

Police Complaints Commissioner for Scotland

External Audit Report on: Northern Constabulary Complaints Analysis and Recording

October 2009

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Statement of responsibility

The matters raised in this report are only those which came to our attention during the course of our audit and are not necessarily a comprehensive statement of all the weaknesses that exist or all improvements that might be made.

Outcome

The following table summarises the recommendations we have made:

Priority 1	Priority 2	Priority 3
0	5	2

We have made no Priority One recommendations in this report.

However, we have made five Priority Two recommendations in relation to:

- The need to set in place a programme of regular audits of closed complaint cases carried out by a member of the constabulary senior management team to ensure standards are maintained and improved,
- The need to carry out an initial focussed examination of routine correspondence received at local command levels to ensure that corporate standards and the provisions of the Act are being complied with,
- The need to ensure that there is a robust understanding at local command levels of what is a complaint about the police especially relating to the Quality of Service provided by the constabulary, and issue clear guidance on the recording of all such complaints about the police to the constabulary,
- The need to set in place a programme of ongoing regular audits of correspondence received at local command levels to ensure that local commanders comply with corporate standards and the provisions of the Police Public Order and Criminal Justice (Scotland) Act 2006
- The need to share the learning from complaints about the police with the Commissioner.

We have made two Priority Three recommendations in relation to;

- Complaint case definition
- CCTV

We would like to take this opportunity of thanking staff for their assistance and support during the course of our audit visit.

Statement of assurance

In general, controls over the complaints management process were found to be operating effectively. The main weaknesses identified relate to the need to implement a formal audit process in order to ensure that all complaints about the police received at local command areas are properly identified and that complainers are responded to in a manner that gives them a clear understanding of how the constabulary has considered and addressed their complaints about the police. That the standard of work completed at local command levels and the central command

level is subject to a continuous improvement programme of audit and oversight.

We have, therefore, made recommendations to address these and other issues which, if implemented, will enhance control over the complaints management process.

In order to assist the constabulary and Northern Joint Police Board in using our reports, we apply an overall assurance level that considers the weaknesses highlighted in the Executive Summary and detailed in Chapter 3 and Annex A of this report. The assurance level for Complaints Management in Northern Constabulary is as follows:

Substantial Assurance*

**Essentially a sound system but with weaknesses that put some system objectives at risk.*

The assurance levels are defined in Annex B of this report.

Executive summary

Background

In April 2009, whilst reviewing the manner in which a complaint about Northern Constabulary had been handled, concerns were raised that the constabulary might not be recording and subsequently investigating all of the complaints about the police brought to the constabulary by concerned individuals.

The Commissioner advised the Chief Constable of Northern Constabulary that he would conduct an audit of complaints about the police cases to satisfy himself that the Constabulary has in place suitable arrangements for the handling of relevant complaints and that those arrangements are efficient and effective.

Prior to this intimation the Commissioner had previously written to the Chief Constable of each of the eight police forces in Scotland requesting that they carry out a review of their complaint about the police handling procedures comparing actual practice against published procedures.

In responding to this request Northern Constabulary examined 33 complaint cases including 16 complaint cases received during November 2008 with additional complaint cases from the September of that year. The 33 complaint cases equated to 21% of the total number of complaint cases recorded during 2007/08.

The work carried during this review looked at a total of 113 complaint cases from the fiscal year 2008/09 and 20% or 38 complaint cases from the fiscal year 2007/08. The sample from the fiscal year 2008/09 related to all closed cases on file for that year whilst the 20% selected from the fiscal year 2007/08 was seen to be a fair and representative sample of the complaint cases closed in that year.

Outcomes of the audit

The constabulary provided full access to the relevant complaint cases for the period 1 April 2007 to 31 March 2009.

151 of the 361 complaint cases recorded were examined, amounting to 42 % of the total number of complaint cases recorded in that period. The 151 complaint cases selected were examined to establish whether the files were recorded properly, subject to enquiry, and closed in an appropriate manner.

Of the 151 files, examined 59 were selected for further examination. The constabulary was asked to consider these files and provide additional information to the Commissioner. The constabulary having considered the files further agreed with the Commissioner that in 28 cases it could have dealt with these complaints better.

Of the 151 complaint cases examined,

- 102 or 68% of cases were recorded properly, subject to enquiry, and closed in an appropriate manner.

- 29 or 19% of cases contained identified shortcomings (from an assessment of information contained in the complaint file) that required additional attention or improved process e.g. failure to identify all heads of complaint, more detailed final letter, timescales etc.
- 5 or 3% of cases related to matters either considered or under consideration by PCCS
- 15 or 10% of cases were not considered further

A significant number of the CAP files recorded by the constabulary were recorded and dealt with at area command level; Annex A provides additional details of the findings.

Areas of concern

Recording of complaints and allegations

This audit was initiated out of an expressed concern that the constabulary might not be recording and subsequently investigating all of the complaints about the police brought to the constabulary by concerned individuals. A comparison of the complaints about the police recorded in 2007/08 and 2008/09 show that whilst there has been a slight drop in the number of complaint cases recorded there has been a 35% increase in complaint allegations recorded and then disposed of over that two-year period. This increase may be indicative of quality improvement process adopted by the constabulary or in part due to the published work of the PCCS.

An examination of the disposed complaint cases and allegations showed that in 2008/9, the top ranked issues were Irregular Procedure (18%), Oppressive Conduct and Neglect of Duty (16% each) and Incivility (13%). In the previous year, 2007/8, Oppressive conduct accounted for a quarter of all complaints (25%) followed by Neglect (16%), Irregular Procedure (17%) and Incivility (12%). The largest individual change is in the number of Assault cases that were recorded 20 (10%) in 2007/8 reducing by half last year to represent 4% of all complaints. The reduction in the number of assaults was offset by an increase of the same magnitude in allegations of excessive force. Annex A provides additional detail of this part of the audit.

Whilst the audit found cases where additional allegations could and should have been recorded, these are considered symptomatic of a lack of applied oversight and not a systemic failure to record. The Commissioner will expect the constabulary to set in place procedures to ensure performance in this area is monitored and is part of a process of continuous improvement.

Local complaint handling

Like all police forces in Scotland, Northern Constabulary receives letters and emails or other contact from members of the public or their elected representatives on a daily basis. That contact is recorded and considered and an early response made to the person making that enquiry. Whilst forces receive such contact on a myriad of subjects this audit was focussed on contact where a police officer or an appropriate member of support staff should have reasonably considered that contact as 'an expression of dissatisfaction' about an act or omission of Northern Constabulary or by a person who, at the time of the act or omission, was a person serving with the force.

The audit found that prior to the implementation of the Police Public Order and Criminal Justice (Scotland) Act 2006, local commanders were encouraged to identify and deal with complaints about policing in their area. Complaints that inferred criminality or misconduct by officers or members of staff were referred to the Professional Standards and Conduct Service Unit (PSCSU) for action. The PSCSU were responsible for the recording and monitoring of all complaint cases.

A comparison between the standard of a complaint about the police case raised in early 2007 with that dealt with in early 2009 shows a step change. The PSCSU have applied a quality test to all complaint cases coming into the Unit and their responses to local commanders have been challenging and clearly intended to drive up standards. There is little doubt that the advent of the PCCS and its published Case Handling Reviews have been a major driver for this change.

The audit identified a potential area of weakness in the process. Whilst much of the initial complaint correspondence is received at the PSCSU, a proportion is received directly at local stations or at Area Command level. This complaint correspondence is received along with a myriad of other communications and the task of identifying a complaint about the police falls to the local area commander. It is clear from the audit that on occasions, such matters are not properly identified and thus not recorded as complaints about the police.

The PSCSU will not be aware of these matters and cannot monitor and ensure standards. As such there is merit in the PSCSU carrying out focussed examinations of routine correspondence received at local command level to ensure that corporate standards and the provisions of the Act are being complied with.

Central complaint handling

The audit found that the PSCSU were providing a valuable quality check on the complaint cases managed by local commanders and despite some resistance, this appears to be driving up standards. However, this work could be augmented by additional oversight from the senior management team. There is benefit in a nominated senior officer performing a regular dip sample of the closed complaint cases to ensure standards are maintained.

Quality of Service

Forces regularly receive correspondence or contact from members of the public or their elected representatives that indicates dissatisfaction with the service received from the police. The issues raised range from police policy or procedure, how a constabulary delivers policing, or the outcome of the service provided by the constabulary.

The audit found that where a 'Quality of Service' complaint was accompanied by a complaint about an officer or member of staff of Northern Constabulary that complaint was captured, recorded and subject to the relevant enquiry and response. The position in respect of correspondence relating to complaints about Quality of Service as a recorded complaint was less clear. Of the 113 complaint cases audited for 2008/09, only in 10 cases was there a Quality of Service complaint recorded, of that figure five contained allegations about an officer or member of staff.

The audit highlighted a lack of clarity in what should be considered as a 'written statement expressing dissatisfaction about an act or omission by a police force'.

Whilst a clear distinction can be drawn between complaints *to* the police about the actions of others and complaints *about* the police in terms of officers and staff, it is less clear that there is a robust understanding of what is a complaint about the Quality of Service provided by the constabulary. In line with previous comments regarding internal auditing there is scope for improvement in this area.

Learning from complaints

The audit process identified that early in 2008, the constabulary engaged in an initiative to improve the manner in which it dealt with complaints about the police. This change included a move to electronic recording and forwarding of complaints to the local commanders for action as well as the forwarding of reports, where appropriate, to the Area Procurator Fiscal (APF).

The PSCSU has developed standardised letters to complainers, the APF as well as correspondence to officers to ensure that at each key stage of a complaint that the complainer and the officers concerned are kept abreast of progress.

More recently the Head of the PSCSU has introduced a system of additional scrutiny on how complaint cases are finally concluded. This ensures that each complaint, prior to closure, is assessed confirming that all complaint allegations have been recorded, investigated and responded to and importantly that any organisational and or individual learning points are captured and considered.

In addition to this work, the PSCSU has developed an electronic tracking system to ensure that the learning points identified are recorded and that recommendations for improvement are included in information given to the Force Policy Forum.

The constabulary performance on complaints about the police forms part of the force performance pack which is issued force wide and this data informs the Force Public Performance Report each year.

The Northern Joint Police Board Complaints Working Group meets quarterly and members of this working group are provided with updates on complaints referred to the PCCS and outcomes from such. They are also provided with details of force performance in regard to complaints and in particular complaints arising from allegations of discriminatory behaviour, the working group members are also able to examine complaint cases.

Whilst the constabulary has been quietly making progress to improve standards and learning from complaints there is merit in the constabulary sharing this information on a wider basis. Whilst there is a process to share at the Association of Chief Police Officers in Scotland (ACPOS) Professional Standards Business Area (PSBA) and at the ACPOS Professional Standards – Practitioners Forum (PSPF) it would be helpful if the constabulary would enhance their continuous improvement cycle by sharing this information with the Commissioner.

Conclusions

This audit was predicated on a concern by the PCCS that complaints about the police were not being recorded or managed by the constabulary as such, and that robust processes and procedures associated with complaints about the police were not being applied as they should have been based on a series of complaints referred to the PCCS.

This audit has focussed on complaint cases recorded by the constabulary, it has looked at what was recorded, whether that has been done in sufficient detail and whether the response to the complainer has been sufficiently detailed addressing the complainer's concerns. Whilst there were complaint cases where the complaints made by the complainer were not recorded in full there was no evidence that this failure was organisational or systemic but rather a lack of applied oversight. However, suitable audit arrangements can address this.

That said, the work by the Professional Standards and Conduct Service Unit (PSCSU) is of a good standard with some notable, detailed work around difficult complaints. However the standard of recording and subsequent letters and reports produced by local commanders and their officers is much more variable and clearly leaves room for improvement. Further work is required here to drive up standards particularly at local command level.

The PSCSU should also undertake a programme of regular audits of correspondence received at the local command level. Only by ensuring that local commanders understand what is to be recorded and how it should be dealt with will the constabulary see improvement in this important area of policing.

The recommendations set out in this report are intended to assist the constabulary in improving further its performance in managing and learning from complaints about the police.

Recommendations

PRIORITY	Recommendation	Due date
2	1	1 December 2009
Rationale	That Northern Constabulary set in place a programme of regular audits of closed complaint cases to be carried out by a member of the senior management team of the constabulary to ensure standards are maintained and improved, satisfying the Commissioner that it has done so by the due date.	
Action	The constabulary has accepted this recommendation and agreed to provide a SMART Action plan to address the recommendation.	
PRIORITY	Recommendation	Due date
2	2	1 December 2009
Rationale	That Northern Constabulary carry out an initial focussed examination of routine correspondence previously received at local command levels to ensure that corporate standards and the provisions of the Act are being complied with, satisfying the Commissioner that it has done so by the due date.	
Action	The Professional Standards and Conduct Manual sets out that annual audits of each Service Unit (local command) will be carried out to ensure compliance with corporate standards. This has not been done for some time. The recommendation is made to help the constabulary ensure that complaints about the police received at local command levels are properly recorded and investigated.	
Action	The constabulary have accepted this recommendation and agreed to provide a SMART Action plan to address the recommendation.	

PRIORITY	Recommendation	Due date
2	3	1 December 2009
Rationale	That Northern Constabulary ensure that there is a robust understanding at local command levels of what is a complaint about the police especially relating to the Quality of Service provided by the constabulary, and issue clear guidance on the recording of all such complaints about the police to the constabulary, satisfying the Commissioner that it has done so by the due date.	
	The recommendation is made to ensure that there is a robust understanding at local command levels of the constabulary of what is a complaint about the police especially relating to the Quality of Service provided by the constabulary.	
	The constabulary have accepted this recommendation and agreed to provide a SMART Action plan to address the recommendation.	
Action		
PRIORITY	Recommendation	Due date
2	4	1 December 2009
Rationale	That Northern Constabulary set in place a programme of ongoing regular audits of correspondence received at local command levels to ensure that local commanders comply with corporate standards and the provisions of the Act satisfying the Commissioner that it has done so by the due date.	
	The Professional Standards and Conduct Manual sets out that annual audits of each Service Unit (local command) will be carried out to ensure compliance with corporate standards. This was not being done. The manual identifies a potential weakness in the process and puts in place a control measure to test and ensure compliance. The recommendation is made to ensure standards are maintained and improved.	
	The constabulary has accepted this recommendation and agreed to provide a SMART Action plan to address the recommendation.	
Action		

PRIORITY	Recommendation	Due date
2	5	1 December 2009
Rationale	That Northern Constabulary share the learning from complaints about the police with the Commissioner. This should be shared on a regular basis and the Commissioner would be keen to receive the constabulary proposals in that regard by the due date.	
Action	The constabulary has accepted this recommendation and agreed to provide a SMART Action plan to address the recommendation.	

3	Recommendation	Due date
	6	1 December 2009
Rationale	To ensure consistency in recording of complaints about the police across Scotland Northern Constabulary should comply with the statistical guidance as issued by HMIC and PCCS.	
Action	It is important that all forces in Scotland record complaints about the police to the same standard. The Commissioner has adopted the definitions provided by HMICS and ACPOS and has encouraged forces to ensure consistency in recording practices. The recommendation is made to ensure that the constabulary records complaints about the police to this agreed standard.	
Action	The constabulary has accepted this recommendation and agreed to provide a SMART Action plan to address the recommendation.	

3	Recommendation	Due date
	7	1 December 2009
	A recurring theme during the audit was the failure by enquiry / investigating officers to seize, view or retain CCTV images. The Commissioner would wish to see a clear improvement in performance in this area would be keen to receive the constabulary proposals in that regard by the due date.	
Rationale	In addition to the lost opportunity to review the CCTV evidence, the failure to seize and retain this evidence leaves the constabulary open to allegations of collusion and corruption. The recommendation is made to support improvement in this area.	
Action	The constabulary has accepted this recommendation and agreed to provide a SMART Action plan to address the recommendation.	

Chapter 1

Introduction

On 1 April 2007, the responsibility to review the manner in which complaints from members of the public who are dissatisfied with the outcome of complaints about the police migrated from HM Inspectorate of Constabulary (HMIC) to the Police Complaints Commissioner for Scotland (PCCS). The Commissioner was appointed on 1 January 2007 and took up his powers on 1 April 2007.

Following a number of case handling reviews examining the manner in which a complaint about the police had been handled by Northern Constabulary the Commissioner became concerned that the constabulary might not be recording and subsequently investigating all of the complaints about the police brought to it by individual complainers.

The Commissioner advised the Chief Constable of Northern Constabulary that he intended to conduct an audit of complaint cases recorded by the constabulary to satisfy himself that the constabulary had in place suitable arrangements for the handling and recording of complaints about the police.

Following on from that determination the Commissioner tasked a representative of the PCCS to carry out the audit of complaint cases within the Professional Standards and Conduct Service Unit of the constabulary.

Terms of reference

Whilst the primary focus of this audit was to be on the recording of complaints about the police, the audit would also touch on the practice and procedure used by operational areas of the constabulary in recording complaints about the police.

The specific objectives of the audit were to:

- examine the recording of complaint cases within Northern Constabulary
- examine complaint cases within the PSCSU of the constabulary;
- examine the management of and recording complaint about the police at an operational level within the constabulary;
- make recommendations as appropriate.

Chapter 2

Audit of outcome

As requested, the constabulary provided full access to the relevant complaint cases for the period 1 April 2007 to 31 March 2009.

Year	Number of files	Number of files examined	Percentage examined
2007/08	185	38	20%
2008/09	176	113	64%
	361	151	42%

Table A

151 of the 361 CAP files were examined during the audit process amounting to 42% of the overall total.

Complaint cases subject to audit were read with a view to establishing whether the relevant complaints were recorded properly, subject to suitable enquiry, and closed in an appropriate manner. 151 files were subject to this level of scrutiny. Using computer data provided by the constabulary a list of cases for each fiscal year was compiled.

Outcomes

For the purposes of this report each fiscal year of complaint cases was considered in turn with details of the records found and comment made on the appropriateness of the recording practice and decisions. Annex A sets out the result of this audit in greater detail.

Two year period 2007/09

Year	Complaint Cases	Complaint Cases examined	% of Complaint Cases examined which were recorded and dealt with appropriately	% of Complaint Cases contained identified shortcomings (from an assessment of information contained in the complaint file) that required additional attention or improved process e.g. failure to identify all heads of complaint, more detailed final letter, timescales etc.”	% of Complaint Cases examined where no comment was made*
2007/08	185	38	58%	29%	13%
2008/09	176	113	71%	16%	13%

* This includes cases which have been or are being considered by PCCS and cases dealt with in relation to internal matters.

2007/2008

During this period the constabulary recorded 185 complaint cases. 38 or 20% complaint cases for that period were examined in depth against the definition of a complaint about the police.

Annex A provides further details of this part of the audit, the undernoted complaint case extracts provide examples of the work completed by the constabulary in this area.

Example 1

Complaint that officers arrested a child at school, that a parent was not present during interview and that officers questioned the child in a car en route to the station without a responsible adult being present. Complainer asserts that the officers harassed the child during interview and that when her husband called to obtain details of the officers dealing with the matter the information was not provided. There is no local report on file. The final letter whilst professional does not address the complaints made.

Comment:

Whilst there may have been sound operational reasons for the interview strategy adopted, the subsequent final letter does not address the individual complaints made by the complainer. Whilst the letter of complaint sets out five distinct complaints about the police the matter is recorded as one allegation of irregular procedure and recorded as resolved by explanation.

Example 2

Complaint of assault in relation to the twisting of handcuffs and an allegation of ramming car seat against the complainers legs. A further complaint of excessive force relating to the complainer being knelt on along with an assault with the complainer asserting that he had been hit on the head. The enquiry officer provided a comprehensive report dealing with the allegations. A final report was sent to the APF who marked it no proceedings. The constabulary provided a good final letter which addressed the allegations made.

Comment:

This complaint was dealt with well. However the subsequent recording of the complaint could have been more precise. The complainer makes three allegations of assault and one of excessive force, the constabulary recorded these as one allegation of assault and one of excessive force.

2008/2009

During this period the constabulary recorded 176 complaint cases. 113 or 68% complaint cases for that period were examined in depth against the definition of a complaint about the police.

Annex A provides further details of this part of the audit, the undernoted complaint case extracts provide examples of the work completed by the constabulary in this area.

Example 1

Letter from complainer regarding police action following a death at a road traffic collision. Complaint stems from the decision of the Crown to reduce the charge from causing death by dangerous driving to careless driving. Complaint about the accident investigation by the police with particular reference to Road Death Investigation Manual. A full and detailed response by the constabulary - a very good and clear letter that set out learning points for the constabulary.

Comment:

This was a challenging enquiry where the officer had to deal with the emotions involved in the loss of a close personal relative of the complainer. It was evident that this was done in a sympathetic and caring way whilst remaining professional. The final letter is an exemplar of how to address a difficult and challenging complaint.

Example 2

The letter from the complainer clearly makes an allegation of excessive force i.e. 'throwing a woman around' indeed it may be criminal. When examine the complaint case file contained no local report, no case papers and no statements. A further complaint was adduced by the enquiry officer during an interview with the complainer but there is no detail of this complaint other than a brief mention in the final letter. There is no CAP (AD/8/1) form in file. The Professional Standards and Conduct Service Unit (PSCSU) identified a further complaint regarding the disclosure of information to the complainer. This was not addressed in the final letter and only clarified by the enquiry officer to the PSCSU in an e-mail.

Comment:

Whilst the complainer may have used emotive language to describe her treatment by officers the file provides no clarity as to what was investigated. The constabulary recorded three allegations, oppressive conduct, excessive force and 'other' criminal in relation to the allegation of the disclosure of information.

Example 3

The complainer made a complaint on behalf of his daughter in relation to her treatment by the police at an event. The police attended a disturbance at the event and directed the event stewards to evict certain persons, including the complainers daughter, she was allowed no time to remove her belongings and when she returned to collect same after the event the tent and belongings had gone. There is no local report just a letter to the complainer. The complainers' statement lacks details of her complaint or the officers involved. No statements were taken from the other persons present though they were clearly identifiable from her statement. The officers concerned were not traced and there is no evidence that any real effort was made to trace them. The PSCSU audited the file and sent it back to the local command. On re-interviewing the father it was clear that the matter was not conciliated as suggested in the letter to the complainer and his daughter. The DCC instructed the constabulary to compensate the daughter for the lost tent and belongings.

Comment:

Notwithstanding the veracity of the complainer recollections, the work carried out by the local command was a not of a high standard, it was focussed on conciliation and explanation rather than any form of investigation as to what actually happened. When the file arrived at PSCSU it was robustly challenged with the local command being given clear lines of work to address the complaint properly. Not surprisingly the subsequent enquiry showed that neither the complainer or his daughter were impressed by the standard of the police response and did not consider the matter conciliated.

Chapter 3

Areas of concern

Like all police forces in Scotland Northern Constabulary receives letters and emails or other contact from members of the public or their elected representatives on a daily basis. That contact is recorded and considered and an early response made to the person making that enquiry. That response can be a return telephone call, an arrangement to call and discuss a problem or a straightforward letter of reply as the circumstances dictate.

Whilst forces receive such contact on a myriad of subjects this audit was focussed on contact where a police officer or a member of support staff should have considered that contact as 'an expression of dissatisfaction' about an act or omission of Northern Constabulary or by a person who, at the time of the act or omission, was a person serving with that force. For clarity the relevant section of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (the Act) are reproduced in Box A.

Box A

The term 'relevant complaint' means a complaint which is given or sent by any of the persons mentioned in subsection (6) to the appropriate authority in relation to the complaint.

(2) In subsection (1), "complaint" means a written statement expressing dissatisfaction about an act or omission—

- (a) by a police authority;
- (b) by a joint police board;
- (c) by a police force;
- (d) by the Authority;
- (e) by the Agency; or
- (f) by a person who, at the time of the act or omission, was a person serving with the police.

(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.

(4) An act or omission need not be one occurring in the course of a person's duty, employment or appointment (as the case may be) in order to fall within subsection (2)(f).

(5) A complaint need not identify a person serving with the police who is the subject of the complaint in order to fall within subsection (2) (f).

(6) The persons referred to in subsection (1) are—

- (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).

(7) For the purposes of this section, a person is serving with the police if the person—

- (a) is a constable of a police force;
- (b) is employed or appointed by virtue of section 9 of the 1967 Act (employment otherwise than as a constable) by a police authority or a joint police board;
- (c) is a member of the staff of the Authority; or
- (d) is a member of the Agency,

and related expressions are to be construed accordingly.

Whilst the constabulary can and does receive complaints about other police forces and officers from those forces, this audit was focussed on complaints about Northern Constabulary and its officers and staff. The audit was focussed the actions of the constabulary in this regard post 1 April 2007 mindful that the constabulary was aware and had been consulted on the provisions of the Act.

The audit showed that prior to the Act, local commanders were encouraged to identify and deal with complaints about policing in their area. Complaints which inferred criminality or misconduct by officers or members of staff were referred to the Professional Standards and Conduct Service Unit (PSCSU) for action.

Following the implementation of the Act and the resultant change in definition of what was a complaint about the police; more of the letters and emails received by local commanders were identified as complaints about the police and recorded as such. Indeed Northern Constabulary were recording 'Quality of Service' complaints prior to the requirement to do so and the change for the constabulary was not as dramatic as that experienced by other police forces in Scotland.

It is clear that the published work of the PCCS has impacted on constabulary practice and procedure. A comparison between the standard of a complaint about the police case raised in early 2007 with that dealt with in early 2009 shows a step change in standards. The PSCSU have applied a quality test to all complaint cases coming into the Unit and their responses to local commanders have been challenging and clearly intended to drive up standards. The audit saw a marked improvement in the quality of complaint cases between 2007 and 2009. This has been accompanied by an improved method of oversight with local misconduct registers held electronically and subject to remote audit by the Head of PSCSU.

However, the audit identified a potential area of weakness in the process. The task of identifying a complaint about the police, as defined in the Act, is vested in the local commander who has to do this whilst dealing with a multitude of competing demands for his or her time. It is clear that, on occasions, such matters are not properly identified and thus not recorded as complaints about the police.

The PSCSU will not be aware of these matters and cannot monitor and ensure standards. The Professional Standards and Conduct Manual, published in October 2003, sets out at Section 7 – page 16 that the Head of the PSCSU will carry out annual audits of each Service Unit (local command) to ensure compliance with the corporate standards set out in that document. This is not being done, it is clear that the author of this manual identified a potential weakness in the system and put in place a control measure to test and ensure compliance.

Whilst the remote electronic oversight of the local misconduct register aids the audit function of the PSCSU there is merit in a focussed examination of routine correspondence received at local command level to ensure that corporate standards and the provisions of the Act are being complied with.

Whilst this audit did not identify organisational or systematic failure, the failings identified in the cases examined by the PCCS, that acted as a catalyst for this audit supported by the finding of this audit, suggest there is merit in supporting the work of the PSCSU by putting in place arrangements for a member of the senior

management team to regularly dip sample complaint cases awaiting closure. This will support the head of the unit and aid the improvement process underway.

Recording of complaints and allegations

This audit was initiated out of an expressed concern that the constabulary might not be recording and subsequently investigating all of the complaints about the police brought to the constabulary by concerned individuals. Whilst the audit found cases where additional allegations could and should have been recorded, these were isolated cases and not a systemic failure to record. Annex A provides additional detail of this part of the audit.

The audit examined 38 or 20% of closed complaint cases recorded in the fiscal year 2007/08 and 113 or 65% of such cases recorded during 2008/09. Annex A reproduces a synopsis of a third of the cases recorded in each year, detailing what was raised by the complainer commenting on how the constabulary responded to each of the cases reproduced. The Annex also provides detail on the allegations recorded in each case and contrast this with the complaints made by the complainer.

The Commissioner will expect the constabulary to set in place procedures to ensure performance in this area is monitored and is part of a process of continuous improvement.

Local complaint handling

An examination of complaint cases over the period 1 April 2007 to 31 March 2009 has shown that the complaint cases managed by the PSCSU have been generally enquired into and managed to a good standard. It is clear that there has been a process of improvement as the case recorded in the latter half of 2008 showed a marked change in quality on those recorded in early 2007.

Whilst there has been change in those complaint cases managed on a local level that change is less marked. The PSCSU have invested considerable time and effort in identifying poor work and giving robust advice on either how this should be improved prior to the case being closed, or how procedures and methods might be improved in future complaint cases. Whilst local Service Unit Commanders have responded to directions on what actions were required to manage or close a complaint case there is less evidence of longer term learning. The complaint cases examined showed examples where the advice given by PSCSU was not heeded or embraced resulting in clear repetition of that advice.

In any organisation the management of Quality is best achieved closest to the point of production. Whilst the PSCSU have now embraced an enhanced oversight role it is clear that further work is required.

This audit found that the local area commands had a variable standard of report compounded by a relatively low standard of final letter to the complainer. In many instances there was no statement and no evidence that the local enquiry officer had sought to clarify the complaints made or confirmed the complainer's satisfaction before assuring his or her supervisor that the complaint was conciliated.

As set out in a previous report, the evidence suggests that local action is directed at conciliation, whether that is really what the complainer has agreed to or understands to be the outcome of his or her complaint. The subsequent letter to the complainer is sometimes brief and does not address the complaints made. This is an area in which the constabulary can improve service delivery, whilst the PSCSU have been working hard in this area it is clear that additional focussed work would help to improve performance in this area.

Good practice dictates that every attempt should be made to engage with the complainer, preferably in person, to understand what they are complaining about. The time taken to draw out individual aspects of their complaint will usually be repaid by avoiding continuing complaints and subsequent referral by dissatisfied complainers to the PCCS.

Understanding what they are complaining about, and where appropriate who they are complaining about is key to the process. In many instances a good clear statement setting out, from their standpoint, what happened will aid the investigation and let the enquiry officer know the issues he or she needs to address. Whilst some matters can easily be resolved by explanation of police powers or procedures the statement should still cover these points.

At the end of such a statement, the enquiry officer should set out the complaints from what the complainer has told them. This should include those complaints where an explanation has been given and accepted. The statement should be clear on this so the complainer understands the explanation given. At the same time it is important that the enquiry officer deals with the expectations of the complainer. In many instances the complainer only wants the individual and the service to learn from the process rather than a punishment outcome. However, some individuals are unrealistic in their expectations and it is better that these expectations are dealt with early in the process rather than in the final letter. Finally the complainer should be encouraged to comment that these are all their complaints and that they have no further complaints to make about the constabulary or any individual officer and invited to sign the statement.

Adopting such a model has benefits when preparing a report and in constructing the final letter to the complainer. Addressing each complaint and setting out the constabulary response brings clarity to the process. It will also provide a measure of assurance to the PCCS that the constabulary has carried out an appropriate and proportionate enquiry.

Central complaint handling

The audit found that during 2008/09 the PSCSU changed procedures so that it could provide a valuable quality check on the complaint cases managed by local commanders. It is clear from the complaint cases audited that some local commanders have embraced this change, whilst others have been less welcoming.

Of particular note was the number of times that this advice was repeated. Whilst the PSCSU is working to drive up standards they should be supported by additional oversight from the senior management team. There is benefit in a nominated senior officer performing a regular dip sample of the closed complaint cases to ensure

standards are maintained and that local commanders are embracing the standards set by the PSCSU.

Quality of Service

Forces regularly receive correspondence or contact from members of the public or their elected representatives that indicates dissatisfaction with the service received from the police. The issues raised range from police policy or procedure, how a force delivers policing, or the outcome of the service provided by the constabulary.

Prior to April 2007, the term quality of service was undefined by the police service in Scotland, with the enactment of the Police Public Order and Criminal Justice (Scotland) Act 2006, the definition of a complaint about the police was codified as a 'written statement expressing dissatisfaction about an act or omission by a police force or by a person who, at the time of the act or omission, was a person serving with the police'. Whilst this is a précis the wording of section 34 the text is reproduced in detail in Box A.

Thus from 1 April 2007, the constabulary and its local commanders had to consider letters and emails and other forms of written communication as possible complaints about the police. HMICS in conjunction with the ACPOS Professional Standards Business Area produced guidance on the recording of complaints about the police including additional categories of complaint in respect of what was generally identified as Quality of Service. Those categories were policy / procedure – service delivery and service outcome.

The audit found that where a 'Quality of Service' complaint was accompanied by a complaint about an officer or member of staff of Northern Constabulary that complaint was captured, recorded and subject to the relevant enquiry and response.

An interview carried out with a local area commander highlighted a lack of clarity in what should be considered as a 'written statement expressing dissatisfaction about an act or omission by a police force'. Whilst a clear distinction can be drawn between complaints *to* the police about the actions of others and complaints *about* the police in terms of officers and staff, it is less clear that there is a robust understanding of what is a complaint about the Quality of Service provided by the constabulary.

Where the issue is one relating to a complaint about the policy / procedure service delivery or outcome, the matter should still be addressed in line with standing operating procedures but it should be recorded as a complaint about the police. In line with previous comments regarding internal auditing there is scope for improvement in this area.

Learning from complaints

Investigating complaints about the police is an important function of policing. Each complaint represents a perceived failure in service and an opportunity to improve service delivery. The investigation and management of complaints about the police can be resource-intensive, even where no fault is found in the police action, failing to learn from complaints means potentially repeating mistakes, resulting in new complaints, a price of failure that can be clearly quantified.

The audit process identified that early in 2008, the constabulary engaged in an initiative to improve the manner in which it dealt with complaints about the police. This change included a move to electronic recording and forwarding of complaints to the Area Commands for action as well as the forwarding of reports, where appropriate, to the Area Procurator Fiscal.

The PSCSU has developed standardised letters to complainers, the APF as well as correspondence to officers to ensure that at each key stage of a complaint that the complainer and the officers concerned are kept abreast of progress.

More recently the Head of the PSCSU has introduced a system of additional scrutiny on how complaint cases are finally concluded. This system involves the submission of the entire case file, Centurion record print out and a file closure form containing recommendations to the Head of the Unit. This ensures that each complaint, prior to closure, is assessed to confirm that all complaint allegations have been recorded, investigated and responded to and importantly that any organisational and or individual learning points are captured and considered.

The constabulary have also acquired a computer programme 'Xanalys' which links with the Centurion database and allows for analysis of complaint trends, linking of officers to complaints and complainers. This is proving to be useful research tool for picking up on trends on complaints about the police in Northern Constabulary.

The PSCSU has also issued a newsletter highlighting various topical issues relevant to complaints about the police and a further issue is currently being drafted, it also maintains a micro site on the intranet and contributes to the web presence of the constabulary.

In addition to this work the PSCSU has developed an electronic tracking system to ensure that the organisational and or individual learning points identified are recorded. Where this results in a recommendation to the constabulary the PSCSU monitor these recommendations until these are implemented. In addition these recommendations are included in the submission made to the Force Policy Forum.

Performance on complaints about the police forms part of the force performance pack which is issued force wide and this data informs the Public Performance Report each year.

The Northern Joint Police Board Complaints Working Group meets quarterly and members of this working group are provided with updates on complaints referred to the PCCS and outcomes from such. They are also provided with details of performance in regard to complaints and in particular complaints arising from allegations of discriminatory behaviour, the working group members are also able to examine complaint cases.

Other matters

Complaint case definition

Following the implementation of the Act, the Commissioner made an arrangement with HM Chief Inspector of Constabulary in Scotland (HMCICS) that HMIC would continue to collect annual statistics on complaints about the police for the fiscal year

2007/08, thereafter that role would be carried out by the PCCS. In taking on this role the Commissioner has adopted the definitions as set out in the Act and as agreed by HMCICS and ACPOS in the report entitled 'Standardisation of Recording of Complaints about the Police' (November 2006). The definition of a complaint case is set out in the Annual Statistical Return (ASR) issued by HMCICS and subsequently replicated in the ASR sent out by PCCS for the fiscal year 2008/09.

A 'complaint case' is defined as a single investigation undertaken by an investigating /enquiry officer into one incident or a group of incidents following a complaint by one or more persons.

Thus where a person complains of an assault by an officer during arrest and that he was later subjected to threats at the police station, this would be investigated as one complaint case comprising two complaint allegations. Had a second person complained about the assault, this would still be investigated as one case but there would then be two complainers.

The audit noted that on occasions the constabulary had not complied with this guidance. To ensure consistency in recording of complaints about the police across Scotland Northern Constabulary should not depart from the guidance as issued by HMCICS and PCCS.

CCTV

A recurring theme during the audit was the failure by enquiry / investigating officers to seize, view or retain CCTV images. The Northern Constabulary, Professional Standards and Conduct Manual (26/09/06) highlights that an Investigating Officer must take all necessary steps to secure all available evidence including video evidence and that they should be alert to the need to take possession of evidential material at an early stage in their enquiries. The manual also highlights that videos seized in connection with enquiries are productions and require to be labelled and stored as such.

In addition to the lost opportunity to review the CCTV evidence, the failure to seize and retain this evidence leaves the constabulary open to allegations of collusion and corruption, simple maladministration becomes something less wholesome damaging the reputation of the constabulary.

The Commissioner will want to see a clear improvement in performance in this area.

Road Traffic Offenders Act 1988 - section 1 warning

On a number of occasions the audit found complaint cases where a complainer had made specific complaint about the manner in which an on duty police officer had driven a police vehicle.

The audit found that these cases were recorded and investigated but that there was no record on the complaint cases that the officer concerned was subject to a warning in terms of section 1 of the Road Traffic Offenders Act 1988. Experience in other forces shows that if the complaint enquiry does reveal reckless and dangerous or careless and inconsiderate driving by an officer, a subsequent prosecution is bound to fail if the officer has not been warned in terms of this legalisation.

Whilst criminal allegations are outwith the purview of the Commissioner the cases identified by the audit were not dealt as criminal allegations but as non-criminal traffic irregularities. The constabulary may wish to consider whether its procedures in this area are sufficiently robust.

Recording of Conditional Offers of Fixed Penalty

The audit found that Conditional Offers of Fixed Penalty (COFP) issued to on duty officers were recorded as complaints about the police. It is difficult to see how such matters meet the definition of a complaint about the police as set out in the Act. PCCS has written separately to ACPOS PSBA to query this practice.

Chapter 4

Conclusions

This audit was predicated on a concern by the PCCS that complaints about the police were not being recorded or managed by the constabulary as such, and that robust processes and procedures associated with complaints about the police were not being applied as they should have been.

The work produced by Northern Constabulary in response to the request by the Commissioner that the constabulary review their actual practice in handling complaints against their own published procedures showed that the constabulary had identified learning points from that review

- the need for statements from complainers - detailing complaints about the police;
- the standard of final letters – detailing a need for a more expansive reply addressing each of the allegations;
- a lack of evidence from complaint about the police files that a complainer has agreed a course of enquiry or outcome of a complaint.

The constabulary also acknowledged learning from the Case Handling Reviews (CHR) produced by the PCCS and indicated that this has been incorporated into practice and procedure.

This audit has focussed on complaint cases recorded by the constabulary, it has looked at what was recorded, whether that has been done in sufficient depth and whether the response to the complainer has been sufficiently detailed to address the complainers concerns.

This audit was initiated out of an expressed concern that the constabulary might not be recording and subsequently investigating all of the complaints about the police brought to the constabulary by concerned individuals. Whilst the audit found cases where additional allegations could and should have been recorded, these were isolated cases and not a systemic failure to record. Annex A provides additional detail of this part of the audit.

The Commissioner will expect the constabulary to set in place procedures to ensure performance in this area is monitored and is part of a process of continuous improvement.

The work by the Professional Standards and Conduct Service Unit is of a good standard with some notable, detailed work around difficult complaints. However the standard of recording and subsequent letters and reports produced by local commanders and their officers is much more variable and clearly leaves room for improvement. It is clear that the advent of the PCCS and its published Case Handling Reviews has impacted on how complaints about the police are managed in the constabulary. The improvement regime of the PSCSU should be subject to oversight by the senior management team of the constabulary and every opportunity should be taken to dip sample complaint cases from the PSCSU to ensure quality, learning and continuous improvement.

In dealing with those who do complain the constabulary must recognise that treating their complaint fairly and appropriately, providing a resolution where it can or a full and fair response where that is not possible is key step in learning and improving and part of the cycle of continuous improvement that all good organisations aspire to.

The recommendations set out in this report are intended to assist the constabulary in improving further its performance in managing and learning from complaints about the police.

Annex A

Detailed audit of complaints about the police – Northern Constabulary

Introduction

For the purposes of this audit, each fiscal year of complaint about the police cases was considered in turn with details of the records found and comment made on the appropriateness of the recording practice and decisions.

Two year period 2007/09

Year	Number of files	Number of files examined	Percentage examined
2007/08	185	38	20%
2008/09	176	113	64%
	361	151	42%

Table A

During 2007/2008 the constabulary recorded 185 complaint cases. In the same period the constabulary disposed of 170 complaint cases containing 191 allegations in respect of on duty complaints about the police. In the same period the constabulary disposed of an additional 5 cases containing 8 allegations in respect of off duty complaints about the police and a further 25 cases containing 25 allegations in respect of quality of service complaints about the police.

Whilst on duty / off duty and quality of service complaints about the police are now captured by new definition of a complaint about the police, as set out in the Act, for comparative purposes, this report will focus on the outcome and disposal of 'on duty' complaints.

In future years the comparison will be made on all complaints about the police thus 2008/09 will be compared with 2009/10 in that regard. The rationale for not comparing earlier cases is that some of the cases disposed of in 2007/08 will have been recorded in the previous year under the previous definition of a complaint about the police, that definition excluded off duty and quality of service complaints about the police.

In the fiscal year 2008/09 the constabulary recorded 176 complaint cases. In the same period the constabulary disposed of 169 'on-duty' complaint cases containing 257 allegations. Whilst the number of cases recorded in this period decreased by 5% the constabulary disposed of virtually the same number of complaint cases (170/169). However the number of allegations disposed of in the same period saw an increase of some 35%

In the same period the constabulary disposed of an additional 15 allegations in respect of off duty complaints about the police and a further 23 allegations in respect of quality of service complaints about the police.

Allegations	Number of Allegations 2007/08	%* of disposed allegations	Number of Allegations 2008/09	%* of disposed allegations	%* change 2007/8
ASSAULT	20	11	10	4	-7
EXCESSIVE FORCE	12	6	14	5	+1
INCIVILITY	21	12	33	13	+1
NEGLECT OF DUTY	29	16	40	16	-1
IRREGULARITY OF PROCEDURE	30	17	45	18	+1
TRAFFIC IRREGULARITY/OFFENCE	3	2	5	2	+0
OPPRESSIVE CONDUCT/HARASSMENT	45	25	42	16	-9
UNLAWFUL/UNNECESSARY ARREST OR DETENTION	7	4	8	3	-1
DISCRIMINATORY BEHAVIOUR	5	3	6	2	-0
CORRUPT PRACTICE	2	1	14	5	+4
OTHER (CRIMINAL)	9	5	30	12	+7
OTHER (NON CRIMINAL)	8	4	10	4	-1
Total	191		257		

*percentages rounded to nearest whole figure

As highlighted, earlier a comparison of the complaints about the police recorded in the period under evaluation show that there has been a 35% increase in complaints recorded and disposed of over the two years. This increase may be indicative of quality improvement process adopted by the constabulary or in part due to the published work of the PCCS.

An examination of the disposed case and allegations showed that in 2008/9 the top ranked issues were Irregular Procedure (18%), Oppressive Conduct and Neglect of Duty (16% each) and Incivility (13%). In the previous year, 2007/8, Oppressive conduct accounted for a quarter of all complaints (25%) followed by Neglect (16%), Irregular Procedure (17%) and Incivility (12%). The largest individual change is in the number of Assault cases that were recorded - 20 (10%) in 2007/8 reducing by half last year to represent 4% of all complaints. The reduction in the number of assaults has been offset by an increase of the same magnitude in allegations of excessive force.

Annex B

Audit process

On 14 April 2009, a representative of the PCCS met with the Deputy Chief Constable setting out the aims and objectives of the audit and the methodology to be used. Subsequently the PCCS representative met separately with the chief inspector in charge of the Professional Standards and Conduct service Unit (PSCSU). These interviews focussed on the recording and management of complaint cases how they were recorded and the management procedures used to bring them to a conclusion.

The chief inspector provided facilities and access to the relevant complaint about the police files for the fiscal years 2007/08 and 2008/09. He also provided key performance documents for audit along with print outs from the centurion system. The Commissioner has placed on record his appreciation of the assistance provided to the PCCS.

The audit examined all closed cases in the fiscal year 2008/09 and a selected sample (20%) of closed cases for the fiscal year 2007/08. Using the print outs provided by the constabulary the PCCS representative constructed excel spreadsheets detailing the relevant dates of open and closure, the nature of the allegations made – criminal, non-criminal and quality of service along with details of the allegations recorded. Each entry examined contained a brief synopsis of the complaint and the constabulary response.

Those responses were then categorised as either

- recorded properly, subject to enquiry, and closed in an appropriate manner
- could have been dealt with better (from the information contained in the complaint case file)
- should have been dealt with better (from the information contained in the complaint case file)

A small percentage of closed files were not categorised or considered further as these in the main related to cases which were in the process of or had been reported to the PCCS.

The audit also featured an in depth interview with a selected area commander along with a dip sample of routine correspondence received at that local area command.

During the audit a number of other issues were identified and these are the subject of comment in the body of the report.

Using the spread sheet and the additional information provided by the constabulary and evidenced based report was prepared for the information of the Commissioner.

Definition of assurance levels

We have applied the following levels of assurance:

Assurance level	Definition
FULL	Sound system of control designed to achieve the system objectives.
SUBSTANTIAL	Essentially a sound system but with weaknesses that put some system objectives at risk.
LIMITED	Weaknesses in the system of controls put system objectives at risk.
NIL	Control is weak leaving the system open to significant error or abuse.

In making recommendations in the course of an audit the PCCS will assess the relative impact of the related risk on the organisation. The more serious the risk the higher the priority we assign to the recommendation.

Recommendation levels	Definition
Priority 1	Issue subjecting the constabulary to material risk and which requires to be brought to the attention of the constabulary executive.
Priority 2	Issue subjecting the constabulary to significant risk and which should be addressed by the senior management team.
Priority 3	Matters which if addressed will enhance efficiency and effectiveness.