

# Report of a Complaint Handling Review in relation to Dumfries & Galloway Constabulary

under section 35(1) of the Police Public Order  
and Criminal Justice (Scotland) Act 2006

## Summary and Key Findings

**The complainer made four complaints to Dumfries and Galloway Constabulary concerning its investigation into an allegation that he had tried to entice young girls into his car.**

The Commissioner has concluded that two of the complaints were not handled in a reasonable manner. In respect of one of these complaints the Commissioner has recommended that Dumfries and Galloway Constabulary carry out further enquiries and issue a further response to the complainer in light of these. In respect of the other complaint, the Commissioner has recommended that Dumfries and Galloway Constabulary provide the complainer with an apology.

In the Commissioner's view, the remaining complaints were handled in a reasonable manner.

## The Commissioner's role

Section 35 of the Police Public Order and Criminal Justice (Scotland) Act ("the Act") gives the Commissioner the power to examine the manner in which a policing body has dealt with a "relevant" complaint, as defined in the Act.

The Commissioner is independent of the police service and performs his functions in a fair and impartial manner. Before considering a complaint, the Commissioner's office obtains all papers held by the policing body against which the complaint has been made. These papers are considered alongside information provided by the complainer. The Commissioner then assesses whether the policing body's handling of the complaint was reasonable in all the circumstances. The Commissioner will look at the entire handling process, from the initial investigation by the policing body to the final response issued to the complainer. Among the factors which the Commissioner takes into account are the following:

- whether the policing body's response to the complaint is supported by all material information available;
- whether in dealing with the complaint the policing body has adhered to all relevant policies, procedures and legal provisions;
- where the complaint has resulted in the policing body identifying measures necessary to improve its service, whether these measures are adequate and have been implemented;
- whether the policing body's response to the complaint is adequately reasoned; and
- whether the policing body has communicated with the complainer in a reasonable manner.

## Background

The complaints originate from an incident which occurred on 27 October 2004. The police log of the incident shows that Dumfries and Galloway Constabulary received a telephone call from Person A who reported an incident. Specifically, Person A reported that his partner's daughter had returned from a school disco alleging that a man had been trying to persuade her and other girls into his car. Person A provided details of the vehicle and a police national computer (PNC) check was carried out. This showed that the car was registered to the complainer's wife at her home address.

Two police officers attended at the school to make enquiries and established that the vehicle identified by Person A was parked outside the school. Upon approaching the vehicle one of the officers spoke to the complainer who advised that he was waiting to collect his daughters from the school disco. According to this officer the complainer also advised that he had been parked in the area for around 45 minutes and that during this period he had dropped home a male friend of his daughter who had decided to leave the disco early. According to the statement given by one of the officers, the call was treated with an open mind as it was known that children would be getting picked up in the area.

The complainer's statement, provided to Dumfries and Galloway Constabulary on 6 March 2008, details his own account of the incident. According to the statement, that evening the complainer had dropped his two daughters and their male friend at a disco in the local school. The complainer's purpose, he said, was to "taxi" his daughters to and from the disco. On dropping them off at around 7.30 – 8.00 pm he was contacted by his daughter about 45 minutes later to say that her male friend was bored and wanted to go home. The complainer stated that he returned to the school to collect the friend, dropped him off at home and returned to the school to wait for his

daughters. The complainer recalled there being a line of parked cars waiting at the school, and that he knew one of the other parents, who he had acknowledged with a wave. Due to the bad weather, the complainer had taken four youngsters in his car to the local square. He could not remember whether they had asked or whether he had offered to take them. The complainer then returned to the school to wait for his daughters. He had acknowledged a number of youths at the school and had general conversation with some who passed whilst he was waiting. In the complainer's view, this was not out of the ordinary.

According to his statement, the complainer saw a police car in his sight and he described how the officers came straight to him and knocked on his car window. The officers asked his name and address and what he was doing. The complainer stated that he was completely unaware of any complaint at this time, and confirmed to the officers that he was waiting for his daughters.

After collecting his daughters the complainer drove away from the school and saw other children who lived in his area. He opened his window and offered them a lift but the children gave him abuse and so he drove off.

According to the incident log, due to the nature of the allegation against the complainer, a report was submitted to the Family Protection Unit (FPU) of Dumfries and Galloway Constabulary which carried out further enquiries. As part of the FPU enquiry, on 30 November 2004 statements were obtained from the youths who were present at the time of the alleged incident, and from Person A, his partner and her friend.

Detective Constable B, an officer from the FPU, stated that she was satisfied that the statements obtained from the youths involved in the incident corroborated the allegation made by Person A. She therefore requested that an officer from Police Office X call on the complainer and ask him to attend for interview on 14 December 2004.

The incident log shows that Constable C spoke to the complainer's wife on 10 December 2004 when she informed him that the complainer no longer lived at her address. The complainer's wife said that the complainer had an address in Area Y but that she did not know it. The complainer's wife also told Constable C that her husband had been out of the country for the previous two weeks. According to Constable C's statement, the complainer's wife was either unwilling or unable to provide any more information, and did not to know the forwarding address for the complainer.

Detective Constable B stated that she received a reply from officers at Police Office X to the effect that:

*"... [the officers] could not establish where the complainer was, he possibly had an address in [Area Y], and was believed to be out of the country."*

The incident log shows that on the 13 December 2004 officers carried out checks with the local housing association in an attempt to identify an address for the complainer. It was confirmed on 12 January 2005 that no such address was identified within the local area.

Detective Constable B states that following discussions with her supervisor she submitted a "charge report" to the Procurator Fiscal, with a request for a warrant on the basis that the complainer's whereabouts were unknown. The charge included in the report was one of breach of the peace.

Detective Constable B's report gives the following reasons for her request for a warrant:

*"To date enquiries to trace the accused have proved negative. Officers have attended and spoke with his estranged wife who was found to be reluctant to assist the Police. She did state that he was currently in [another country] and she did not know when he would be returning to this country. She also stated that he had an address in [Area Y], however*

*checks with the local housing authorities have failed to confirm where he is currently residing.”*

On 20 June 2005 a warrant was granted at Sheriff Court Z. The warrant stated that the complainer’s whereabouts were unknown and that a request for apprehension should be placed on the PNC.

The police incident log states that Constables D and Constable E arrested the complainer on 23 June 2005. The complainer was then detained in police custody overnight at Police Office X and transferred to court the following day.

Following his appearance in court the complainer was remanded in custody and detained at a sex offenders unit. According to his statement, while in court:

*“... the Procurator Fiscal made some flippant comment about nobody knowing my address including my landlord.”*

The complainer also stated the following:

*“ I recall speaking to my [landlord] later and he said he’d received a phone call asking if I rented a house from him and he’d said no, I actually rent a room from him. I ended up spending a week in prison which was unfair and totally unjustified.”*

According to the complainer’s statement, it was suggested to him whilst in court that it would be better to say “he stayed with his girlfriend in [Area W] because they couldn’t verify his address in [Area Y].” The complainer could not recall who said this to him. The complainer stated that, following his detention for eight days, he appeared before a different Procurator Fiscal who “looked visibly alarmed to see him”. According to the complainer he was advised that there was no case to answer and then released.

## The Complaints

Based on the contents of the application form, and the information obtained from Dumfries and Galloway Police, the Commissioner has identified the following complaints:

- (1) Dumfries and Galloway Constabulary did not take the time to verify the complainer’s address and as a result he was unlawfully imprisoned;
- (2) a Custody Sergeant treated the complainer in an aggressive and off hand manner;
- (3) the complainer was not charged by the police and did not get the chance to put his case before a court; and
- (4) the allegation made against the complainer was not accurately and thoroughly investigated.

## The Commissioner’s Review

The complainer telephoned the Commissioner’s office on 28 June 2007 outlining his complaints. He submitted an application form on 11 September 2007.

Following receipt of the files relating to his complaints, the Commissioner’s office requested further information from Dumfries & Galloway Constabulary. The Deputy Chief Constable wrote to the Commissioner’s office on 11 December 2007 confirming that the full file had been forwarded. The Deputy Chief Constable also explained that the complaint had been categorised at the time as

being one regarding “quality of service”. It was explained that Dumfries and Galloway Constabulary’s normal practice is to obtain formal statements in “serious criminal or conduct cases”. On the other hand, in respect of “quality of service” complaints, an enquiry officer reported his findings and a letter is then sent to the complainer confirming the outcome. The Deputy Chief Constable explained that no Complaint about the Police (CAP) form was completed in respect of the complaint.

Following further contact between the Commissioner’s office and Dumfries and Galloway Constabulary, on 27 February 2008 the Deputy Chief Constable advised that an inspector would be appointed to “further review in detail our approach/response to [the complainers] complaints.”

On 27 February 2008 the Commissioner’s office wrote to the complainer advising him of Dumfries and Galloway Constabulary’s request. On 29 February 2008 Dumfries & Galloway Constabulary itself advised the complainer of this.

Following this development, the Commissioner’s office closed the complainer’s file. On 6 May 2008 Dumfries and Galloway Constabulary passed to the Commissioner its papers in connection with this second review. On 12 June 2008 the complainer advised the Commissioner’s office that he remained unhappy with the results of the second review. He therefore requested that the Commissioner review the handling of his complaints about Dumfries and Galloway Constabulary.

The remainder of this section sets out the Commissioner’s views on the manner in which the complaints were handled by Dumfries and Galloway Constabulary. Each complaint is set out in turn and is followed by details of Dumfries and Galloway Constabulary’s handling of it and the Commissioner’s views on this.

## **Complaint 1: Alleged wrongful imprisonment**

### *Internal Handling*

The complainer contacted Dumfries and Galloway Constabulary on 11 December 2006 when he described to Officer L the circumstances of his arrest and outlined his concerns in relation to this.

Following this call, Officer L submitted a memo to Superintendent F dated 13 December 2006 stating that the complainer had outlined his complaints about the police. The memo contains the following passages:

*“Following his appearance at [Sheriff Court Z], he was remanded in custody and placed in the Sex Offenders Unit ... – he believes because no-one took the time to verify his address. His landlord had misunderstood the question when approached and stated that he didn’t rent a house from him but no-one clarified with his landlord that he in fact rented a room and not the house.*

*...[the complainer] has various concerns about the whole episode which appear to be largely process based. I explained... that complaints of this type would be passed to yourself with the request that you arrange for an Inspector to make direct contact with him to discuss his complaint and it was at this point that he should be prepared to give full details of his complaint.”*

The memo also requested that on conclusion of the enquiry a brief report be submitted to Chief Inspector G at the Complaints and Professional Standards Department. Chief Inspector G wrote to the complainer on 13 December 2006 advising that he had forwarded details of the complainer’s concerns to Superintendent F with a request that a member of his management team contact the complainer in an attempt to resolve matters.

The police computer system shows that the complaint was recorded on 13 December 2006 as one of “irregularity in procedure”. The complaint was summarised as follows:

*“... the complainer alleges that during the enquiry into allegations that he tried to entice a young girl into his car, the police did not properly investigate his living arrangements with the result that he was detained on remand... for 8 days - also includes a number of other observations regarding the way the investigation was conducted.”*

On 12 January 2007 the complainer contacted Detective Inspector H requesting a meeting with an enquiry officer in order that his complaints could be addressed. Detective Inspector H met with the complainer on 16 January 2007. A briefing note supplied by Dumfries and Galloway Constabulary shows that the complainer explained his version of events concerning the incident. In particular, he stated that his main concerns were that he was locked up for a week and that the complaint had not been investigated properly. The briefing note also states that Detective Inspector H asked the complainer why he had not raised the issues with his solicitor at the time. According to the memo, the complainer replied that his solicitor was “not interested in making waves”. According to the memo, the complainer felt he had been “wronged” and would “never let things settle.”

Superintendent F wrote to the complainer on 9 February 2007 with his conclusions. He stated in the letter that:

*“... enquiries have shown that the police did make efforts to trace you at the time but were led to believe from your wife that you were in [another country] and she was unable to state if or when you were returning to the country, or provide Police with a contact address.”*

Superintendent F also advised that further checks had been carried out with local housing associations in an attempt to trace the complainer but these had proved unsuccessful. The matter was then submitted to the Procurator Fiscal on 31 March 2005 for consideration. According to Superintendent F a warrant was then issued and passed to the police on 20 June 2005. Superintendent F added:

*“As regards what happens in Court, i.e. that you were remanded in custody then that is a matter for the Courts and not the Police. Although I do note that you consider that the Police asked your landlord, at the time, the wrong question, whether it was a room or a house, which led to the wrong information being passed to the court, I consider that this is a matter of opinion and cannot be fully established after such a delay.”*

Superintendent F concluded his letter by stating that he was “satisfied that the Police have acted correctly and followed appropriately legislative processes in this instance.”

On 14 February 2007 Detective Inspector H submitted a memo to Chief Inspector J. The memo detailed Detective Inspector H’s discussions with the complainer on 16 January 2007 and outlined his findings regarding the complaint. Detective Inspector H recounted the response provided to the complainer in Superintendent F’s letter dated 9 February 2007 and noted that, despite several attempts to trace the complainer, checks failed to establish an address. He also stated that, as no alternative was available, a report was submitted to the Procurator Fiscal on 31 March 2005, following which a warrant was issued and passed to the police on 20 June 2005. Detective Inspector H also stated that:

*“... the issue of what was said to the landlord is a matter of opinion and after the passage of time cannot be established and I have not pursued this point.*

*As regards what happens in Court I have informed [the complainer] that this is not a matter that the Police have any influence over and if he wished he could make a complaint to the COPFS.”*

As part of Dumfries and Galloway Constabulary's review conducted in 2008, Chief Inspector K was appointed as investigating officer and carried out additional enquires. During the review Chief Inspector K collated and considered statements from a number of police officers and police staff who were involved in dealing with the complainer since the original incident in October 2004. Chief Inspector K also obtained a statement from the complainer on 6 March 2008 in which he reiterated Complaint 1.

On 3 April 2008 Chief Inspector K forwarded the findings of his review to the Deputy Chief Constable. According to the findings:

*"Constable [C] attempted to trace the complainer at the [complainer's known address] but his estranged wife only indicated he was abroad, with no return date or alternative address."*

On 30 April 2008, the Deputy Chief Constable wrote to the complainer with his conclusions on the complaint. The Deputy Chief Constable stated in his letter:

*"Once the initial statements had been noted, enquiries to trace you resulted in your whereabouts being unknown. You are already aware that enquiry was made with your wife and landlord, the latter suggesting that you did not rent a house from him. Clearly there appears to be confusion over the room aspect as opposed to renting a house, however, other enquiries to trace you in the locality also proved negative."*

The Deputy Chief Constable concluded his letter by stating:

*"You also mentioned comments made in Court about your address not being known and the issue regarding your landlord being asked about you renting a house rather than a room. Unfortunately, it has not been possible to identify the officer who spoke to your landlord, which may have assisted in establishing how this element of confusion arose."*

### *Consideration*

According to his statement, the complainer believes that, whilst trying to verify his address, Dumfries and Galloway Constabulary asked his landlord whether the complainer rented a *house* from him, and were advised that he did not. According to the complainer, he in fact rented from his landlord a *room* within a house. The complainer suggests that the police did not ask the correct question of his landlord and therefore failed properly to verify his address. The complainer believes that, as a result of this, Sheriff Court Z was not provided with an address and that consequently he was remanded in custody for eight days.

It is clear that the complainer believes that his detention for eight days was solely as a result of the alleged interaction between officers of Dumfries and Galloway Constabulary and his landlord. The Commissioner's review of this complaint will therefore concentrate on the reasonableness of Dumfries and Galloway Constabulary's handling of this area of complaint.

According to the information gathered by Chief Inspector K, none of the officers involved mentions that the landlord was spoken to during the enquiries to ascertain the complainer's address. This does not support the complainer's account that his landlord was approached by officers in this connection. Given that this is the sole reason why the complainer believes he was held on remand for eight days, the Commissioner considers that Detective Inspector H should have attempted to identify the complainer's landlord to establish what, if any, questions were asked of him. Had he done so, it might have established whether the complainer's landlord was in fact contacted and what, if anything, passed between him and the officers concerned. As noted above, Superintendent F in his letter of 9 February 2007 informed the complainer that it was a "matter of opinion" as to whether the officers asked the landlord the "wrong question". In the Commissioner's

view, had the landlord been contacted by Detective Inspector H, it might have been possible for Superintendent F to reach a firmer conclusion on this issue.

Notwithstanding this, the Commissioner notes that in his statement of 6 March 2008 the complainer commented:

*“When I was at court it was suggested to me it would be better to say I lived with my girlfriend in [Area W] because they couldn’t verify my address.”*

Although not entirely clear, it would appear from this statement that the complainer did in fact provide the court with an address. This raises the possibility that the court’s refusal of bail may not have been based on the absence of a bail address. In the Commissioner’s view, it is unfortunate that Dumfries and Galloway Constabulary did not take this information into account when responding to this complaint.

More generally, assuming that the complainer is correct in his assertion that officers asked his landlord whether he rented a house, rather than a room within a house, it is difficult to see how this gives rise to a legitimate complaint about the actions of the officers concerned. In the Commissioner’s view, if the officers asked the landlord whether the complainer rented a house from him, it would be reasonable to have expected the landlord to treat that as an enquiry as to whether the complainer rented a house or a room from him. In the Commissioner’s view, it is unreasonable to expect the officers specifically to have asked the landlord whether the complainer rented a room as opposed to a house.

However, it appears that at the time a warrant was requested from the Procurator Fiscal, Dumfries and Galloway Constabulary was in possession of the address at which the complainer claims to have resided at the time in question. This information is contained within a standard police report relating to an incident on 6 November 2003 in which the complainer was a witness. The report is within the papers which Dumfries and Galloway Constabulary supplied to the Commissioner’s office in relation to the complaints.

In her statement of 19 July 2005, Detective Constable B said the following:

*“Enquiries were carried out... however I was unable to identify an address and as a result a charge report was submitted craving a warrant...”*

The following passage is taken from the standard police report submitted by Detective Constable B to the Procurator Fiscal in connection with the alleged offence committed by the complainer:

***“Reason for Warrant Request***

*To date enquiries to trace the accused have proved negative. Officers have attended and spoke to his estranged wife who was found to be reluctant to assist the Police. She did state that he was currently in [another country] and she did not know when he would be returning to this country. She also stated that he had an address in... however checks with the local housing authorities have failed to confirm where he is currently residing.”*

In the Commissioner’s view, the existence of the report containing the complainer’s address undermines Dumfries and Galloway Constabulary’s basis for obtaining a warrant against the complainer in the first place. It is difficult to understand how Dumfries and Galloway Constabulary could include the report in the files passed to the Commissioner’s office, but fail to identify it during its enquiries to establish an address for the complainer. Although the complainer appears to have been abroad at the time the police spoke to his wife, it is clear that a warrant was sought because the complainer’s address could not be established.

It does not appear that Dumfries and Galloway Constabulary has informed the complainer of the existence of the report containing his address, or explained to him the significance of this. In these circumstances, the Commissioner does not consider this complaint to have been dealt with in a reasonable manner. The Commissioner recommends that Dumfries and Galloway Constabulary carry out enquiries to establish how the information contained in the report was not known prior to the warrant being sought.

## Complaint 2: Alleged aggressive behaviour by a Custody Sergeant

### *Internal Handling*

This complaint was raised during the complainer's telephone call with Officer L on 13 December 2006. In his memo to Superintendent F, Officer L noted that the complainer:

*"States that prior to this during his detention overnight at [Police Office X] he was dealt with in an aggressive and off hand manner"*

No action appears to have been taken by Superintendent F in relation to this complaint.

The complainer repeated this complaint in his statement of 6 March 2008 in which he said of a "huge" male police officer, "His attitude stunk".

It was not until Chief Inspector K's review that this complaint was addressed. It appears that the officer to whom the complainer referred may have been Sergeant M. However, Chief Inspector K's report of 3 April 2008 commented that:

*"Sergeant [M]'s physical stature is certainly not one that could be described as a 'huge man', as described in [the complainer's statement]."*

The Deputy Chief Constable's response to the complainer of 30 April 2008 stated:

*"You raised the issue of a Sergeant, who you described as a huge man, having a bad attitude, this being the officer who read the contents of the warrant over to you. The Sergeant who read the warrant over to you has been identified from custody records and while his description does not meet the one described by you the notes do confirm that you did state that you didn't know why you were in custody... Unfortunately due to the passage of time, there is no CCTV evidence of this conversation. The records further suggest that you made no complaints at this time."*

### *Consideration*

The Commissioner accepts that, as CCTV footage of the complainer's processing at Police Office X no longer existed by the time of Chief Inspector K's review, the evidence required to be confined to the recollections of the persons present at the material time. As he was on annual leave during Chief Inspector K's review, a statement was not taken from Sergeant M and the statements taken from the other officers involved make no reference to Sergeant M's dealings with the complainer at Police Office X.

In the Commissioner's view, it was not possible to address this complaint adequately without obtaining a statement from Sergeant M. Even though Sergeant M does not fit the description given by the complainer, in terms of the custody records he is clearly an officer who came into contact with the complainer while the latter was in custody. The Commissioner does not consider it satisfactory that the reason given for not obtaining a statement from Sergeant M was that he was on leave during the complaints investigation.

However, in the Commissioner's view, given that 5 years have elapsed since the complainer's arrest, it is not realistic to expect Sergeant M to recall in any detail his discussion with the complainer. In the circumstances, the Commissioner recommends that Dumfries and Galloway issue the complainer with an apology for not obtaining a statement from Sergeant M when the complaint was originally made.

### **Complaint 3: The absence of any charge against the complainer**

#### *Internal Handling*

This complaint was detailed in the statement which the complainer provided Chief Inspector K on 6 March 2008. The following is a passage from the statement.

*"I wasn't charged by the police and I didn't get an opportunity to put my case forward which on the night in question I was being a community helper which if that had come out in court there is no way I would have been sent to prison."*

In response to this complaint, the Deputy Chief Constable stated:

*"In the majority of cases a suspect or accused person will be given the opportunity to have their say as they will be interviewed under caution as a suspect with their response being incorporated in any police report to the Procurator Fiscal. If a suspect/accused cannot be traced then it is still perfectly legal to report the circumstances to the Procurator Fiscal for consideration of criminal proceedings against them. As I have already suggested to you, and as you are aware, you could not be traced and the suggestion was that you were abroad. While it would have been preferable to have interviewed you, not only for your benefit but for the benefit of the investigating officer in producing the case, this was not possible and the case was reported. I can find no evidence during my review that the officers did not adhere to standard procedures in the investigation of a crime and subsequent reporting to the Procurator Fiscal."*

#### *Consideration*

The Commissioner is unclear if the complainer is suggesting a link between the police's alleged failure to charge him and the Procurator Fiscal's decision not to continue proceedings. In any event, the Commissioner is satisfied that the Deputy Chief Constable accurately explained to the complainer the roles of the police and Procurator Fiscal in connection with criminal proceedings. In particular, it was made clear to the complainer that the decision as to whether or not proceedings are taken lies solely with the Procurator Fiscal.

Accordingly, any complaint about the decision not to take proceedings should be made, not to the police, but to the Crown Office and Procurator Fiscal Service.

### **Complaint 4: Alleged failure properly to investigate the incident**

#### *Internal handling*

This complaint was also detailed in the complainer's statement of 6 March 2008.

During his enquiries into this complaint, Chief Inspector K took into account the evidence given by the individuals who were alarmed by the complainer's behaviour and the subsequent enquiries carried out by the FPU. He concluded that there was nothing to support the complaint that the investigation was not thorough.

In his response to this complaint, the Deputy Chief Constable stated:

*"I can confirm that I have reviewed the statements including your account of events, that of the officers involved and the initial statements recorded by witnesses, which resulted in a report to the Procurator Fiscal at [Sheriff Court Z]. An initial decision was taken to refer the case to the Family Protection Unit for investigation. Following initial enquiries there was a delay due to other operational commitments, which resulted in enquiries not being concluded for a period of time, just under 2 months. The delay is regrettable as this would have allowed the investigation to have been brought to a conclusion more swiftly... Despite the initial delay in concluding the initial enquiries into this case, I am satisfied that the enquiry into the allegation made by the parent of a young girl being alarmed, was conducted thoroughly and accurately investigated. Statements were noted following the matter being raised with the police and your identity was confirmed by descriptions provided to the police and by officers on duty on the night, who you confirm you spoke to. ... Once the matter was reported to the Procurator Fiscal, it is a matter for the Crown Office and procurator Fiscal Service to consider the case and take any further action, if deemed appropriate, a decision taken independently of the police."*

The Deputy Chief Constable concluded in his letter that there was no evidence to support the suggestion that the investigation of the alleged offence was not thorough and accurate.

### *Consideration*

Having reviewed the paperwork supplied to his office, the Commissioner considers that this complaint was accurately captured by Dumfries and Galloway Constabulary and that a reasonable response was issued to the complainer.

### **General comments**

Overall, it is unsurprising that the complainer has remained disappointed by at the way in which his complaints have been handled by Dumfries & Galloway Constabulary. A statement was obtained from the complainer in March 2008, over a year and a half after he first made his complaints. Statements from relevant police officers were not obtained until roughly the same time. Not surprisingly, given the passage of time these statements are vague and lacking in detail.

The Commissioner also notes that the classification of the complaints in this case was altered from "irregularity in procedure" to "quality of service". In terms of the Deputy Chief Constable's letter of 11 December 2007, this may have had affected the way in which the complaint was handled and contributed to the difficulties set out in this report. The Commissioner will monitor in future the way in which police bodies classify complaints and assess how this affects their handling.

## **Conclusions, Recommendations and Learning**

### **Complaint 1: Alleged wrongful imprisonment**

Dumfries and Galloway Constabulary has not included in its response to this complaint the fact that it was in possession of the address which it appears the complainer may have resided at the time that a warrant was sought for his arrest. Because of this, the Commissioner has concluded that Dumfries and Galloway Constabulary's handling of this complaint was not reasonable. The Commissioner recommends that Dumfries and Galloway Constabulary carry out enquiries to establish how the information was not known prior to the warrant being sought. Dumfries and Galloway Constabulary should thereafter send a further response to the complainer informing him of the outcome of its enquiries. A copy of this response should be given to the Commissioner's office.

### **Complaint 2: Alleged aggressive behaviour by a Custody Sergeant**

In the Commissioner's view, in order properly to address this complaint Dumfries and Galloway Constabulary ought to have obtained a statement from Sergeant M. The Commissioner has therefore concluded that the handling of this complaint was not reasonable. Given the passage of time, the Commissioner does not consider there to be any value in obtaining a statement from Sergeant M now. The Commissioner therefore recommends that Dumfries and Galloway issue the complainer with an apology for not obtaining a statement from Sergeant M when the complaint was originally made.

### **Complaint 3: The absence of any charge against the complainer**

For the reasons given, the Commissioner is satisfied that Dumfries and Galloway Constabulary handled this complaint in a reasonable manner.

### **Complaint 4: Alleged failure properly to investigate the incident**

For the reasons given, the Commissioner is satisfied that Dumfries and Galloway Police handled this complaint in a reasonable manner.

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