to a conversation he had with the independent witness and noted that the outcome of the incident would have been no different, had a statement been obtained at the time. However, Inspector M acknowledged that the officer should have taken statements at the time.

In relation to Complaint 9, Inspector M noted in his report that he arranged for the CCTV footage in question to be viewed by a Community Warden who stated that the images were of poor quality and did not clearly show the incident. Inspector M explained this to the complainer who accepted this. However, he noted the complainer maintained her view that she was *"..told a lie in an attempt to fob [her] off"*.

The letter from Superintendent S to the complainer dated 17 August 2007 confirmed that Inspector M had spoken to the independent witness and the outcome would have been no different had a statement been previously obtained. However, Superintendent S noted the report highlighted shortcomings in relation to Complaints 7 and 8. He noted that force procedure had not been followed, and that action would be taken against the officers concerned.

Superintendent S commented in relation to Complaint 9, that he had no evidence to suggest that the complainer had been *"fobbed off"* regarding the CCTV footage, and he noted she had accepted the footage was of no use.

Complaint 10 – That the complainer reported an incident when a man with a knife was threatening to injure Relative X, and the force did not investigate the incident or take statements from witnesses.

Inspector M noted statements on 29 May 2007 from Police Constables F and G who were involved in this incident. He noted both officers recalled the complainer advising them of her concern for Relative X, as she believed he was being chased

by Mr Z who had a knife. Inspector M stated in his report that the officers had pursued Mr Z and on finding him they carried out a search. No knife or other weapon was found. Inspector M noted that he informed the complainer he believed the officers had carried out the search for the suspect *“effectively and efficiently”*.

Inspector M noted in his report that both officers stated the complainer made no reference to any other potential witnesses from a local takeaway shop and suggested that it would therefore be reasonable that the officers did not speak to staff at the premises.

In his letter dated 17 August 2007, Superintendent S stated he was advised that Mr Z who was accused of having a knife or other weapon, had been tracked down by the officers and found to have no weapons on his person. It was therefore not necessary to speak to the staff at the takeaway shop. He stated that no calls had been received from members of the public about a man brandishing a weapon, and that neither the complainer nor Relative X had visited the police office as advised, to pursue the matter at the time. He concluded that from Inspector M's report, it appeared that the officer's had acted in a prompt and efficient manner.

Complaint 11 – That officers accused Relative X of carrying a knife and took him to the police office and strip searched him.

Inspector M obtained a statement from Police Constable H on 21 May 2007. He stated that in the presence of Police Constable J, he arrested Relative X on 20 March 2007 in relation to an allegation of attempting to defeat the ends of justice. This was because the force had received a complaint that Relative X threatened two witnesses in court. Police Constable H stated that he believed the complainer was attempting to conceal a weapon in his trousers as they approached him, and he therefore carried out a search as they arrested him, but found nothing. Police Constable H stated that he then detained Relative X at the police office. After being informed of the circumstances, Sergeant K authorised a strip search. In his report Inspector M stated the search was carried out in line with force procedures.

Inspector M also noted a statement from Police Constable J on 22 May 2007. However, she did not make reference to this incident in her statement.

Inspector M noted in his report that although he advised the complainer that there was sufficient reason for the officers to request this search, the complainer did not accept his explanation.

In his letter, Superintendent S stated that he was of the view that the officers had sufficient reason to request such a search and that they were procedurally correct.

Complaint 12 – If an officer in court heard Relative X threaten a witness, action should have been taken at the time.

On 19 July 2007, Inspector M obtained a statement from Police Constable C who was the officer in attendance at court on 2 March 2007. He stated that while on duty as a court officer, two witnesses approached him to report that Relative X had threatened them not to give evidence against him. He stated that because of duties

at court he was unable to act immediately. However, he stated that he raised a computerised incident report on his return to the police office. Following this, Relative X was arrested and charged by Police Constables H and J on 20 March 2007.

Inspector M acknowledged in his report that Police Constable C had specific duties to perform in court. He noted that he had informed the complainer of this and that investigating such allegations can take some time due to the necessity to interview witnesses and note statements. He stated in his report that the complainer did not accept his explanation.

Superintendent S stated in his letter to the complainer of 17 August 2007 that Police constable C assured Inspector M he was not present when the alleged threat was made. As Police Constable C had other duties to perform while in court it was not unreasonable to wait until his return to the police office to lodge the complaint against Relative X.

#### **Further review by the force:**

On 10 September 2007 the complainer returned the letter from the force with a handwritten note on it stating she was not satisfied with the response. She stated there were "*huge mistakes*" made and she wished it looked at again.

Chief Inspector P wrote to the complainer in September 2007 stating that he had referred the matter back to Superintendent S to review.

Superintendent S responded again to the complainer in a letter dated 15 October 2007. He stated that in relation to Complaint 1 and 2, the officers had faced a challenging situation and fully noted what transpired in their notebooks. The officers had also noted that Relative X wished to make a complaint and had been given advice regarding this.

In relation to Complaints 3 and 5 he stated that it would have been normal practice to handcuff such a suspect initially. However, this did not happen as the officer's considered Relative X to be compliant. It was only when he failed to do as the officers asked, and stop talking on the phone, that he was handcuffed and his phone was confiscated. He stated that this was appropriate action.

Superintendent S noted concern that the complainer was given two different accounts of why the phone was taken. He stated he was unable to explain this. He also noted concern that the reporting officer did not conclude enquiries regarding the phone in a reasonable time, and apologised to the complainer for these failings.

The letter then referred to Complaints 7,8 and 9. Superintendent S reiterated that there were shortcomings identified regarding these complaints. He acknowledged that because Relative Y and the other party had both made allegations regarding the same incident, it would have been beneficial for officers to speak to the independent witnesses available. He accepted that the complainer had complained there were differences in the information she was provided with regarding the enquiries into CCTV footage, and that it was a line of enquiry that should have been pursued. He

stated that, on reflection a fuller apology would have been appropriate in his previous letter.

Superintendent S reiterated that in relation to Complaint 10 the officers had found, questioned and searched the man accused, and that no weapon was found. He did concede that *"it may have been beneficial, but certainly not essential"* to visit the takeaway shop, and that the officers could have advised the complainer of the outcome of their enquiries.

In relation to Complaint 11, Superintendent S acknowledged he could have provided the complainer with a more detailed response in his previous letter. He reiterated the reasons for the officers detaining Relative X and explained that because it appeared he had been attempting to conceal an item, a strip search was authorised for the safety of the officers and anyone else in the police office.

In his letter, Superintendent S also stated the force's position again regarding complaint 12. He stated that because of the specific nature of the duties of a Court Officer, Police Constable C was not in a position to deal with the matter at the time.

#### **Follow up action by the force:**

Chief Inspector P contacted the complainer by telephone on 19 October 2007 to ensure she was satisfied with the outcome. She explained to him that she was not. Chief Inspector P responded by letter on 28 November 2007 stating that he was continuing to review the file and would update her when this was complete.

On 8 January 2008, Chief Inspector P completed the summary of his review of the complaints. In relation to Complaint 6, he noted there was a lack of clarity in Inspector M's report, and that he would have expected more detail as to the treatment of Relative X in comparison to the other suspects. He noted that having viewed the crime file and the cell file, there was no doubt that he had been treated in a similar manner to the others, but this was not evident from Inspector M's report.

In relation to Complaint 9, he stated that Inspector M did not clarify which officer had advised the complainer the CCTV footage was taken. Neither did he appear to have checked when the complainer called and what was said regarding this. He concluded that the force was unable to ascertain who had provided the complainer with wrong information regarding the CCTV footage, but an apology had already been provided.

On 28 January 2008, a statement was taken from Mr W, a friend of the complainer, who had initially informed her about the incident involving the man with a weapon that led to complaint 10.

On 4 February 2008, Chief Inspector P wrote to the complainer. He summarised what had transpired in relation to her complaints until that time. He stated that he believed it would be beneficial to meet with the complainer in attempt to resolve matters. He stated that he believed the initial enquiry could have been dealt with more effectively, and noted that Superintendent S had alluded to this in his letter of

response. He also noted that an apology had been given in respect of certain areas of her complaints.

He noted that the incident involving the man with the weapon, could have been dealt with more thoroughly. He also noted that a key witness, Mr W, who had informed the complainer of the incident, had not been identified by the officers at the time, or by the officer initially investigating her complaints. Chief Inspector P stated that he had now taken a statement from Mr W, however his recollection was vague. He recognised that the time delay may have contributed to this. He also informed the complainer that he had been unable to trace any other witnesses. He could not, therefore, uphold her complaint in this matter. He then provided the complainer with the details of my office in case she remained unsatisfied.

## **5. PCCS review**

A letter of complaint was received in my office on 27 February 2008. The complainer was asked to complete and sign an application for review form which was received on 3 March 2008.

On 5 March 2008, my office asked Grampian Police to provide the relevant complaint case papers by 19 March 2008. Grampian Police requested an extension of time to supply my office with the relevant documents. Grampian Police supplied the required information on 10 April 2008.

The complainer was updated every 28 days in line with our standards of service.

## **6. Consideration**

**Complaint 1** – That the officer investigating the road traffic incident was not interested in Relative X's story; and

**Complaint 2** – The officer investigating the road traffic incident added false information to make the case more believable.

I note that when Inspector M spoke to the complainer on 11 July 2007, she conceded that she had been verbally abusive and had later apologised to Police Constable B. Inspector M informed the complainer it was therefore understandable that Police Constable B had not wanted to take a statement from Relative X at that time.

I understand the complainer believed Police Constable B had altered the statement Relative X gave when he was cautioned and charged. I note that Inspector M explained to the complainer that he had examined the notebook statement signed by Relative X and confirmed it had been replicated in the report to the Procurator Fiscal. In my view, Inspector M took appropriate action in addressing this complaint. I note

that Superintendent S conveyed Inspector M's findings in his letter of 17 August 2007.

When the complainer stated she was not satisfied with the response and she wished the issue to be looked at again, I note that Superintendent S reviewed her complaints. He responded again stating that in relation to these complaints, the officers had faced a challenging situation. They had fully noted in their notebooks the events and the advice that they gave the complainer at the time.

It is my view the force fully considered these complaints on three occasions, and provided a comprehensive response.

**Complaint 3** – That the same two officers then accused Relative X of housebreaking and took his mobile phone with no reason; and

**Complaint 5** – That Relative X was handcuffed and his phone was taken because he would not stop talking on his phone. The officers then gave a different reason for this to their superior officer.

I understand the complainer stated during her meeting with Inspector M on 17 July 2007, that she accepted his explanation that Relative X had been handcuffed because he did not do what was asked of him at the time. I note that following completion of Inspector M's report, Superintendent S responded to the complainer in his letter of 17 August 2007. He stated that he was satisfied regarding the reasons Relative X was handcuffed, and that he understood the complainer had accepted Inspector M's explanation regarding this.

He referred to the reason for Relative X's mobile phone being confiscated. I note Superintendent S stated he was aware that while the phone may have been taken because Relative X was talking to his friend, the complainer maintained she was also told the phone was taken as the officer suspected he was texting someone regarding the housebreaking incident. Superintendent S informed the complainer he was *“unable to confirm exactly who said what but [he could] say that the phone was lawfully taken possession of and the reason for doing so was valid.”*

It appears that this was not a fully considered response and the issue was only readdressed when the complainer remained unhappy. However, I note that in his second response, Superintendent S noted his concern that the complainer was given two different accounts as to why the phone was taken. I also note that he stated he was unable to explain this. It appears that on readdressing these complaints he concluded that the matter regarding the phone was not handled within a reasonable time, and apologised to the complainer for any failings.

In my view, following the investigation into these complaints, the force accepted that the complainer remained unsatisfied. It then reconsidered the complaints, which in my view was good practice and highlighted any issues that had not been fully addressed.

**Complaint 4** – That officers searched Relative X’s room without a warrant.

Although the complainer mentioned this to the force in her initial letter of 26 March 2007, it does not appear that the force treated this matter as a complaint about the police. Indeed it is unclear, given the wording in her letter, if the complainer wished the matter to be considered as a complaint about the police.

I note that this is not one of the thirteen complaints recorded and confirmed with the complainer by Inspector M in her statement of 20 May 2007. I also note that the complainer does not appear to make further mention of this issue during the investigation into her complaints by the force.

However, it is clear from the information available to me that both Police Constable A and Police Constable B stated that the complainer’s permission was sought and granted to carry out a search and she was advised that the search could be stopped at any time.

I would therefore suggest that, if the complainer wishes a formal response to this issue that she should now make the complaint formally to the force.

**Complaint 6** – That Relative X was treated differently because of his race.

Inspector M’s report referred to this complaint. I note that he obtained an operational statement from Police Constable A and Police Constable B, both of whom were involved in the incident that gave rise to this complaint. I understand that while Police Constable A directly responded to this complaint stating that he had treated all three suspects equally, Police Constable B responded indirectly stating he had *“at all times been professional and polite in [his] dealings with [the complainer] and [Relative X]”*.

The information provided to my office suggests that while Inspector M identified all the officers connected with the incidents referred to by the complainer, he did not specify which complaints on his list he wished each officer to address in their operational statement. Therefore, although it appears that the enquiry officer discussed the complainer’s concerns with all officers involved, there is no clear record of this since not all of the relevant statements directly referred to this matter. This may have allowed the force to provide a clearer response to the complainer at an earlier stage in the investigation into her complaints. The force may wish to consider this as a learning point.

I note that Superintendent S informed the complainer that there was nothing to suggest that Relative X was treated differently because of his race. He went on to explain the importance that Grampian Police places on training and understanding of such issues. It does not appear that the complainer brought up this complaint again.

From the information available to my office, it appears that on reviewing the complaint, Chief Inspector P identified shortcomings in the original handling of the complaint. He investigated the matter further and found no evidence to support the complainer’s view that Relative X was treated differently.

**Complaint 7** – When the complainer and Relative Y were threatened, the police took a statement over the phone and did not visit the complainer to take a statement; and

**Complaint 8** – Following the incident where the complainer was threatened the police did not take a statement from a witness.

It appears that during his initial visit with the complainer, Inspector M discussed his opinion that there were shortcomings in the police investigation into this incident.

I note that in her statement, Police Constable E did not refer to the taking of a statement from the complainer. However, Inspector M made reference in his report to a conversation with Police Constable E during which she did admit to not obtaining a statement from the complainer. Given the complaints made, it may have been useful if the operational statement had documented all of the information regarding the statements that had or had not been taken.

Inspector M stated in his report that he spoke with the independent witness and found the outcome of the incident would have been no different had Police Constable E taken a statement at the time, although he acknowledged that the officer should have done so. However, I note that Inspector M also neglected to obtain a statement from this witness, which in my view would have been best practice.

I note that the letter from Superintendent S on 17 August 2007 explained the findings and stated that the officer would be spoken to regarding this matter. In his response of 15 October 2007 following his review of the complaints, he acknowledged again that it would have been beneficial for officers to speak to the independent witnesses available.

**Complaint 9** – That the complainer was told that officers had taken CCTV footage of the incident from a nearby shop, but the shop manager stated they had not.

During his initial visit with the complainer, Inspector M noted that the complainer believed she was “*fobbed off*” by the officers investigating the incident.

I understand the complainer originally made a two part complaint about the CCTV footage. She complained that the footage had not been viewed, *and* she complained that she was told it had been taken when it had not.

I note that Inspector M had the CCTV footage in question viewed, and was advised the images were of poor quality and did not clearly show the incident. However, it appears that he did not obtain a statement from the Community Warden who viewed the footage which in my opinion, would have been best practice. Also, in my view his report did not adequately address the complainer’s issue that she felt she had been “*fobbed off*” regarding the CCTV footage.

It appears that in Superintendent S's response on 17 August 2007, he commented that the complainer had accepted the footage was of no use and stated that there was no evidence to suggest that she was deliberately misinformed by an officer regarding the seizing of the CCTV footage. From the information available to me, it is unclear what action was taken by the force in order to reach this conclusion. I understand that the complainer remained unhappy with the force's response.

Superintendent S wrote again on 15 October 2007. I note that he recognised the complainer's concerns that there were differences in what she had been told regarding the enquiries into CCTV footage. Although he acknowledged it was a line of enquiry that should have been pursued, it is again difficult to ascertain what efforts were made by the force to fully investigate the complainer's concerns regarding this matter. However I note that Superintendent S stated that on reflection, a fuller apology would have been appropriate in his previous letter.

It is apparent that on carrying out his review of the complaints, Chief Inspector P noted that Inspector M's report did not fully address this complaint, and identified areas that did not appear to have been covered in the investigation. I note that he concluded he was unable to identify any officer responsible for misinforming the complainer. However, he ensured that an apology had been provided in this respect.

I would suggest that while the subsequent review of the complaint was good practice, and allowed previous omissions in the handling of the complaint to be addressed, from the information available to me it is unclear what action was taken by the force at any stage of the complaint handling process to identify any officer to whom this complaint may have referred.

**Complaint 10** – That the complainer reported an incident when a man with a knife was threatening to injure Relative X, and the force did not investigate the incident or take statements from witnesses.

I understand that statements from the officers who were involved in this incident were provided on 29 May 2007. Inspector M found that neither officer made reference to any other witnesses being identified from a local takeaway shop by the complainer. It would appear that the officers did not believe it was necessary to follow this line of enquiry. They traced the man who was alleged to have had a knife. He was searched and no knife or other weapon was found. I note that Inspector M informed the complainer that he believed the officers had carried out the search for the suspect "*effectively and efficiently*".

From his letter of 17 August 2007, it appears that Superintendent S was also of the opinion it was not necessary to speak to the staff at the takeaway shop. He stated that no calls had been received from members of the public about a man brandishing a weapon.

In his final letter to the complainer Superintendent S stated that "*it may have been beneficial, but certainly not essential*" to visit the takeaway shop. From the information available it appears that the complainer had only second or third hand

knowledge of this matter, having been advised of it by Mr W who was unclear who witnessed the incident.

By obtaining a statement from the complainer's friend, Mr W, in February 2008, Chief Inspector P was able to confirm he had sought to explore all issues in relation to this complaint. He wrote to the complainer and expressed regret that the original officers and the officer investigating the complaints had failed to obtain a statement from Mr W earlier.

In my view all avenues were not initially examined by the force. However, on further review, the matter was dealt with appropriately given the information and evidence that was available, and the outcome was communicated to the complainer.

**Complaint 11** – That officers accused Relative X of carrying a knife and took him to the police office and strip searched him.

Although Inspector M obtained statements from both officers involved in detaining Relative X and from the Sergeant who authorised the search, only Police Constable H addressed this complaint. He stated that when they arrested Relative X on 20 March 2007, they believed the complainer was attempting to conceal a weapon in his trousers as they approached him. I note that when Relative X was detained, authorisation was then obtained to carry out a strip search in line with force procedures set out in the care and custody of prisoners manual.

I understand that Inspector M advised the complainer that there was sufficient reason for the officers to request this search and in his letter of 17 August 2007, Superintendent S also maintained that the officers had reason to request such a search. He also stated that they were procedurally correct.

Although in my view, it would have been helpful if all of the relevant statements had addressed the complaint, I am satisfied that the force examined the reasons for, and the procedures adopted, in carrying out the search. I also note that the conclusions of the force were communicated to the complainer.

**Complaint 12** – If an officer in court heard Relative X threaten a witness, action should have been taken at the time.

I note that on investigating Complaint 12, Inspector M found that Police Constable C had duties in court on the day that the witnesses alleged they were threatened by Relative X. It appears that because of these duties, he was unable to act immediately. However, it does appear that he raised a computerised incident report at his earliest convenience regarding the allegations.

It appears that Inspector M informed the complainer of this, and advised her that investigating such allegations can take some time due to the necessity to interview witnesses and note statements. I also note that Superintendent S clarified in his letter of 17 August 2007 to the complainer, that Police Constable C had not been

present when the alleged threat was made. He stated that it was not unreasonable to wait until his return to the police office to lodge the complaint against Relative X.

I note that Superintendent S carried out a further review of the complaints and responded again to the complainer in October 2007. He stated again the force's position regarding Police Constable C not pursuing the allegation made against Relative X at the time.

It is clear that these complaints were investigated and a response was provided to the complainer. In my view the complaints were then fully readdressed by Superintendent S when it was evident that the complainer remained unhappy with the outcome.

## **7. Conclusion**

**Complaint 1** – That the officer investigating the road traffic incident was not interested in Relative X's story; and

**Complaint 2** – The officer investigating the road traffic incident added false information to make the case more believable.

It is my view the force fully considered these complaints on three occasions, and provided a comprehensive response. **As such, I do not uphold these complaints.**

**Complaint 3** – That the same two officers then accused Relative X of housebreaking and took his mobile phone with no reason; and

**Complaint 5** – That Relative X was handcuffed and his phone was taken because he would not stop talking on his phone. The officers then gave a different reason for this to their superior officer.

In my view, following the investigation into these complaints, the force accepted that the complainer remained dissatisfied. It then reconsidered these complaints, which in my view was good practice and responded to any issues that had not previously been fully addressed. **I therefore do not uphold these complaints.**

**Complaint 4** – That officers searched Relative X's room without a warrant.

Although the complainer mentioned this to the force in her initial letter of March 2007, it does not appear that the force treated this matter as a complaint about the police. Indeed it is unclear, given the wording in her letter, if the complainer wished the matter to be considered as a complaint about the police.

I note that this is not one of the complaints initially confirmed by the complainer to the force. I would therefore suggest that, if the complainer wishes a formal response to this issue that she should now make the complaint formally to the force.

**Complaint 6** – That Relative X was treated differently because of his race.

I note that while it appears that the enquiry officer discussed the complainer's concerns with all of the officers involved in the incident, there is no clear record of this since not all of the relevant operational statements referred to this matter directly. The force may wish to consider this as a learning point.

However from the information available to my office, it appears that on reviewing the complaint, Chief Inspector P identified shortcomings in the original handling of the complaint. He investigated the matter further and found no evidence to support the complainer's view that Relative X was treated differently.

I am satisfied that this matter was fully investigated and the outcome communicated to the complainer. **As such, I do not uphold this complaint.**

**Complaint 7** – When the complainer and Relative Y were threatened, the police took a statement over the phone and did not visit the complainer to take a statement; and

**Complaint 8** – Following the incident where the complainer was threatened the police did not take a statement from a witness.

It is disappointing to note that although he identified the lack of statements as a flaw in the initial investigation into the incident, Inspector M also neglected to obtain a statement from the witness he spoke with. However, I note that in the force's response to the complainer in October 2007, following the second review of the complaints, Superintendent S acknowledged that it would have been beneficial for officers to speak to the independent witnesses available, and offered an apology to the complainer in this respect. **I therefore do not uphold these complaints.**

**Complaint 9** – That the complainer was told that officers had taken CCTV footage of the incident from a nearby shop, but the shop manager stated they had not.

Whilst the complainer's allegation that she was misled about the taking of the CCTV footage was acknowledged by the force, in my view the issue was not adequately addressed. I would suggest that while the subsequent review of the complaint was good practice, and allowed previous omissions in the handling of the complaint to be addressed, from the information available to me it is unclear what action was taken at any stage of the complaint handling process to identify any officer to whom this complaint may have referred. **I therefore recommend that the force now provide the complainer with a response.**

**Complaint 10** – That the complainer reported an incident when a man with a knife was threatening to injure Relative X, and the force did not investigate the incident or take statements from witnesses.

It appears that during the initial investigation into the complaint about the police, all possible avenues of enquiry were not identified and examined by the force. However following this, a thorough review was carried out which recognised best practice. This was communicated to the complainer.

In my view the matter was dealt with appropriately by the force given the information and evidence that was available, and the outcome was communicated to the complainer. **As such, I do not uphold this complaint.**

**Complaint 11** – That officers accused Relative X of carrying a knife and took him to the police office and strip searched him.

Although in my view, it would have been helpful if all of the relevant statements had addressed this complaint, I am satisfied that the force examined the reasons for, and the procedures adopted, in carrying out the search. I also note that the conclusions of the force were communicated to the complainer. **I therefore do not uphold this complaint.**

**Complaint 12** – If an officer in court heard Relative X threaten a witness, action should have been taken at the time.

It is clear that this complaint was investigated and an appropriate response was provided to the complainer. It is my view the complaint was then fully readdressed by the force when it was evident that the complainer remained unhappy with the outcome. **I therefore do not uphold this complaint.**

Jim Martin  
Police Complaints Commissioner for Scotland  
March 2009