

Report of Complaint Handling Reviews in relation to Fife Constabulary

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

Summary and Key Findings

The complaints in this report relate to incidents which occurred on 14 February and 23 December 2008. Two separate sets of complaints have been reviewed separately under one cover.

Of the ten complaints considered, the Commissioner found that all have been handled reasonably by Fife Constabulary.

The Commissioner commended Fife Constabulary for its handling of the complaints both in terms of its thoroughness and sensitivity. However, the Commissioner has identified a learning point regarding the need, where appropriate, for final responses to complaints to reflect the often detailed investigations undertaken by officers.

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 applicant. 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 applicant. 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 applicant in a reasonable manner.

Introduction

The applicant first contacted the Commissioner's office by telephone on 27 May 2008, and submitted an application form on 6 June 2008. On the same date, the Commissioner's office requested the case files from Fife Constabulary. These files were received on 16 June 2008 and relate to the complaints contained in PCCS/00371/09/PF-FC(A) below.

On 29 May 2009, the applicant contacted the Commissioner's office to advise that she had lodged another complaint about the police regarding an incident in December 2008 when she was detained by Fife Constabulary. The files relating to this complaint were requested from Fife Constabulary on 1 September 2009 and received the following day. The complaints contained in that file relate to PCCS/00371/09/PF-FC(B) below.

Additionally, the applicant has asked the Commissioner to review another six complaints of which Fife Constabulary do not appear to have been given notice. As these complaints have not been dealt with by Fife Constabulary, the Commissioner is unable to review the manner in which they have been handled. The Commissioner has informed the applicant to contact Fife Constabulary if she wishes to pursue these complaints further.

Background

On 14 February 2008, police detained a friend of the applicant, Person A, for an alleged breach of the peace, and took her into custody. Person A was suspected to have, over a period of time, sent various unsolicited items in the post to Person X and sent nuisance and threatening text messages to Person Y. After questioning, in the presence of Appropriate Adult B and Constable C, Person A was charged by Constable D with a breach of the peace for having “repeatedly sent nuisance mail through the Royal Mail” to Person X. Person A was also charged with having “repeatedly sent via the public telecommunications system threatening text messages” to Person Y.

Later on the same day, Person A was released from custody. According to the applicant’s letter of complaint to Fife Constabulary, the applicant received a telephone call from Person A following her release stating that the police were coming to arrest her, that she was dangerous and that she was to “stop sending things” to Persons X and Y. According to the applicant, Constable D had asked Person A to pass on this information to the applicant. Person A had apparently informed the applicant that this had been witnessed by Appropriate Adult B who had been present during her interview in police custody. Further, the applicant states that Person A told her that Constable D had put pressure on her to blame the applicant for the incident for which she was charged.

The Complaints

Based on the contents of the information obtained from Fife Constabulary the Commissioner has identified the following complaints:

- (1) that, during the interview of Person A, Constable D disclosed information and asked that this be passed on to the applicant; and
- (2) that Constable D put pressure on Person A to blame the incident on the applicant.

The Commissioner’s Review

This section sets out the Commissioner’s views on the manner in which the applicant’s complaints were handled by Fife Constabulary. Details of how the complaints were handled are set out below, and are followed by the Commissioner’s views on this.

Complaint 1: Alleged disclosure of information

On 15 February 2008, the applicant wrote to Fife Constabulary with her complaints asking that it reply to Mr E, her representative from an advocacy service working with people with mental health problems. The applicant asked:

“Would you please investigate whether all these allegations are true, as my family and I were very upset when [Person A] phoned and said all of this.”

Internal Handling

Upon receipt of this letter, Fife Constabulary wrote to the applicant’s advocacy service advising that it had received the complaints and that a local inspector would be appointed to investigate. Inspector F was then appointed to investigate the complaints.

During his investigation, Inspector F took statements from Constables C and D, Appropriate Adult B and Person A.

Following this, Inspector F completed a preliminary report in which he commented:

“The statements of all those present indicate that the officers showed a great deal of patience and adopted a non-confrontational approach to the suspect.”

On 11 April 2008, Chief Superintendent G wrote to the applicant’s representative with Fife Constabulary’s response to the complaints. Chief Superintendent G’s letter stated:

“When investigating any offence officers are required to follow all lines of enquiry, including involvement of others. I am satisfied that the Investigating Officer in this case has not acted inappropriately.”

Consideration

The Commissioner notes that none of the four statements taken by Inspector F during his enquiries states that Person A was informed that Fife Constabulary intended to arrest the applicant or that the applicant was dangerous. However, according to the statement taken from Appropriate Adult B Person A was informed that if the behaviour continued, Person A and the applicant would have to be questioned over the matter.

In her statement, Person A stated that during her interview a police officer advised her to tell the applicant to stop sending “stuff” to Persons X and Y. However, the statements taken from the other three individuals present at the interview do not support this. Indeed, the statement of Appropriate Adult B contains the following passage:

“I was happy that both officers carried out the interview with [Person A] in a professional manner. They were not overbearing and were very patient and understanding.”

In the Commissioner’s view, based on the available evidence, Fife Constabulary’s handling of this complaint was entirely reasonable.

Complaint 2: Alleged pressure upon Person A

Internal Handling

Having taken statements from the three individuals present during Person A’s interview, Inspector F’s preliminary report concluded:

“PC [D] had a duty to explore the possibility with [Person A] that [the applicant] was involved in these crimes. The evidence of everyone involved is that he approached the subject in an open and fair manner and did not put any undue pressure on [Person A].”

Consideration

The Commissioner notes that the basis for Inspector F’s conclusion was the information contained within the statements obtained from the individuals present during person A’s interview. Again, none of the statements taken, including that of Person A, makes reference to Person A being put under any pressure to implicate the applicant. In relation to this specific point, Appropriate Adult B’s statement noted:

“PC [D] then conducted a long and patient interview with [Person A]. He was sympathetic and did not put her under any undue pressure.”

Overall, the Commissioner believes that Inspector F reached a reasonable conclusion in relation to this complaint.

Conclusions, Recommendations and Learning

Complaint 1

In the Commissioner's view, for the reasons given, the manner in which this complaint was dealt with by Fife Constabulary was reasonable.

Complaint 2

In the Commissioner's view, for the reasons given, the manner in which this complaint was dealt with by Fife Constabulary was reasonable.

The Commissioner commends Fife Constabulary for its handling of these complaints both in terms of its thoroughness and sensitivity. As a learning point, however, he notes that the final letter to the applicant did not do justice to the detailed investigation undertaken and failed to offer the applicant a sufficient sense of "closure" on the matters raised. The Commissioner expects that, where appropriate, responses to complaints reflect the often detailed investigations undertaken by officers.

Background

The complaints reviewed in this part of the report relate to an incident which took place on 23 December 2008. The information below is taken entirely from Fife Constabulary's report of its investigation into the complaints.

The applicant has had considerable contact with police (11 occasions are listed since the start of 2008). She is apparently known to local officers who have helped to manage her involvement with a number of agencies through a tailored plan. Her four periods in police custody have triggered appropriate medical assessment. The applicant has previously self-harmed whilst in custody. As a person with acknowledged mental health problems the applicant had been given the assistance of an appropriate adult when in custody. The role of an appropriate adult is

"...to ensure that a mentally disordered person is not disadvantaged during a police interview as a result of the disorder from which he or she suffers." (Scottish Office Guidance on Appropriate Adult Schemes, 19 June 1998).

At 12.13 pm on 23 December 2008, Fife Constabulary received a call from staff at Medical Facility Z advising that the applicant had telephoned threatening to appear there with a knife. Following this call, officers attended Medical Facility Z and noted statements from staff.

At 2.22 pm, the applicant called Fife Constabulary explaining that she was aware that the police had been contacted regarding the incident and that she would wait at home for officers to visit her.

Constables A and B subsequently attended the applicant's home and detained her under section 14 of the Criminal Procedure (Scotland) Act 1995 in relation to an alleged breach of the peace. The applicant was then conveyed to Police Station Y and interviewed by Constables A and B in the presence of an appropriate adult. The police report indicates that there was insufficient evidence to charge the applicant. The applicant was then moved to an observation cell within Police Station Y.

Learning that the applicant was in custody, Constable C and Sergeant D attended at the custody area to speak with the applicant regarding ongoing issues around her home and her general wellbeing. The appropriate adult had left Police Station Y by this time.

Constable C and Sergeant D then attended at the observation cell and took the applicant to the police surgeon's room adjacent to the cell area where both officers discussed problems which the applicant had reported to the police. The police report states that the applicant became upset, stating that the police never believed her and were victimising her.

As Constable C and Sergeant D were speaking to the applicant, they noticed her begin to retch and a bucket was placed in front of her. Despite this, the applicant vomited a "small amount" over her clothing and the floor. The police report states that the applicant indicated that she was fine, did not feel unwell and was simply upset about being in custody.

At approximately 4.50 pm, the applicant was released from custody without charge and taken home by Constable C and Sergeant D.

The Complaints

The complaints listed below are those which have been made to Fife Constabulary:

(1) that Fife Constabulary did not reply to the applicant's letter of complaint;

- (2) that the applicant was detained by Fife Constabulary;
- (3) that whilst in custody, Fife Constabulary removed the applicant's wrist splint causing recent surgery to fail;
- (4) that the applicant was interviewed in a doctor's room without an Appropriate Adult present;
- (5) that whilst in custody, the applicant was not given access to a doctor;
- (6) that Constable C bullied the applicant;
- (7) that the applicant was being investigated for harming her step-father; and
- (8) that the applicant is continually handcuffed, strip searched and medical dressings removed whilst in police custody.

The Commissioner's Review

This section sets out the Commissioner's views on the manner in which the complaints made to Fife Constabulary were handled. Details of the complaints handling are set out below, and are followed by the Commissioner's views on this.

The applicant wrote a letter of complaint to Fife Constabulary dated 6 January 2009. This letter was received by Fife Constabulary's Professional Standards Department on 3 June 2009. On 4 June 2009, Inspector E was appointed to investigate the complaints. On 9 July 2009, Inspector E and Sergeant F obtained a statement from the applicant at her home address in the presence of her mother. Having discussed each complaint, the applicant concluded her statement by stating:

"I am happy that all points in my letter have been discussed to my satisfaction and all matters raised are closed as far as I am concerned."

Following this meeting, Inspector E sent a report to Chief Superintendent G detailing his conclusions. On 13 July 2009, Superintendent H wrote to the applicant with Fife Constabulary's position on her complaints.

Complaint 1: Failure to reply to the applicant

The applicant stated that the complaints contained within this review were sent to Fife Constabulary by letter in January 2009. The applicant asked why she had not received a response to this letter.

Internal Handling

As noted above, a statement was taken from the applicant at her home. The statement contains the following passage:

"Inspector [E] has informed me that Fife Police have no record of the first letter and that there is in place a set procedure for dealing with any letter of complaint, no matter who it is from, and that my issues would be taken seriously. Inspector [E] has told me that each point raised in my letter would be individually examined and he has apologised for any administrative problems that may have occurred within Fife Police resulting in this delay. I equally agree that Fife Police may have never received my first letter. I consider the issue and delay in dealing with my letter closed to my satisfaction."

Following the statement being taken, Inspector E's report concluded:

"I have explained that Professional Standards have no record of the original letter and given assurances about the professional way in which the police deal with any letter of complaint. I have also apologised for the delay and [the applicant] has conceded that the original may also have been 'lost in the post'. [The applicant] is satisfied that a simple breakdown in communication led to the delay and considers this matter closed."

Consideration

During his investigation, Inspector E established with the department within Fife Constabulary which deals with complaints data that there was no record of a complaint having been received from the applicant in January 2009.

Having established this, Inspector E explained to the applicant that the problem might have been due to the letter being lost in the post, or by an administrative problem within Fife Constabulary. Inspector E apologised if the fault lay with Fife Constabulary.

The Commissioner notes that the applicant was content with Inspector E's explanation and thereafter considered the matter closed. In these circumstances, the Commissioner finds that this complaint was handled reasonably by Fife Constabulary.

Complaint 2: The applicant's detention

The applicant expresses her dissatisfaction at the fact that she was detained on 23 December 2008 despite no one at Medical Facility Z wishing to pursue the matter.

Internal Handling

During Inspector E and Sergeant F's visit to the applicant's home, the applicant stated:

"Inspector [E] has informed me that there was a crime reported to the Police and as such they are 'duty bound' to investigate it. He confirmed that having carried out an investigation that there was not enough evidence (insufficient evidence) to charge me with any crime. I accept that where a crime is reported to the Police they must investigate it and I consider this point to be cleared up and I have no complaint on this matter".

In light of the contents of the applicant's statement, Inspector E's report concluded:

"Resolved – [the applicant] now agrees that there was a complaint to the police where she was a named suspect and therefore the police had acted lawfully."

Consideration

It is clear that Inspector E explained to the applicant the reason for her detention and that the applicant accepted this explanation. The applicant's statement is clear that she believed this complaint had been resolved.

In light of the content of the applicant's statement the Commissioner finds Inspector E's approach to this complaint entirely reasonable.

Complaint 3: Removal of wrist splint

The applicant claims that, whilst detained, a wrist splint which she had been wearing was removed, causing her injury.

Internal Handling

During Inspector E and Sergeant F's visit to the applicant's home, the applicant stated:

"Inspector [E] has informed me that having checked with the officers that dealt with me (PC [B] and [A]) and the officers in the Police Station (PS [J] and PCSO [K]) and having checked record of my custody, that there was no knowledge of my wrist problem and no record of me wearing a wrist splint. He has also told me that records show I said to the Sergeant (PS [J]) that I did not have any injuries.

... I now remember that I had actually had the wrist splint removed the day before I went into custody and it was not the police who removed it. I am sure I told the officers that detained me ([B]/[A]) that I had problems with my wrists, but I think you (Inspector [E]) are right that I told the Sergeant ([J]) that I wasn't injured ... I now accept that the Police did not remove my splint and that this part of my letter is incorrect.

... I do however believe that the officers ([B]/[A]) were told about my sore wrist and should have told the Sergeant ([J]).

... You (Inspector [E]) have told me that neither officer ([B]/[A]) remember me talking about my sore wrist and that you (Inspector [E]) have, in any case, reinforced with the officers the need to pass on any information about the condition of any person they lock up. I am happy with the course of action in relation to that part of my letter."

In light of the contents of the applicant's statement, Inspector E's report concluded:

Unsubstantiated – I can find no record of such an event recorded over the last 2 years and again no medical evidence is offered to substantiate [the applicant's] claim of resulting medical problems ... I would suggest that this part of [the applicant's] complaint is unsubstantiated and in any case she has now stated that she does not wish to pursue this matter."

Consideration

From the information contained in the applicant's statement, there appears to have originally been some confusion as to when the splint was removed from her wrist. However, it is noted that the applicant clearly recalls that the splint was removed the day before she attended Police Station Y. Additionally, the applicant was satisfied that Inspector E had "reinforced" with the officers concerned the need to pass on any information known regarding the condition of a detainee. The terms of the applicant's statement make clear her acceptance of this outcome.

In light of the content of the applicant's statement the Commissioner finds Inspector E's approach to this complaint entirely reasonable.

Complaint 4: Interview without Appropriate Adult

The applicant claims that whilst being spoken to by Constable C and Sergeant D there was no appropriate adult present.

Internal Handling

During Inspector E and Sergeant F's visit to the applicant's home, the applicant stated:

"It has now been explained to me that the officers had been asked to speak with me to see if they could help and were not interviewing me as a suspect in a crime. I now know that

the officers are Community Officers asked to give support to vulnerable people in the community.

... I also agree that, as with now, I do not need an appropriate adult, as I understand perfectly what is being said and meant."

Consideration

From the information contained in the applicant's statement, it is clear that Inspector E explained to the applicant that she was not being spoken to by Constable C and Sergeant C as a suspect. Inspector E's report develops this further by stating that Constable C and Sergeant D's intention in speaking to the applicant was to "discuss the ongoing issues around her home and her general wellbeing".

In light of the applicant accepting this explanation, the Commissioner finds Inspector E's approach to this complaint reasonable.

Complaint 5: Access to a doctor

The applicant claims that Constable C and Sergeant D did not allow her to access to a doctor and that she was told by Sergeant D to throw up into a plastic bucket.

Internal Handling

During Inspector E and Sergeant F's visit to the applicant's home, the applicant stated:

"I said in my letter that the female officer (PS [D]) didn't let me see a doctor and 'kicked a bucket under the table and said be sick into that.' I cannot remember if I did ask for a doctor at that time and in fairness the officer (PS [D]) did not tell me to be sick. I was sick because I was upset and she just handed me the bucket.

... I do not wish to complain any further regarding this part of my letter".

In light of the applicant's statement, Inspector E noted in his report:

"The officers state that at no time did [the applicant] state that she felt sick; however as the officers were speaking with her they noticed her begin to retch and so a bucket was immediately placed in front of her ... This occurred over a matter of seconds, so there was no time to take her anywhere more appropriate. She indicated that she was fine, did not feel unwell, and was simply upset over being in custody."

Inspector E concluded:

[The applicant] now admits that the PS [D] did not instruct her to be sick and that the officer merely handed her a bucket when she became unwell."

Consideration

From the information contained in the applicant's letter and statement there appears to have been some confusion as to whether the applicant asked to see a doctor. However, the information provided by the officers present shows that the applicant indicated that she did not feel unwell and that she was simply upset about being held in custody.

The terms of the applicant's statement reflect the accounts given by the officers present and in light of this the Commissioner finds Inspector E's approach to this complaint to be reasonable.

Complaint 6: Alleged bullying

The applicant claims that, following her being taken into the doctor's surgery room within the police station, she was continuously handcuffed to the rear and shouted at.

Internal Handling

During Inspector E and Sergeant F's visit to the applicant's home, the applicant stated:

"I agree that my previous actions in police custody have meant that the police have had to keep me in handcuffs constantly and it has been explained to me that if I was behaving and not trying to hurt myself I would not remain handcuffed. You (Inspector [E]) have confirmed that custody Sergeants would be made aware of this issue so that it did not happen again if I was being fine.

... I remember that I got upset in the doctor's room because I thought I was being accused of ... Things got heated and we ended up shouting at each other.

... I have been told by (Inspector [E]) that PC [C] is sorry if he raised his voice. He was trying to get me to calm down and I admit I can be difficult to deal with if I am upset.

... I agree that PC [C] was trying to help me and that I have had mental health problems in the past."

Consideration

From the information contained in the applicant's statement, it is clear that Inspector E explained to the applicant the reason why Constable C raised his voice and the general reasoning behind the decision to handcuff her.

In light of this, the Commissioner finds Inspector E's approach to this complaint to be reasonable.

Complaint 7: Police investigation into the care of the applicant's step-father

The applicant claims that she and her mother were the subject of a police investigation into the care of her step-father.

Internal Handling

During Inspector E and Sergeant F's visit to the applicant's home, the applicant stated:

"It has now been explained to me that the Police were contacted by Social Work ... as the doctors for my dad could not discover why he kept collapsing and that there was concern that in light of no obvious reason, the police were asked to see if there was anything criminal going on and to see if there was some other explanation for what was happening to dad. I agree there is a need to see what is happening to dad but my mum and I are completely innocent of anything".

In light of the above, Inspector E's report concluded:

"I would suggest the police acted properly in carrying out an investigation to ascertain if any evidence of a crime existed following concerns raised by Social Work. To date no evidence has been discovered to confirm a crime has been committed. [The applicant's mother], [the applicant], Social Work and [the applicant's step father's] medical team have been informed. [The applicant] is happy with the explanation given and considers the matter closed."

Consideration

From the information contained in the applicant's statement, it is clear that Inspector E explained to the applicant the reason why Fife Constabulary initiated enquiry into the concerns about her step-father and that the applicant agreed the necessity for such an enquiry.

In light of this, the Commissioner finds Inspector E's approach to this complaint to be reasonable.

Complaint 8: Handcuffing, strip searching and removal of dressings

The applicant's statement detailed her dissatisfaction that, whenever she is taken into police custody she is handcuffed, any bandages she has on are removed and that she is strip searched.

Internal Handling

During Inspector E and Sergeant F's visit to the applicant's home, the applicant stated:

"You (Inspector [E]) have explained that due to how I behaved in the police station before, that the police must make sure I do not harm myself as I have done before. I accept that I must be strip searched and all I ask is not to be constantly in handcuffs. It has been explained to me (by Inspector [E]) that if I do ever come back into custody and am actively trying to self harm, I will not be kept in handcuffs. I accept this and as I will not get locked up again, consider the matter closed.

... I also accept that I must be searched as I have concealed razor blades on me before and harmed myself."

Consideration

From the information contained in the applicant's statement, it is clear that Inspector E explained to the applicant the reason why she is strip searched and handcuffed when brought into custody.

In light of this, and the applicant's acceptance of the explanation given, the Commissioner finds Inspector E's approach to this complaint to be reasonable.

Conclusions, Recommendations and Learning

Complaints 1 – 8

In the Commissioner's view, the manner in which these complaints were dealt with by Fife Constabulary was reasonable. The Commissioner commends Fife Constabulary for its handling of these complaints both in terms of its thoroughness and sensitivity.

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