



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**

October 2009

Case reference: PCCS/0910/00281/PF-GP

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Preamble

The complainer lives in the Grampian area and has made a variety of complaints about Grampian Police over a number of years. These complaints generally stem from criminal allegations that she has made about her neighbours and her perception of a lack of action by Grampian Police to address these. The complainer has complained about specific officers and Grampian Police in general.

The complainer has listed many complaints about Grampian Police in her correspondence with the Commissioner's office. Since 2002, Grampian Police has formally registered complaints over four separate complaints investigations and responded formally to the complainer with its conclusions in each instance. The Commissioner has considered each of these investigations separately and prepared individual complaint handling reviews for each.

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 bodies handle complaints from the public. The Commissioner 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.

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

Power to conduct a complaint handling review

Section 35 of the Act provides the Commissioner 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 the Commissioner's office requests the complaint case papers from the police body in question. The Commissioner examines the facts of the case, looking at information provided by both the complainer and the police body. The Commissioner considers whether the information available does, or does not, support the complaint, and whether or not the police body has responded to the complaint in a reasonable manner. The Commissioner also considers whether the police body communicated with the complainer in a reasonable manner, including whether the police body handled the

complaint within a reasonable timescale. The Commissioner then comes to a view on whether the conclusions drawn by the police body in handling the complaint were reasonable in all the circumstances.

Once the Commissioner has reached his conclusions he prepares a report which details his findings. 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, the Commissioner proposes 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 the Commissioner 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 police body. The complaint is therefore a relevant complaint.

2.2 Relevant complainer

The Act further provides that the Commissioner 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).

PCCS review

A letter of complaint was received by the Commissioner's office on 7 February 2008. The complainer was asked to complete and sign an application form which was received on 7 March 2008 together with other information relevant to the complaint.

The Commissioner's office asked Grampian Police to provide the case papers on 11 March 2008. It was confirmed by Grampian Police that it had recorded three separate complaints under the complainer's name, two of which had been finalised. Grampian Police also confirmed that one remaining complaint was still active¹. The completed complaint files were received by the Commissioner's office on 1 April 2008. On 20 May 2008, Grampian Police wrote to the Commissioner's office advising that the outstanding complaint had been completed. The case papers relating to this complaint were enclosed with that letter. Further information was requested from Grampian Police on 10 September 2008, which was received on 12 September 2008.

The Commissioner's office corresponded with the complainer on three occasions between 26 January 2009 and 9 March 2009 regarding the particulars of the complaints she wished the Commissioner to review. It was confirmed to her on 3 April 2009 that the Commissioner's review would encompass all the complaints that the complainer had previously made to Grampian Police. Further information was requested, and received from, Grampian Police on 1 July 2009.

¹ PCCS/0910/00281/PF-GP (d)

CASE REFERENCE: PCCS/0910/00281/PF-GP (a)

1. Request for review

The complainer's first complaint about Grampian police was in relation to an allegation she made that her neighbour, Mr A, had injured her dog. Her complaint about the police was that Constable B had not treated the complainer's allegation with any urgency and failed to investigate the incident fully.

2. Background

The complainer states that on 25 May 2002 she heard a "yelp" from one of her two dogs who were outside in her front garden. Upon hearing this, the complainer states that she went outside and witnessed Mr A leaving her garden holding a paint brush and container. She states that she also noticed that a "paste-like white substance" had been painted on to the flowers in her garden and that later that day she thought that one of her dogs had been contaminated with weed killer and was "very uncomfortable".

On 27 May 2002, the complainer took her dog to a veterinary surgery where it was established that it had a swollen prepuce and bruising to its scrotum. The veterinary surgeon who examined the dog, Mrs C, states that the bruising was consistent with the dog coming into contact with a force.

On 4 June 2002, Mrs C again examined the complainer's dog and noticed that it had three additional lesions to other parts of its body. Mrs C stated that the injury she noticed on 27 May 2002 was consistent with "mechanical force" and her opinion was that it was caused by a kick or perhaps colliding with a fence. According to Mrs C, the three lesions she found on 4 June 2002 were "chemical or heat burns".

On 4 June 2002, the complainer contacted Grampian Police's control room to report that her dog had been burned. Later the same day, Constable B attended the complainer's home and noted a statement from her.

Constable B states that he made enquiries with the complainer's neighbours and that no witnesses to the incident were found. Constable B also stated that he interviewed another possible witness on 11 June 2002 who confirmed that, although Mr A had been carrying a paint brush, he had not seen the complainer's dogs.

On the same day, Constables B and D interviewed Mr A under caution. Constable B states that Mr A admitted being in the complainer's garden in order to put weed killer down; however Mr A denied coming into contact with the complainer's dog. Constable B stated that, due to lack of evidence, he concluded his interview without

charging Mr A. Constable B states that he informed the complainer of the outcome of his enquiries on this date.

The complainer subsequently made a complaint about the police regarding its investigation into the incident.

3. Internal handling

On 1 July 2002, the complainer attended Police Station 1 at 11.10 pm and informed Inspector E that she wished to make a formal complaint. Inspector E noted that a statement was not taken from the complainer as she wished to leave the police station by 11.30 am. A Complaint About the Police (CAP) form was completed by the Inspector in which the complainer's complaint was recorded as:

"...[Constable B] has not treated the matter with the urgency she feels it deserves. Furthermore [the complainer] alleges that the matter has not been investigated fully".

On 2 July 2002, a Chief Inspector wrote to the complainer to explain that a senior officer had been appointed to investigate the matter. On 8 July 2002, Inspector F was appointed to complete an internal report.

A statement was noted from the complainer by Inspector F on 10 July 2002. In her statement the complainer asserted that there was evidence to charge Mr A and she felt Constable B could have done more. The complainer stated that she felt Mr A should still be charged.

From the files supplied to the Commissioner's office by Grampian Police, the complainer also provided the latter with a handwritten letter dated 26 July 2002 raising points she had regarding Constable B's investigation. These concerns were that Constable B:

- did not treat the incident seriously;
- did not attempt to search Mr A's property for the weed killer;
- accepted Mr A's statement that he scattered the weed killer by hand;
- did not press her neighbours for witness accounts until she insisted and even then only spoke to three witnesses;
- took too long to speak to witnesses (3-6 weeks);
- could have kept her better informed;
- did not speak to another witness whose dog was also kicked; and
- described her as "very intense" and "highly strung".

According to Grampian Police, Inspector F and Constable B met with the complainer on 1 August 2002 in an effort to conciliate the complaint and to see what more could be done.

On 6 August 2002, Inspector F asked Constable B to obtain a witness statement from Mrs C, the veterinary surgeon. Constables B and D also submitted statements dated 1 October 2002.

Inspector F submitted a report to Superintendent G dated 1 October 2002. In this report, Inspector F stated that on 1 August 2002 he, along with Constable B, met with the complainer. During that meeting the complainer was not willing to accept Constable B's explanation that there was a lack of evidence to charge Mr A with cruelty to her dog.

Inspector F also states that he had asked Constable B's supervising officer, Sergeant H, to ensure that all house-to-house enquiries had been properly completed regarding the original incident. Additionally, he requested that Mr A be re-interviewed regarding a discrepancy between his account at interview and the contents of two witness statements. Upon re-interviewing Mr A there remained insufficient evidence to charge him. Inspector F also stated that Sergeant H was satisfied that all house-to-house enquiries had been properly completed. Inspector F's report also stated that he and Sergeant H had examined the box of weed killer taken from Mr A's garden shed which did not indicate any causticity which would cause skin burns. However, Inspector F also stated that the belated statement of the veterinary surgeon confirmed the dog's injuries may have been due to a kick and chemical burns.

Superintendent G responded to the complaint in a letter dated 2 October 2002 in which he said the following:

"I consider the Officer who investigated your complaint reacted within a reasonable time scale and interviewed the witness and suspect on the same date. The suspect denied responsibility at this time, and due to there being no direct evidence to link him with the crime no charges were made.

I have as you know had a Senior Officer re-examine the enquiries carried out by [Constable B], and in particular the house to house enquiries. The only direct witness has been re-interviewed by a Supervisory Officer, this witness clearly states he saw [Mr A] within your garden at the material time, but did not see him injure either of your dogs.

The Supervisory Officer has also re-interviewed [Mr A], who under questioning strongly denied having injured your dog by either applying the weed killer to its skin or by kicking the dog. He agreed he had been in your garden applying weed killer to a patch of weeds with he thought your permission.

At this time the suspect handed to the Police the box which had contained the weed killer, this has also been examined. The manufacturer's instructions state the weed killer should not have a caustic effect on humans or pets whether applied wet or dry to the area of garden to be treated. There was no other form of weed killer found within the suspect's garden shed and the suspect cooperated fully with the Police during their enquiries into the incident.

Enquiry has been made with the former resident of [address 1] whom you mentioned in the list of issues you handed to Inspector [F]. This person did not attribute blame to any of his ex neighbours for the death of his dog, which according to this person died in 1997 having had a history of fighting with other dogs.

There is a set criteria and requirement which the Police have to rigidly follow to provide the Procurator Fiscal with all credible and available evidence when reporting an individual for a crime or offence. In view of my earlier comments I do not at this stage consider there is sufficient evidence to prepare a Police Report for the attention of the Procurator Fiscal in relation to this particular incident.

I reiterate the apology given by Inspector [F] regarding the comments on his paperwork, which you inadvertently viewed. I can assure you no offence was intended by this comment and it was an observation not shared by the Officers who investigated this complaint.”

4. Consideration

As noted earlier, the complaint is that Constable B did not treat the complainer's allegation with any urgency and failed to investigate the incident fully.

In relation to the first part of the complaint, the Commissioner notes that Constable B was allocated the enquiry into the complainer's allegation on 4 June 2002 and informed the complainer on 11 June 2002 that, due to lack of evidence, no charges would be made against Mr A. The Commissioner also notes that, in between these dates, Constable B made door-to-door enquiries, took a statement from an independent witness and interviewed Mr A under caution. From the CAP form and Inspector F's report, it is clear that Grampian Police correctly captured this aspect of the complaint and considered all of the above actions of Constable B. It is also clear that the response given by Superintendent G provided the complainer with a reasonable response based upon the information gathered throughout Inspector F's investigation.

In relation to the second part of the complaint, it would appear that the basis for the complainer's belief that Constable B did not fully investigate her allegation is contained in her handwritten letter of 26 July 2002. This letter detailed eight areas of dissatisfaction with Constable B (see page 7 above).

Following receipt of this letter, Inspector F and Constable B met with the complainer in order to conciliate the complaint. Conciliation is a matter dealt with in Grampian Police's Standard Operating Procedure on complaints handling. The Commissioner supports attempts at conciliation in appropriate cases; however, in the Commissioner's view Grampian Police should consider what value is to be gained from having the officer about whom the complaint has been made involved in such attempts.

It is apparent that when attempts to conciliate the complaint failed, Grampian Police carried out further work based on the content of the complainer's letter of 26 July 2002. This further work included establishing that Constable B carried out house-to-house enquiries appropriately, obtaining a statement from Mrs C regarding the type of weed killer used and its potential effects on humans and animals, and re-interviewing Mr A. (The Commissioner notes that Grampian Police, in effect, upheld the complainer's concern that there had been an inappropriate comment made about her and that Superintendent G offered a full apology for this).

However, none of these additional enquiries established sufficient evidence to justify charging Mr A. Notwithstanding the additional work carried out by Grampian Police (which, in the Commissioner's view, was an example of good complaint handling) Superintendent G's response did not explain fully whether or not there was any justification behind the complainer's concerns over Constable B's investigation. Additionally, as Constable B was the officer complained of, the Commissioner does not believe that it was appropriate for him to have taken a statement from Mrs C during the further enquiries.

It is apparent from Inspector F's report and Superintendent G's response that Grampian Police accurately captured the essence of the complainer's dissatisfaction and made good attempts to address it. The handling of the complaint would have been better if the response had specifically addressed the issue of whether Constable B's original investigation was sufficiently thorough. However, it is clear that any deficiencies in Constable B's investigation were remedied by the subsequent enquiries carried out in connection with the complaint. As noted earlier, these enquiries did not establish sufficient evidence to justify charging Mr A.

5. Conclusion

In the Commissioner's view, although the final response to the complainer ought to have specifically addressed her complaint that the initial enquiries into the incident were inadequate, it is clear that the matter has now been fully investigated and that no further evidence implicating Mr A has been established. In these circumstances the Commissioner believes that, overall, Grampian Police handled the complaint in a reasonable manner. Accordingly the Commissioner does not uphold this complaint.

CASE REFERENCE: PCCS/0910/00281/PF-GP (b)

1. Request for review

The following complaints, although relating to different incidents, were raised with Grampian Police by the complainer on 28 February 2006.

Complaint 1 – that reports which the complainer has made of alleged criminality have not been investigated seriously and have been met with unsympathetic responses;

Complaint 2 – that Grampian Police side with Mr A and that he is party to “inside information”; and

Complaint 3 – that officers of Grampian Police threatened to speak with the local council in order to evict the complainer from her home.

2. Background

The complainer states that over a number of years she has been harassed by one of her neighbours, Mr A. She states that she has reported several incidents involving, amongst others, Mr A to various different officers of Grampian Police and that her reports have not been taken seriously or been met with sympathetic responses.

The complainer states that, following certain reports of alleged criminality, she has been visited on a number of occasions by a female police officer whom she believes is related to Mr A. The complainer also states that the dates of these visits span from 2001 onwards.

Additionally, the complainer believes that, because of the nature of Mr A’s employment, he is familiar to Grampian Police and that officers are on friendly terms with him. The complainer also believes that Grampian Police side with Mr A and that he is party to “inside information”. She also alleges that two officers, Sergeant I and Constable N, have threatened to speak to the local council in order to have her evicted from her home.

3. Internal handling

The complainer submitted Complaint 1 on 28 February 2006 via a letter from her solicitor. The letter outlined several incidents in which the complainer had been involved with Mr A.

On 3 March 2006, a Complaint About the Police form was completed by Grampian Police which detailed the complaint as being:

“Complainer alleges that over a period of time in relation to ongoing trouble with her neighbour [Mr A], the officer named together with others not yet identified, failed to adequately investigate her complaints against her neighbour. She also believed that police were not acting because she understood that a niece of [Mr A] was one of the officers working from [Area 2], and who had been in her home before. She could not recall this officer’s name.”

On 6 March 2006, Inspector J forwarded his initial assessment of the complaint, which mirrored that described above, to Superintendent K. Inspector I also added that the complainer had:

“...a long standing mistrust of local police officers, and specifically as detailed in the allegation. Matters appear to be cumulative rather than one specific incident.”

Chief Inspector L wrote to the complainer’s solicitor on 8 March 2006 informing them that the supervisory officer would be in touch with the complainer during the course of Grampian Police’s enquiries. Around 9 March 2006, Inspector M was allocated the enquiry.

On 21 March 2006, Inspector M noted a statement from the complainer at her home. During this visit, the complainer raised Complaints 2 and 3. The complainer also confirmed that her complaint started in 2002 when she believed Mr A injured her dog and that Constable B did not treat her complaint seriously. She stated that after she made a complaint about Constable B, Inspector D visited her at home with Constable B, which she had found strange. The complainer also stated that she felt Inspector D was not interested and was “going through the motions”. In her statement she also asserted that, since then, there had been a number of incidents with Mr A involving a number of officers from Grampian Police, including Constable M. The complainer also stated that she believed the police had sided with Mr A because local police knew him and that his niece worked for Grampian Police

Statements were also obtained from Sergeant I and Constable N on 20 and 26 April 2006, respectively.

Inspector M submitted a report of his findings to Superintendent K on 28 April 2006. His report classified the complainer’s complaint as follows:

“In essence, the complaint refers to the complainer being of the opinion that complaints she has made over the years against one of her neighbours, [Mr A], have not been investigated thoroughly as a result of this individual being known to the Police on a professional basis though his [employment] and also the fact that his niece is an officer in Grampian Police.”

In his report, Inspector M stated that there was no evidence to support the allegation that the original complaint, investigated by Inspector D and reviewed by Grampian Police’s Professional Standards Department, was not investigated properly. He also stated that a review of the various incidents which the complainer had reported did not provide any suggestion that investigations were affected by any kind of relationship between Mr A and the local police. Inspector M added that there was no evidence to confirm that a serving officer in Grampian Police was Mr A’s niece.

Lastly, Inspector M stated that the statements of Constable N and Sergeant I showed that the complainer had not been threatened regarding her housing arrangements. He concluded his report by stating that although there had been several incidents involving Mr A and the complainer, there was nothing to suggest that any enquiries had been affected by outside influence or had not been conducted professionally.

On 13 June 2006, Superintendent K wrote to the complainer’s solicitor with Grampian Police’s final response to the complaints. In response to Complaint 1, Superintendent K stated that Mr A had been interviewed several times in connection with the allegations made by the complainer and on one occasion a report was sent to the Procurator Fiscal.

In relation to Complaint 2, Superintendent K stated that there was no evidence that local police officers had anything other than a professional relationship with Mr A. Superintendent K also stated that there had been no evidence to confirm that Mr A’s niece was a serving police officer and that, having spoken with Mr A, he had reported having no relatives in Grampian Police

In relation to Complaint 3, Superintendent K stated that although according to the complainer Constable N and Sergeant I had threatened her regarding moving house, both officers denied this. According to Superintendent K this was confirmed by officers who were with Sergeant I when he spoke to the complainer.

Superintendent K concluded his letter by advising:

“I am advised by Inspector [M] that he felt your client was one of the most difficult complainers he has had to deal with.....Having considered all of the above I am, therefore, unable to agree with the assertions made by your client and am content that my Officers have acted in a professional manner over the years in relation to the various complaints she has made and to that end, I find her complaint unfounded.”

4. Consideration

Complaint 1 – that reports which the complainer has made of alleged criminality have not been investigated seriously and have been met with unsympathetic responses.

Inspector M reported that he had reviewed the crime files into the incidents which had been reported by the complainer and could find no irregularities. In the absence of any specific information from the complainer as to why she felt that Grampian Police had not properly investigated her allegations, this is a reasonable approach for Inspector M to have taken.

In addition, it was explained to the complainer that investigations had taken place into several allegations against Mr A and that formal action had previously been taken, in the form of a report to the Procurator Fiscal. Accordingly the Commissioner considers that Grampian Police has investigated this complaint adequately and provided the complainer with a reasonable response.

Complaint 2 – that Grampian Police side with Mr A and that he is party to “inside information”.

The complainer believes that Grampian Police sides with Mr A and that he is party to “inside information” because he has a niece who serves in the police. She also believes that certain officers are familiar with Mr A.

As noted above, Grampian Police investigated Mr A’s relationship with the police and did not find any evidence to substantiate the complainer’s belief. In addition, it was explained to the complainer that investigations had taken place into several allegations against Mr A and that formal action had previously been taken, in the form of a report to the Procurator Fiscal. Accordingly the Commissioner considers Grampian Police to have adequately investigated this complaint and provided the complainer with a reasonable response.

Complaint 3 – that officers of Grampian Police threatened to speak with the local council in order to evict the complainer from her home.

Having noted statements from Constable N and Sergeant I regarding this allegation Grampian Police concluded that there was no evidence to substantiate this complaint. In the Commissioner’s view, in the absence of evidence to the contrary, this was a reasonable conclusion.

5. Conclusion

Complaint 1 – that reports which the complainer has made of alleged criminality have not been investigated seriously and have been met with unsympathetic responses;

Grampian Police has investigated this complaint and provided the complainer with a reasonable response. Accordingly, **the Commissioner does not uphold this complaint.**

Complaint 2 – that Grampian Police side with Mr A and that he is party to inside information; and

During its investigation into Complaint 1, Grampian Police investigated Mr A's relationship with the police and provided the complainer with a reasonable response explaining the outcome of its investigation. Accordingly, **the Commissioner does not uphold this complaint.**

Complaint 3 – that officers of Grampian Police threatened to speak with the local council in order to have the complainer evicted from her home.

In the absence of any evidence to support the complainer's allegation, the approach taken by Grampian Police to this complaint was reasonable. Accordingly, **the Commissioner does not uphold this complaint.**

CASE REFERENCE: PCCS/0910/00281/PF-GP (c)

1. Request for review

The following complaints, although relating to different incidents, were raised with Grampian Police at one time during this complaints investigation.

Complaint 1 – that Mr O was not charged following an incident outside the complainer's home;

Complaint 2 – that officers of Grampian Police made inappropriate comments about the complainer;

Complaint 3 – that Grampian Police failed to take statements from the complainer on a number of occasions; and

Complaint 4 – that Grampian Police failed properly to investigate a report of sexual assault.

2. Background

On 20 August 2006 Grampian Police received a report alleging that the complainer had gesticulated rudely, shouted and swore at Mr O's son whilst he was playing in the street outside the complainer's home. Constable P was allocated to enquire into the incident.

According to the crime file of the incident supplied to the Commissioner's office, four witnesses, including Mr O, were interviewed by Grampian Police between 20 August 2006 and 1 September 2006. All of them said that the complainer had gesticulated rudely towards Mr O's son. Three of these witnesses confirmed that the complainer swore.

Constable P states that on 1 September 2006 he and Constable Q attended the complainer's home where the complainer was cautioned and charged with breach of the peace in relation to the incident. Constable P also states that, having done this, the complainer commented that she had already made an appointment with Sergeant R regarding the possibility of lodging a counter-complaint against Mr O. She claimed to have CCTV evidence to prove her allegations against him. Constable P thereafter completed a Standard Police Report (SPR) into the incident.

Sergeant R states that around 4 September 2006 he telephoned the complainer and was advised by her that she had CCTV footage of the incident for which she had been charged, and that in fact it had been Mr O who had swore and gesticulated inappropriately. On 12 September 2006 Sergeant R attended the complainer's

home and noted a counter-complaint from her. Sergeant R also states that he viewed the CCTV footage of the incident and it was confirmed that Mr O “had made gestures towards [the complainer], however, it could not be heard what was said.” Sergeant R states that the complainer also provided details of a witness and that this witness subsequently corroborated the complainer’s allegations against Mr O.

Sergeant R’s statement concludes by stating that, having viewed both enquiries, he made the decision that:

“...it was not in the interests of justice to proceed to a Police Report and to notify the Procurator Fiscal of these issues. Furthermore, I did not see that it would serve either party well to have the matter proceed into court. Ultimately, this may have lead to a conviction for either for what was essentially a minor incident.

I notified [Mr O] that he was being warned in relation to the allegations made against him. He accepted this and advised that he was satisfied that [the complainer] be warned regarding the incident as opposed to his initial request which was to have her charged.

I later attended to see [the complainer]. At that time, I explained that she was no longer being reported to the Procurator Fiscal regarding her Breach of the Peace. I advised that the incident would be recorded as a warning. I further advised that [Mr N] had been warned regarding the very minor incident that he had been responsible for. She expressed her displeasure advising that she would rather have gone to court.”

3. Internal handling

The complainer wrote to Grampian Police on 14 January 2007 expressing her complaints about the police. This was acknowledged by the Deputy Chief Constable’s office on 19 January 2007 which informed the complainer that her letter had been forwarded to Superintendent S of the Professional Standards and Conduct Department.

The complainer’s letter gave a brief background to the incident occurring on 20 August 2006 and specifically commented that Sergeant R had advised her that the CCTV images capturing Mr O was “not enough evidence”. In relation to Complaint 1, the complainer’s letter stated:

“Sgnt [R] came to my house and took the [CCTV] away – he came back the week after and said [Mr O] couldn’t be charged but ‘the good news is.....I am dropping the charge of Breach of The Peace’. As you can see this is a disgusting way for Police Officers to behave.”

The complainer’s letter also reiterated concerns over the way in which Inspector D and Constable B handled the incident she reported in 2002 (PCCS/0808/00281/PF-GP(a) at page 6) and stated that because of the attitude of the police officers who

attended the incidents she had reported, other neighbours had “joined forces” with Mr A.

On 22 January 2007 the Professional Standards and Conduct Department recorded the complainer’s complaint as:

“...on 11 September 2006, at [the complainer’s address] Officers failed to properly investigate a complaint of Breach of the Peace.”

On 23 January 2007, an initial report and assessment were completed by Sergeant T and forwarded to Superintendent K. Sergeant T stated that the complainer’s letter was lengthy and included complaints addressed in a previous enquiry. Sergeant T suggested that an experienced Inspector be allocated the case and should familiarise himself with the previous enquiry.

On 28 January 2007 Inspector U noted a statement from the witness named by the complainer, and on 6 February 2007 noted a statement from the complainer herself. Both statements focus on the events of 20 August 2006. The complainer stated that she thought a suitable resolution would be for Mr N to be charged with a breach of the peace for “shouting and gesticulating” towards her. The complainer also mentioned that she was unhappy with some of the questions she had been asked by Constable P.

Temporary Chief Inspector V wrote to the complainer on 24 January 2007 stating that the complaint had been recorded and that a supervisory officer would contact her to enquire into the complaint.

A statement was noted from Constable P on 19 February 2007.

On 22 February 2007, the local Citizen’s Advice Bureau wrote to Grampian Police on behalf of the complainer and stated that, having made a complaint in January 2007, the complainer was concerned that she had not heard anything further since a letter dated 24 January 2007.

In response, Temporary Chief Inspector V wrote to the local Citizen’s Advice Bureau on 26 February 2007 stating that:

“...the Senior Officer who is making enquiry into [the complainer’s] complaint met with her on 6 February 2007, and at that time informed her there would be a delay in concluding matters owing to annual leave. [The complainer] accepted this explanation and had no issues regarding this. I trust this information clarifies the position for you and will be of assistance to you in any future contact you have with [the complainer] over this matter.”

Sergeant R provided a statement on 28 February 2007.

Inspector U completed a Subject Report on 6 March 2007. In this report he stated that the CCTV images provided by the complainer supported the allegation of a breach of the peace by Mr O against the complainer, as did the statement from the witness named by the complainer. He added that it was a relatively minor incident.

Inspector U also stated that the allegation of breach of the peace on the complainer's part was supported by several other witnesses.

Inspector U noted that the criteria of the Recorded Written Police Warning Scheme for Adult Offenders ("the warning scheme") are that the scheme should cover minor incidents where a verbal warning is insufficient and unlikely to satisfy complainers. He also noted that the warning scheme can be used when the officer considers that the incident is unlikely to lead to a prosecution should a report be submitted.

Inspector U stated in his report that the disposal of the incident through the warning scheme was appropriate and proportionate. He also stated that, in his opinion, a further review of historical matters raised by the complainer, in which full enquiries had been made previously, would serve no purpose.

Superintendent K responded to the complainer on 7 March 2007. He stated that Sergeant R:

*"...noted your statement and viewed the video recording from CCTV which is fixed to and covers the front of your home. Sergeant [R] found your statement and that of your friend together with the video recording from your CCTV system, **provided sufficient evidence to support a Breach of the Peace against the male offender.** In doing so he made full enquiry into the incident.*

Sergeant [R] fully considered the matter and recognised the most appropriate course of action was to give a Recorded Written Police Warning to both parties...This disposal is in accordance with a joint protocol set up between the Procurator Fiscal and Grampian Police, which allows for certain incidents, such as the one under review here, to be disposed of by way of a Recorded Written Warning. Having reviewed the evidence and the alleged level of criminality, I have to advise you that this incident meets the criteria laid down by the Procurator Fiscal and consequently, I agree with this disposal. While I appreciate that you will disagree with this point of view, I would ask you to consider the incident in balance against the general levels of criminal activity being dealt with daily within our courts system.'

Superintendent K also noted in his response that there were other matters raised in the complainer's letter but that these had previously been looked at by another officer and therefore he "considered them to have been dealt with."

In conclusion, Superintendent K reassured the complainer that any matters reported by the complainer of a criminal nature would be fully enquired into. He added:

"I would urge you to report any incident at the time, to allow prompt enquiry. Matters of nuisance which you consider are being caused by your neighbours, should be reported to the Housing Department of [local] City Council. I am aware that Inspector U had offered to assist in any mediation matters with your neighbours, if you considered it may help."

4. Consideration

Complaint 1 – that Mr O was not charged following an incident outside her home.

In terms of the complainer's letter dated 14 January 2007, and the statement taken from her on 6 February 2007, her dissatisfaction with Sergeant R was that Mr O was not charged with committing a breach of the peace towards the complainer, despite her having CCTV footage of, and an independent witness to, the incident.

Grampian Police has explained to the complainer that there was enough evidence to report Mr N to the Procurator Fiscal for his involvement in the incident on 20 August 2007. It follows that it is the decision to warn Mr O under the warning scheme that is the main area of the complainer's dissatisfaction.

The guidelines on how the scheme operates were agreed between Grampian Police and the Area Procurators Fiscal. The guidelines detail instances when it is appropriate to use the scheme as an alternative to reporting an incident to the Procurator Fiscal. An example given in the guidance involve cases:

"...Which are minor but not to the extent that an immediate verbal warning is appropriate."

Sergeant R's statement showed that he clearly felt the incident between Mr N and the complainer was minor in nature and as such felt that it would be best disposed of by means of a written warning under the scheme. Inspector U's investigation into the complaint looked at the evidence behind Sergeant R's decision and concluded that he was correct in warning Mr O under the scheme. The reasoning behind this decision was clearly communicated to the complainer. In addition, the scheme's guidelines show that on detection of an offence where it is considered that a warning may be appropriate, the enquiry officer will formally caution and charge the complainer.

In the Commissioner's view, Grampian Police has correctly captured this element of the complainer's dissatisfaction, taken into account relevant information during its investigation and communicated accurately and concisely the reasoning behind Mr O not being charged.

Complaint 2 – that officers of Grampian Police made inappropriate comments about the complainer.

In her letter of 14 January 2007, the complainer makes two references to when she believed members of Grampian Police have made inappropriate comments about her, namely that:

- Constable B described her as *"very intense – highly strung"*; and
- Inspector M said she was *"...the most difficult person he has had to deal with in all of his years on the force"*.

It is clear from the Commissioner's review of PCCS/0808/00281/PF-GP(a) (see above) that Grampian Police was made aware of the complainer's dissatisfaction regarding her being described as intense and highly strung and has already apologised for this comment². Inspector U's report stated that in addition to Complaint 1, the complainer raised "historical matters previously fully enquired into" and that reviewing these matters served no purpose. In the Commissioner's view, Inspector U's recommendation that no further action be taken in this connection was appropriate.

However, Grampian Police has not recorded the complainer's dissatisfaction regarding the comments included in Superintendent K's letter of 13 June 2006³. Irrespective of the difficulty police bodies may experience whilst investigating complaints about themselves, in the Commissioner's view it is not appropriate to communicate comments of this kind to a complainer. The counter-productive effect of such comments is evidenced by the complainer's continued correspondence on the subject.

Complaint 3 – that Grampian Police has failed to take statements from the complainer on a number of occasions.

Although not developed in the statement subsequently taken from the complainer, the complainer's letter of 14 January 2007 specifically details occasions where, following her reports of alleged criminality, Grampian Police has not taken an official statement from her. The complainer's letter also makes the more general point that Grampian Police has never taken an official statement from her at all.

Although Inspector U and Superintendent K felt that this particular complaint had been dealt with previously, the Commissioner can find no evidence that the complainer had either brought up the issue before 14 January 2007 or that it has ever been recorded or responded to by Grampian Police. However, from the information supplied to the Commissioner's office, it is clear that officers have taken a statement from the complainer in the past⁴.

Complaint 4 – that Grampian Police failed properly to investigate a report of sexual assault.

The complainer's letter of 14 January 2007 detailed her complaint that following her report to the police of a sexual assault, to which she had been a witness, Grampian Police did not take a formal statement from her and made no attempt to speak to witnesses. The complainer also stated that Constable N had informed her at the time that it was the witness's civil duty to go to the police.

Inspector U and Superintendent K felt that this particular complaint had been dealt with previously. However, the Commissioner can find no evidence in the files supplied to his office that the complainer had either raised this issue before 14 January 2007 or that it has ever been recorded or responded to by Grampian Police.

² PCCS/0910/00281/PF-GP(a)

³ PCCS/0910/00281/PF-GP(b)

⁴ PCCS/0910/00281/PF-GP(a)

5. Conclusion

Complaint 1 – that Mr O was not charged following an incident outside the complainer's home.

Having fully examined the circumstances surrounding this incident and the subsequent disposal through the warning scheme, the Commissioner believes that Grampian Police handled this complaint entirely reasonably. As such, **the Commissioner does not uphold this complaint.**

Complaint 2 – that officers of Grampian Police made inappropriate comments about the complainer.

Irrespective of the difficulty a police body may experience whilst investigating complaints about themselves, it is not appropriate to communicate comments of this kind to a complainer. As such, **the Commissioner upholds this complaint and recommends that Grampian Police apologise to the complainer.**

Complaint 3 – that Grampian Police has failed to take statements from the complainer on a number of occasions.

Although Grampian Police viewed this complaint as having been dealt with, there is no evidence that it has recorded or responded to it. As it is clear from the information available to the Commissioner's office that a statement has been taken from the complainer in the past, the Commissioner does not require Grampian Police formally to respond to the complaint. However, **the Commissioner recommends that Grampian Police formally records the matter as a complaint.**

Complaint 4 – that Grampian Police failed properly to investigate a report of sexual assault.

There is no evidence that this complaint has been recorded or responded to by Grampian Police. Accordingly, **the Commissioner recommends that Grampian Police now record this complaint and respond to the complainer.**

Other matters

The complainer's letter of complaint detailed a number of issues, only one of which was recorded as a complaint about the police – the incident of 20 August 2007. The statement which was subsequently noted by Inspector U also focused on this one area of complaint. However, in the Commissioner's view the purpose of taking a statement regarding a complaint about the police is to establish the nature of the complaint and develop all the issues raised in any correspondence the complainer has sent. Although the complainer finished her statement by suggesting that her complaint could be resolved if Mr O was charged with breach of the peace (which would indicate that on this occasion Complaint 1 was the crux of her dissatisfaction with Grampian Police) the Commissioner would have expected Grampian Police to

have discussed the initial correspondence with a view to establishing the exact nature and extent of the complainer's dissatisfaction.

CASE REFERENCE: PCCS/0910/00281/PF-GP (d)

1. Request for review

The following complaints, although relating to different incidents, were raised with Grampian Police at one time during this complaints investigation.

Complaint 1 – that an officer of Grampian Police called the complainer's home pretending to be a local councillor;

Complaint 2 – that neighbours who have harassed the complainer have only received warnings from the police;

Complaint 3 – that Sergeant R threatened “to get a unit” if the complainer failed to cooperate and refused to leave her home despite being asked to do so several times;

Complaint 4 – that Grampian Police failed to respond in a timely manner to several incidents involving Mr W who has stalked the complainer for seven years;

Complaint 5 – the complainer was arrested and charged with brandishing a knife at Mr W;

Complaint 6 – that Grampian Police has lied to the complainer;

Complaint 7 – that Grampian Police officers have “perverted the law for their own amusement”;

Complaint 8 – that the complainer is still awaiting a formal response from Inspector U regarding a complaint about the police; and

Complaint 9 – that an officer provided incorrect details to the complainer, including a fabricated lapel number.

2. Background

The complainer has had dealings with Grampian Police over a number of years, mostly in relation to incidents involving her neighbours. On a number of occasions, the complainer has been dissatisfied with Grampian Police as to the way in which it has handled these incidents.

One of these incidents involved the complainer being charged with a breach of the peace and assaulting Mr W. The complainer states that shortly after her court appearance in relation to these charges she was threatened by Mr W and that she reported this to the police.

3. Internal handling

On 23 January 2008, Grampian Police received a letter from the complainer dated 22 November 2007. In her letter the complainer stated that she was “once again bringing to [Grampian Police’s] attention the appalling behaviour of several of the police officers under your command.” The letter specifically raised complaints 1-4.

On 29 January 2008 the Deputy Chief Constable wrote to the complainer to acknowledge receipt of the complainer’s letter and inform her that it had been passed to Superintendent S of the Professional Standards Department.

The complainer wrote another letter of complaint dated 17 January 2008 which appears to have been received by Grampian Police on 29 January 2008. This letter specifically raised complaints 5-9. The complainer also attached a copy of a letter she had received which she believed to be from the police officer who had allegedly pretended to be a local councillor.

Chief Inspector X of the Professional Standards and Conduct Department wrote to the complainer on 1 February 2008 advising her that the matter had been recorded and that the supervisory officer dealing with her complaint would be in touch.

An initial report and assessment was completed by Officer Y on 1 February 2008. The complaint was recorded as follows:

“...[the complainer] believes the case against her was deserted because she had no case to answer and that the force is harassing her.”

Officer Y noted that part of the complainer’s allegation of harassment stemmed from her belief that police officers had lied about CCTV evidence which had or had not been captured in relation to various incidents. He also commented that officers at divisional level had long standing contact with the complainer and that there had been various attempts at mediation in the past. He recommended that a supervisory officer review the complaint before contacting the complainer.

Superintendent S forwarded a file and memo to Superintendent Z stating that the complaint had initially been assessed as a “quality of service” issue and that the completed file should be forwarded to the Professional Standards and Conduct Department by 28 March 2008.

Inspector U appears to have been allocated this complaint on 7 February 2008 and thereafter prepared a Subject Report on 26 February 2008. Inspector U stated that he had made attempts to arrange an appointment with the complainer and that he had called the complainer on her mobile telephone but she had refused to speak to him as she could not be certain of his identity. The following day Inspector U wrote to the complainer and advised her that he required to speak with her regarding her letter and asked that she call to arrange a suitable time. Inspector U also stated that on 25 February 2008 he telephoned the complainer who again refused to speak with him, asserting that he was one of the officers about whom she had complained.

In his report Inspector U noted that the complainer’s letters were five and three pages in length, respectively, and failed to focus on any particular issue. Inspector U recommended that an officer with no previous contact with the complainer be allocated the enquiry.

On 7 March 2008, Inspector AA and Sergeant BB met with the complainer at home to discuss the complaint and note a statement from her. According to her statement, the complainer acknowledged:

“...[Inspector AA's] explanation of the various processes involved but I am still not convinced that there was sufficient evidence to charge me.”

According to the complainer it had also been explained to her that Inspector AA was not in a position to re-investigate the issues previously investigated by Grampian Police. She stated that she had been provided with a further explanation of the recording processes and checks which are undertaken by senior officers when any complaint file is closed by Grampian Police. The complainer concluded by stating that:

“I am still not satisfied with the level of information provided by Grampian Police in their concluding letters as I would have sought a greater level of detail covering all my previous points.”

A summary dated 14 April 2008 was completed by Inspector AA. He stated that the nature of the complainer’s complaints were:

“...that Grampian Police have been harassing her over a lengthy period of time and actively seeking an opportunity to present her at Court on charges, whether evidence based or otherwise.”

Inspector AA also stated that, as the case against her was dismissed, the complainer was seeking confirmation that her DNA, fingerprints and photograph would be destroyed. In addition he noted that the complainer wished to be reassured that another incident she had reported was being investigated properly and that she had

questioned the retention of CCTV tapes she had provided regarding a previous complaint.

According to his report, having previously reviewed the standard police report relating to her attendance in court, Inspector AA offered the complainer a comprehensive explanation regarding the processes which are required prior to charges being brought against a person. Inspector AA states that although the complainer acknowledged her understanding of these processes, she remained dissatisfied with the criminal justice system "and what constituted a sufficiency of evidence for Grampian Police to report matters to the Procurator Fiscal's Office." According to the report the complainer was also assured that her DNA, fingerprints and photograph had been destroyed.

According to his report, Inspector AA informed the complainer that the investigation into the criminal allegation brought by her on 11 January 2008 was ongoing. Further to this, on 10 March 2008, Inspector AA telephoned the complainer regarding the status of this allegation and to prepare her for future contact with the officers involved in that case. According to Inspector AA, the complainer advised that she would not entertain telephone contact with Grampian Police and requested that officers carrying out enquiries into her various concerns contact her in writing.

Inspector AA concluded his report by stating that there was no substance to the complainer's allegation that there was insufficient evidence to justify her being reported to the Procurator Fiscal. Inspector AA noted that the decision not to proceed against her at Aberdeen Sheriff Court was outside Grampian Police's jurisdiction and required no further comment.

Grampian Police provided a final response to the complainer on 14 April 2008. Superintendent Z firstly responded to Complaint 5 and the complainer's view that there was a lack of evidence to charge her. Superintendent Z referred to the explanations the complainer had been given by Inspector AA regarding the processes involved in reporting cases to the Procurator Fiscal, and acknowledged that, despite these, the complainer remained dissatisfied at having been subject to the criminal justice system. However, Superintendent Z stated that appropriate procedures had been followed by Grampian Police in relation to the charge.

With regard to her DNA, fingerprints and photograph, the complainer was assured that these had been destroyed as per procedure.

Superintendent Z concluded his response to the complainer stating:

"With regards to other matters mentioned in your correspondence, those were previously subject to an investigation by other Senior Officers and I consider them to be have already been dealt with.....I now consider the issues raised in your letters as being concluded."

4. Consideration

Complaint 5 – that the complainer was arrested and charged with brandishing a knife at Mr W.

Having reviewed the standard police report sent to the Procurator Fiscal, Inspector AA met with the complainer on 7 March 2008 and explained the procedures in place for charging an individual and reporting matters to the Procurator Fiscal.

In her statement, the complainer confirmed that Inspector AA had explained the processes involved during each stage of enquiry but that she was “not convinced that there was sufficient evidence to charge me”.

In his reply dated 14 April 2008, Superintendent Z stated:

“Inspector [AA] explained the various check mechanisms in place within Grampian Police and Procurator Fiscal’s Office when assessing allegations of criminality for sufficiency of evidence prior to incidents being processed through the Criminal Justice System. You acknowledged your understanding of that process in respect of the incident of 4 May 2007 in which you were reported to the Procurator Fiscal, that case subsequently being deserted ‘pro loco’ at [local] Sheriff Court on 11 January 2008.

I understand that you are still dissatisfied with having been processed through the Criminal Justice System in respect of that particular incident but I assure you, as did Inspector [AA], that the appropriate procedures were followed by Grampian Police in that regard.”

In the Commissioner’s view, by explaining the process in place for reporting individuals to the Procurator Fiscal, Grampian Police has addressed this particular complaint and provided the complainer with a reasonable response.

Remaining complaints

Despite the complainer having detailed a number of issues in her letters, only two complaints (complaints 5 and 6) were recorded in Grampian Police’s initial report and assessment.

The statement which was subsequently noted by Inspector AA focused only on one area of complaint – the charges brought against the complainer and the subsequent allegation she made against Mr W. It appears that there was no attempt by Inspector AA or anyone else within Grampian Police to discuss the second complaint recorded in the initial report and assessment, or the content of the complainer’s letters and the various complaints contained within. As noted above⁵, in the Commissioner’s view the purpose of taking a statement from a complainer is to establish the nature of the complaints and in doing so it was appropriate to discuss all the issues raised by the complainer’s letters of complaint. Although Grampian

⁵ PCCS/0910/00281/PF-GP(c)

Police viewed these remaining complaints as having been dealt with previously, there is no evidence that they have been recorded or responded to. It therefore does not appear that the complainer has been provided with responses to these complaints.

After acknowledging that Grampian Police had previously investigated and double-checked some of her complaints, the complainer concluded her statement as follows:

“I am still not satisfied with the level of information provided by Grampian Police in their concluding letters as I would have sought a greater level of detail covering all my previous points.”

It is therefore disappointing that no effort was made to discuss the original correspondence with the complainer to establish the exact nature of the complainer’s dissatisfaction. The fact that the complainer remains dissatisfied with Grampian Police’s conclusions is perhaps unsurprising given that it appears to have focussed on one part of the complainer’s dissatisfaction, whilst failing to deal with the remainder of her complaints.

5. Conclusion

Complaint 5 – that the complainer was arrested and charged with brandishing a knife at Mr W.

As Grampian Police has provided the complainer with a reasonable response, **the Commissioner does not uphold this complaint.**

Complaints 1, 2, 3, 4, 6, 7, 8 and 9

Although Grampian Police viewed these complaints as having previously been dealt with, there is no evidence that they were recorded or responded to. The Commissioner recognises that the complainer’s letters are lengthy and somewhat repetitive; **however, he recommends that Grampian Police now records Complaints 1-4 and 7-9 and respond to these, as well as to Complaint 6.**

Matters Arising

The Commissioner appreciates that the complainer's correspondence regularly refers to various different incidents spanning a number of years; various combinations of complaints; and complaints which have already been investigated, which makes it difficult to clearly identify each issue referred to. However, this merely serves to underline the purpose and importance of the statement noted from the complainer, in fully ascertaining the complainer's concerns and ensuring they are considered and addressed in full. Albeit there often appears to be an incident or event which prompts this complainer to make a complaint, focusing on that issue, and categorising all others as having previously been raised and dealt with, has unfortunately provided the complainer with cause for dissatisfaction.

In the case of this complainer, where Grampian Police has identified a complaint about the police it has, in the main, investigated and responded to the complainer appropriately. **Focusing on all areas of dissatisfaction is therefore a learning point for Grampian Police.**

Since these complaints have been handled by Grampian Police, it has issued an updated version of its Standard Operating Procedures on Complaints About the Police. The Commissioner is encouraged to note that these procedures emphasise the importance of establishing the specific nature of the complaint(s); the identify of anyone being complained about; what information/evidence exists to support the complaint; and what the complainer's expectations are at the outset of the investigation. The Commissioner is therefore confident that the difficulties encountered by Grampian Police in this case can be avoided in future cases.

John McNeill
Police Complaints Commissioner for Scotland
October 2009