

Report of a Complaint Handling Review in relation to Grampian Police

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

Summary and Key Findings

On 11 July 2006, the applicant's son was involved in a road traffic collision with another vehicle. The applicant subsequently made a number of complaints related to Grampian Police's handling of its investigation into this incident.

Of the four complaints reviewed, the Commissioner decided that all were handled reasonably by Grampian Police and that no further action is required.

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.

Background

On 11 July 2006, the applicant's son, Mr A, was involved in a road traffic collision with another vehicle. As result of the collision Mr A, the other driver and one of Mr A's passengers attended hospital. Both vehicles were substantially damaged.

The applicant subsequently made a number of complaints relating to Grampian Police's handling of the investigation into the collision.

The background to each complaint is presented under the relevant complaint heading.

The Complaints

Based on the contents of the application form, the correspondence received from the applicant and the information obtained from Grampian Police, the Commissioner has identified the following complaints:

- (1) Grampian Police failed to notify the applicant that Mr A had been involved in a collision;
- (2) Grampian Police failed to appoint an appropriate supervisor to investigate the applicant's complaints;
- (3) an officer from Grampian Police had an underlying motive for not reporting the collision to the Procurator Fiscal; and

(4) Grampian Police failed to breathalyse two drivers involved in the collision.

The Commissioner's Review

The applicant first contacted the Commissioner's office by telephone on 17 September 2007. He thereafter submitted an application form on 18 September 2007. Due to various factors described below, Grampian Police's handling of the complaints was not completed until December 2008.

This section sets out the Commissioner's views on the manner in which the complaints were handled by Grampian Police. Each complaint is set out in turn and is followed by details of Grampian Police's handling of it and the Commissioner's views on this.

Complaint 1: Grampian Police failed to notify the applicant of the collision

In his letter to Grampian Police of 24 July 2006 the applicant complained that neither he nor his family was informed by Grampian Police of the collision involving Mr A and his subsequent attendance at hospital. According to the applicant this caused himself and his family considerable distress.

Internal Handling

This complaint was initially investigated at local level by Sergeant B. A Complaint about the Police (CAP) form was completed on 3 August 2006.

On 24 August 2006 Sergeant B requested an operational statement from Constable C, one of the officers who had attended the scene of the collision. According to Constable C, Mr A had stated that he did not wish anyone to be contacted in connection with the incident.

Sergeant B, together with Sergeant D, also visited the applicant at his home regarding his complaints. According to his report of 29 August 2006 Sergeant B explained the following to the applicant:

"...[Mr A] had not requested his family to be notified and as his injuries were of a very minor nature, it was not normal practice to advise families in such cases."

On 31 August 2006 Superintendent E wrote to the applicant, concluding the local handling of the complaints. In respect of complaint 1, Superintendent E informed the applicant that "[b]oth drivers involved in the Road Traffic collision were asked at the scene if they wanted anyone notified, but both declined the offer."

Following receipt of Superintendent E's letter, the applicant remained dissatisfied and contacted Her Majesty's Inspectorate of Constabulary for Scotland (HMICS) on 25 September 2006. HMICS subsequently undertook a review of the applicant's complaints.

In December 2006 HMICS produced a report in respect of the applicant's complaints in which it concluded that Grampian Police had conducted a "satisfactory and appropriate" investigation and had "provided a reasonable response to [the applicant]".

Despite this, the applicant remained dissatisfied and continued to correspond with Grampian Police. The applicant also contacted the Commissioner's office and submitted an application form on 18 September 2007. With the agreement of the applicant, the Commissioner's office sent to Grampian Police an updated list of the applicant's complaints. The Commissioner's office then agreed to suspend its review of the applicant's complaints until Grampian Police had had the opportunity to respond to the applicant.

Inspector F, from Grampian Police's Complaints and Conduct Unit, was subsequently appointed to report on the applicant's complaints. As part of her investigation, Inspector F sought statements from the applicant (dated 2 July 2008) and Mr A (dated 4 July 2004) as well as two of Mr A's passengers. Operational statements were also provided by Sergeants B and D (dated 19 August and 5 August 2008, respectively).

Following Inspector F's investigation, Superintendent G wrote to the applicant. Superintendent G did not address complaint 1 in this letter but instead focussed on answering four questions which the applicant had asked during his meeting with Inspector F on 2 July 2008.

On 1 and 18 August 2008 the applicant wrote again to Grampian Police to express his continued dissatisfaction about Grampian Police's handling of the investigation into the collision. In response to this further correspondence a meeting was arranged on 3 October 2008 between the applicant, Chief Inspector H and Inspector I.

Following this meeting Chief Inspector H wrote to the applicant on 4 December 2008 addressing each of the applicant's complaints. In respect of complaint 1, Chief Inspector H concluded that this was unsubstantiated.

Consideration

The applicant's main concern in connection with this complaint is that Mr A was not in a fit state to decide whether his family should have been contacted by the police following the collision.

It is clear from the available evidence that Mr A suffered injury following the collision. In his statement dated 4 July 2004, Mr A explained that he suffered facial cuts and concussion. This account is supported by a statement dated 5 July 2008 by Witness L, a passenger in Mr A's car at the time of the collision.

Accordingly the question raised by the complaint is whether Constable C was justified, given Mr A's injuries, to respect his wishes not to inform his family of the collision. In the present case, while there is no question that Mr A was injured, there is no evidence that Mr A did not understand the question asked of him by Constable C, or did not understand the response he gave to this. Indeed, Mr A distinctly recalls advising Constable C that he was the driver of his vehicle.

For these reasons, the Commissioner considers that Constable C was justified in respecting Mr A's wishes not to inform his family of the collision. Accordingly, the Commissioner believes that this complaint was handled in a reasonable manner. No further action is therefore required of Grampian Police in this connection.

Complaint 2: Appointment of an appropriate supervisor in respect of the complaints

In his letter to Grampian Police dated 1 August 2008, the applicant complained that Sergeant B, the immediate line supervisor of Constable C, had initially been chosen as the enquiry officer in relation to the complaints. The applicant considered Sergeant B to be biased in favour of Constable C.

Internal Handling

Chief Inspector H responded to this complaint in the final letter he sent to the applicant dated 4 December 2008. In particular, Chief Inspector H wrote:

"When dealing with complaints against Police Officers which are not considered to be serious, a local supervisory Officer will be allocated the complaint enquiry. The purpose of this is to ensure that local issues and supervisory issues can be addressed.

The Enquiry Officer's role is to enquire into the complaint allegation which, in this case, was 'why the driver of the other vehicle was not charged with careless driving'. Sergeant B was a reasonable choice of supervisor to enquire into this complaint and it is very disappointing that his enquiry did not reveal the true circumstances behind the RTC [road traffic collision].

Whilst I allude to the fact that Sergeant B was a reasonable choice, Division [Y] have since reviewed the Policy of allocating complaints to immediate line managers and now complaints at this level are carried out by Supervisors from another part of the Division."

Consideration

The applicant identified a potential weakness in the procedures adopted by Division Y for allocating enquiries into complaints. As a result of the complaint, the procedures adopted by that division have been altered. This is an example of Grampian Police learning from complaints and improving its procedures as a result.

Accordingly, the Commissioner considers that this complaint was handled in a reasonable manner. No further action is therefore required of Grampian Police in this connection.

Complaint 3: Alleged motive for not reporting

In his letter of 1 August 2008, the applicant expressed concern that Constable C may have had an underlying motive for not reporting the road traffic collision to the Procurator Fiscal.

Internal Handling

Chief Inspector H responded to this complaint in the letter he sent to the applicant dated 4 December 2008:

"There is no information or evidence available to support your belief that [Constable C] had a motive for not reporting the RTC [Road Traffic Collision]. I conclude that this allegation is not substantiated."

Consideration

Chief Inspector H carried out a thorough investigation into this complaint which included meeting with the applicant to enquire whether he had evidence to support his claim. The applicant was unable to produce any such evidence.

In the absence of such evidence, the Commissioner considers that Grampian Police handled this complaint in a reasonable manner. Accordingly, no further action is required of Grampian Police in respect of this complaint.

Complaint 4: Alleged dishonesty

In his letter to Grampian Police dated 1 August 2008, the applicant questioned the veracity of Grampian Police's claim that officers had attempted to breathalyse both drivers involved in the collision.

Internal Handling

This complaint was discussed at a meeting between Chief Inspector H and the applicant which took place on 3 October 2008. The applicant stated during this meeting that he did not believe Grampian Police's claim that officers had attempted to breathalyse both drivers at the hospital following the collision.

In an attempt to reassure the applicant on this point, Chief Inspector H obtained a copy of the STORM (a Command and Control system employed by the police) incident report in respect of Mr A's collision. Chief Inspector H thereafter explained the contents of the report to the applicant. As the applicant remained unconvinced, Chief Inspector H agreed to make further enquiry and report back to him.

Chief Inspector H thereafter obtained operational statements from Constables J and K (dated 16 and 17 October 2008, respectively) the officers who, according to the STORM report, had attempted to breathalyse both drivers. Constables J and K explained that they had attended hospital on 11 July 2006 to breathalyse both drivers but were informed on their arrival that they had already left the hospital.

Chief Inspector H met again with the applicant on 7 November 2008 to discuss this complaint and to explain that he had obtained operational statements from Constables J and K. According to Chief Inspector H, the applicant was satisfied with the explanation that he was given in respect of this complaint.

Chief Inspector H thereafter addressed this complaint in the final letter he sent to the applicant dated 4 December 2008:

"It is impossible to create a retrospective incident, I am therefore entirely satisfied that a STORM incident was created and that the two officers identified on the incident were allocated to attend and, from their statements, they attended at the hospital after your son and the other driver left. It is also very clear from the STORM incident that no further enquiry was carried out to trace the drivers. I conclude that this allegation is not substantiated".

Consideration

Chief Inspector H carried out a thorough investigation into this complaint and reached a conclusion justified by the available evidence. The STORM incident record details that Constables J and K were dispatched to the hospital to breathalyse the drivers involved in the collision. Furthermore, both Constables J and K in their operational statements maintain that they attended the hospital on 11 July 2006 to breathalyse the drivers.

Accordingly, based on the available evidence, the Commissioner is satisfied that this complaint was handled in a reasonable manner. No further action is therefore required of Grampian Police in this connection.

Conclusions, Recommendations and Learning

Complaint 1: Grampian Police failed to notify the applicant of the collision

For the reasons given, the Commissioner considers that this complaint was dealt with in a reasonable manner. Accordingly, no further action is required of Grampian Police in this connection.

Complaint 2: Appointment of an appropriate supervisor in respect of the complaints

For the reasons given, the Commissioner considers that this complaint was dealt with in a reasonable manner. Accordingly, no further action is required of Grampian Police in this connection.

Complaint 3: Alleged motive for not reporting

For the reasons given, the Commissioner considers that this complaint was dealt with in a reasonable manner. Accordingly, no further action is required of Grampian Police in this connection.

Complaint 4: Alleged dishonesty

For the reasons given, the Commissioner considers that this complaint was dealt with in a reasonable manner. Accordingly, no further action is required of Grampian Police in this connection.

John McNeill
Police Complaints Commissioner for Scotland

Hamilton House
Caird Park
Hamilton
ML3 0QA