

Report of Complaint Handling Reviews in relation to Central Scotland Police

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

Summary and Key Findings

This report relates to incidents which occurred in January, February and December 2008 and to the investigation of the complaints related to them. Three sets of complaints have been reviewed separately under one cover.

The first set of complaints relate to the circumstances surrounding the applicant's arrest, interview and detention in relation to an allegation that she assaulted her doctor at a Medical Centre on 22 January 2008. The second is concerned with complaints the applicant made about the officers investigating her complaints. The final set relate to complaints made about the police handling of reported illegal drug use at a local hospital on 26 December 2008.

The Commissioner found all the applicant's complaints were dealt with in a reasonable manner. However, in respect of the complaints dealt with under reference PCCS/00536/PF-CSP(C) the Commissioner found that these were wrongly classified by Central Scotland Police. The Commissioner therefore recommended that the complaints be re-classified in accordance with Central Scotland Police's standard operating procedures.

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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.

Preamble

The applicant originates from Taiwan but has lived in the United Kingdom since 2001. Although not presently working, she has previously operated her own business and taught conversational English to foreign students. She has lived in Scotland for over 6 years and during that time has encountered difficulties with a variety of organisations including the National Health Service (NHS), the police, the legal profession and various educational establishments. She believes that she has been treated poorly on occasions and has made a variety of complaints reflecting these concerns. Her complaints are about specific matters but overall she believes that she has been treated badly because she is "a foreigner, a woman and disabled".

A common feature of the applicant's complaints about Central Scotland Police is her continual correspondence in which she raises new complaints or seeks further information on or clarification of a range of issues. This approach has persisted even after meetings between her and police officers designed to obtain all relevant information from her. The applicant's complaints about Central Scotland Police have therefore been formulated over time rather than being constricted to those made at the start of the complaints process. The applicant's husband has also forwarded correspondence to Central Scotland Police in relation to her complaints.

Throughout the complaint process the applicant has maintained that she suffers from a variety of illnesses which can affect her behaviour, the most significant being Asperger's Syndrome. Based on the correspondence forwarded to Central Scotland Police from various professionals the applicant has been attending specialist doctors over the course of the last few years, perhaps longer, and has been the subject of many assessments. It is now generally acknowledged that she suffers from mental health problems. Since this diagnosis was formally made known, Central Scotland Police has taken cognisance of her condition in its engagement with her.

However, at the time of the incident which gave rise to her complaints, the applicant's condition had not been diagnosed. Indeed, the applicant's psychiatrist told the police officers who attended the incident that she did not suffer from a mental illness that would affect her behaviour. The psychiatrist's opinion was that the applicant's condition appeared to be more of a personality disorder. The way in which the police officers dealt with the applicant at that time must therefore be viewed from the perspective that her condition, as now diagnosed, had not been recognised.

The applicant first contacted the Commissioner's office by email on 20 October 2008. At that time it was clear that she had not made her complaints to Central Scotland Police. She later did so and an investigating officer was appointed. Following this investigation, a letter detailing the Central Scotland Police's conclusions was sent to the applicant. The complaints relating to this investigation have been reviewed by the Commissioner under the reference PCCS/00536/PF-CSP(A).

Having received this letter, the applicant made a number of complaints about the officer who investigated her complaints. The enquiry in relation to those complaints was conducted by another officer. In due course, the applicant also made complaints about that enquiry. Those complaints have been reviewed by the Commissioner under the reference PCCS/00536/PF-CSP(B).

A further, unconnected complaint was made by the applicant in relation to the police handling of an incident reported by her at a local hospital. This incident occurred during the course of the original complaint investigation and has been reviewed by the Commissioner under the reference PCCS/00536/09/PF-CSP(C).

During the course of the review the applicant has communicated with the Commissioner's office by telephone, letter and e-mail on numerous occasions. Details of these communications have been taken into account in the review.

At the latter stages of the review process the applicant was provided with details of the "heads of complaint" which the Commissioner intended to consider in his report. The applicant responded by submitting a number of comments in relation to complaints she believed may not have been included in the Commissioner's review. The matters raised by the applicant in her correspondence were thereafter considered and the Commissioner is confident that reference to all the complaints raised by the applicant are included in this report.

Background

On 22 January 2008 the applicant attended, by appointment, at a medical centre (a day hospital) to be assessed by a psychiatrist, Doctor C, in connection with her mental health.

An incident occurred within the medical centre in which it was alleged that the applicant had assaulted Doctor C and damaged medical papers. As a result of this the police were called.

Following the incident with Doctor C, the applicant left the premises via a door opened by Person D. The position of Doctor C is that the applicant tried to re-enter the building but was prevented from doing so by Person D who placed her foot against the door. Person D's position is that when the applicant returned to the door the applicant "jammed" her arm in the door to prevent it from closing. The applicant's position is that Person D was responsible for the applicant's arm being jammed in the door and that this caused her injury.

Constables A and B arrived a short time later and spoke to Doctor C and Person D who had witnessed the assault. The applicant, who was still standing in the car park outside the premises, was pointed out to the attending officers.

The officers were satisfied that there were reasonable grounds to believe that the applicant had committed a criminal offence. They approached the applicant and attempted to speak to her but claim that she started to shout and become hysterical. In her correspondence with Central Scotland Police in February 2009 the applicant said that staff at the medical centre "had caused me injury to my arms". The applicant also stated that she was "anxious about being harmed again and this was why I was unstill (sic)". The applicant was detained in relation to the alleged assault, handcuffed and taken in a police vehicle to a police office.

On arrival at the police office the applicant was processed by Sergeant E. He entered her details in the electronic custody log, a system designed to provide a contemporaneous record of all relevant information concerning a person arrested or detained at a police office. During the course of this, Sergeant E asked the applicant a series of questions designed to obtain information relevant to her care and welfare whilst in custody (known as a "vulnerability assessment"). The applicant declared a number of illnesses and medical conditions and also said that she had "suicidal thoughts". These were all recorded by Sergeant E and the applicant was consequently assessed as a special risk and placed within a detention room pending further enquiry. Arrangements were made for her to be visited regularly whilst detained. The applicant was also examined by a police doctor, Doctor F, who deemed her fit to be detained or released from police custody. He completed a report to that effect. Doctor F recorded injuries (bruising) to the applicant's arms although has no recollection of the reason given for these.

The applicant was interviewed in respect of the alleged assault and thereafter charged with a contravention of section 5(1) of the Emergency Workers (Scotland) Act 2005. This provides that a person who, in a hospital or on land adjacent to and used wholly or mainly for the purposes of a hospital, assaults a registered medical practitioner, commits an offence. Inspector K, the senior officer on duty, decided that due to the nature of the charge, the applicant should be detained in custody until her appearance in court the following day. A report was thereafter sent to the Procurator Fiscal.

The applicant later obtained a copy of her custody record via a subject access request under the terms of the Data Protection Act 1998. The content of this document was later the subject of a complaint.

On 1 October 2008 the applicant called at a police office to speak to a senior officer about a forthcoming court appearance in respect of her alleged assault upon Doctor C. The applicant discussed a number of issues with Inspector G, including her view that she should not have been

arrested or detained in a police cell. She also discussed her legal representation for the case. On 3 October 2008 the applicant spoke to Inspector G on the telephone asking him to provide her with contact details for Doctor F so that she could discuss his report of her examination in custody. Inspector G refused to provide these details.

The applicant was later convicted of assaulting Doctor C.

The Complaints

In essence the applicant's complaint is that officers did not deal with the incident properly. This overarching concern is dealt with in this report by reference to the specific complaints she has made. Based on the contents of the correspondence received from the applicant, and the information obtained from Central Scotland Police, these complaints are as follows:

- (1) that Constable A was rude, aggressive and shouted at the applicant;
- (2) that the applicant was not offered the services of an interpreter while at the police office;
- (3) that the applicant was not in a fit state to be interviewed at the police office;
- (4) that no account was taken of the applicant's physical condition or mental state when she was placed in a cell;
- (5) that Doctor F was not provided with sufficient information by the police;
- (6) that Doctor F did not provide the applicant with necessary prescribed medication;
- (7) that the applicant's welfare was not adequately considered during her detention;
- (8) that requests for medication were declined by police custody staff;
- (9) that an injury report and the applicant's medical history was not included in the report to the Procurator Fiscal;
- (10) that police staff refused to progress the applicant's request to have her injuries photographed;
- (11) that the police pursued the case against her despite there being no formal complaint by medical staff;
- (12) that the custody record and the result of the complaints investigation contradict one another;
- (13) that police did not allow the applicant's husband to visit her whilst in custody;
- (14) that Sergeant E should have contacted Central Scotland Racial Equality Council earlier than he did; and
- (15) that the applicant was kept waiting at the police office and was refused information.

When the applicant first raised her complaints in October 2008 Chief Inspector H was appointed as the investigating officer. Superintendent J wrote to the applicant advising her of this and told her that the target date for responding to her was 8 weeks i.e. by 17 December 2008.

Chief Inspector H arranged to interview the applicant and they met at a police office on 13 November 2008. The purpose of that meeting was to discuss fully the applicant's complaints and to explore any areas where an explanation or local resolution were appropriate. Another police officer and an interpreter were present at this meeting. At its conclusion Chief Inspector H believed that he had the applicant's agreement to deal with the matter by speaking to the officers concerned and providing them with the following corrective advice:

- Constables A and B to be given advice about dealing with emotional persons;
- Sergeant E to be given advice about dealing with distressed people;
- Inspector G to be given advice regarding contacting the police doctor; and
- Inspector G and reception staff to be given advice regarding people kept waiting in the reception area of the police office.

Chief Inspector H also agreed to establish the following and respond to the applicant with his findings:

- the date on which the letter was sent from Doctor F to the Procurator Fiscal;
- the time that the police were called on 22 January 2008; and
- the details of the medication provided to the applicant when in custody.

The meeting between the applicant and Chief Inspector H lasted approximately 3 hours.

On 14 November 2008 the applicant sent Chief Inspector H an e-mail in which she raised a number of additional, but related, issues concerning her complaints. Chief Inspector H thereafter took the view that informal resolution was no longer a viable option and that a full investigation of the applicant's complaints was required. He therefore arranged for statements to be obtained from witnesses and for all relevant documents to be gathered.

Chief Inspector H interviewed the applicant again on 21 November 2008. A police officer and an interpreter were present, along with two friends of the applicant who had been permitted to attend. During the interview Chief Inspector H noted a statement from the applicant. This meeting lasted for almost 4 hours.

Included in the various e-mails sent to Central Scotland Police were two of particular note sent on 24 and 26 November 2008 respectively which raised further points to be considered by Central Scotland Police. As a consequence of this, the original time-frame for completing the investigation was extended. The applicant was informed of this.

A letter providing Central Scotland Police's response to the applicant's complaints was issued on 5 January 2009. However, the applicant continued to engage with Central Scotland Police after this date in the form of emails, letters, telephone calls and meetings. In two letters, dated 15 February and 10 March 2009, the applicant raised a number of additional points about her complaints. Further reference is made to this additional communication throughout this report.

The Commissioner's Review

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

Complaint 1: Alleged rudeness and aggression

This complaint relates to the actions of Constables A and B at the time of the applicant's detention and subsequent interview. The applicant alleges that her arms were twisted around her back and handcuffs were applied to her wrists without good reason. She also alleges that Constable A

“bullied” her by saying that there was CCTV at the location of the alleged crime, when he knew that there was not.

Internal Handling

Chief Inspector H examined the statements submitted by the officers involved and those noted from the staff at the medical centre. The officers denied that they had behaved inappropriately, their position being that the applicant was waving her arms about and shouting and screaming at them. In the circumstances they considered that they had no alternative but to apply handcuffs. Constable A admitted that he had raised his voice when dealing with the applicant at the time of her detention but claimed that this was simply an attempt to overcome the applicant’s shouting. The officers are supported in their accounts by the evidence of staff at the medical centre.

Constables A and B denied that they had shouted at the applicant during the interview. Constable A admitted to raising his voice but only so that he could retain control of the interview process and to be heard over the applicant who was herself shouting. Chief Inspector H also established that there was no record of the applicant having raised this concern during her time in custody. By contrast, many issues raised by the applicant, including requests for blankets, food and medication had been noted in the custody record. This indicated to Chief Inspector H that, had the applicant been concerned about the conduct of Constable A, she would have raised this at the time of her detention

An explanation, as described above, was provided to the applicant by Superintendent J in his letter dated 5 January 2009. In her letter dated 15 February 2009 the applicant reiterated her concerns; in his response Superintendent J advised that he had nothing to add.

The complaint concerning Constable A’s alleged reference to CCTV cameras was raised by the applicant at a meeting with Superintendent J on 16 June 2009. In a letter dated 21 December 2009, the applicant was informed that neither officer had any recollection of having mentioned CCTV to the applicant.

Consideration

In the Commissioner’s view, Chief Inspector H conducted reasonable enquiries and took account of all the available evidence when dealing with the applicant’s complaints. The letter to the applicant dated 5 January 2009 provided a reasoned explanation based upon this evidence. This explanation included the position as recalled by the detaining officers and the evidence of the staff at the medical centre who supported the account of the officers.

The report to the Procurator Fiscal was clear that there was no CCTV at the location and, as neither officer had any recollection of CCTV having been mentioned at her interview, there was no evidence to support her complaint.

In the Commissioner’s view, these complaints were handled in a reasonable manner by Central Scotland Police. Accordingly, no further action is required in this connection.

Complaint 2: The provision of an interpreter

The applicant initially complained about the absence of an interpreter, both in the context of her police interview and also when the custody officer read out the custody procedures to her. She later made the same complaint against Inspector K.

Internal Handling

Chief Inspector H established that the officers who dealt with the applicant during her detention had taken the view that she did not require the services of an interpreter. According to them, the applicant had provided reasoned answers to all questions put to her and had not requested that an interpreter be contacted. In addition, Constable A stated that he had dealt with the applicant in the past (in relation to a separate matter) when she appeared to communicate well with him.

Doctor F had spoken to the applicant in detail about her medical history and did not consider there to be any need for an interpreter; nor, he added, had the applicant requested one. Inspector K was aware of the result of the medical examination and did not consider arranging an interpreter.

An interpreter was present at each of the two meetings between Chief inspector H and the applicant in November 2008. In their respective statements, each states that their services were not actually required at these meetings. Indeed, one interpreter stated that the applicant had been “speaking English throughout the whole interview and I could not get a chance to interpret for her”. Although the other interpreter stated that she did not think the applicant needed an interpreter, he added that there were “some legal terms that needed explanation”. In addition, the applicant informed Chief Inspector H that she had taught English to Italian students.

In light of this evidence Chief Inspector H concluded that the applicant was not disadvantaged by the absence of an interpreter in her initial dealings with the police. The letter of response dated letter of 5 January 2009 explained the reasoning for that decision (as described above).

Consideration

In the Commissioner’s view, Chief Inspector H conducted thorough enquiries and reached a reasonable conclusion based on the evidence available to him. The final letter to the applicant dated 5 January 2009 provided an account of that evidence.

On 29 April 2009 the applicant sent an e-mail to Central Scotland Police stating that when the officers who detained her used the word “assault” she had not understood what this meant. She claimed that when she told them she did not understand, the officers “humiliated” her by saying that as she was an English teacher she must know the meaning of the word.

The Commissioner has considered the transcript of the applicant’s police interview. Examination of the answers she provided to questioning suggests that her understanding was better than she now claims. In particular, when she was asked “did you assault the Doctor within the building today?” she replied, “I wouldn’t say I punched”. The applicant’s answers to other questions also demonstrate that she understood what was being asked of her.

The Commissioner therefore considers that Central Scotland dealt with this complaint in a reasonable manner. Accordingly, no further action is required in this connection.

Complaint 3: The applicant’s fitness for interview

The applicant believes that she should not have been interviewed so soon after her examination by Doctor F. She also complains that she was forced to sign a police officer’s notebook after her interview. In her communication with the Commissioner’s office on 30 March 2010 the applicant stated that Constables A and B refused her request to have a solicitor present at her interview. This complaint was not made previously to Central Scotland Police.

Internal Handling

According to Chief Inspector H, Doctor F formed the view that the applicant was “fit to be either released or detained and, as such, would have been fit for interview”. In addition, Chief Inspector

H observed that the interview took place a number of hours after the initial detention and after the applicant had received 16 welfare visits, been provided with two meals and been given, at her request, writing materials so that she could compose poetry. The police officers present formed the view that the applicant was calm and fit to be interviewed.

Both officers state that at the conclusion of the interview the applicant signed Constable A's notebook voluntarily. The letter of response to the applicant explained Doctor F's position, Chief Inspector H's observations about her period in custody (described above) and the position of the officers with regard to the signing of the police notebook.

Consideration

In the Commissioner's view, Central Scotland Police made appropriate enquiries in connection with this complaint and reached a reasonable conclusion based on the available evidence. The fact of the matter is that Doctor F decided that the applicant was fit to be interviewed. In the absence of evidence to the contrary, the officers concerned were entitled to rely on that assessment.

In the Commissioner's view, this complaint was dealt with in a reasonable manner. Accordingly, no further action is required of Central Scotland Police in this connection.

In correspondence with the Commissioner's office the applicant also raised the concern that she was held in a cell for over five hours before being interviewed. It does not appear that this complaint has been made to Central Scotland Police. However, according to his statement, Inspector K was aware that the applicant had attended a mental health assessment prior to her detention and had declared suicidal tendencies upon her arrival at the police office. In light of this, Inspector K decided that the applicant should be examined by a doctor prior to interview. Doctor F completed his examination at 8:25 pm and the applicant was interviewed shortly after.

Accordingly, the reason for the delay in the applicant's interview taking place was that it was considered appropriate to have her medically examined beforehand. In light of this, the Commissioner considers that the delay was justified and that Central Scotland Police need do nothing further in relation to this complaint.

The applicant's complaint concerning the request for a solicitor during the course of her interview has not been made to Central Scotland Police. The issue concerning the right to have a solicitor advised of the applicant's detention/arrest is discussed under complaint 14 below.

Complaint 4: Alleged failure to take account of the applicant's agoraphobia

The applicant complained that no account was taken of her agoraphobia when she was placed in a cell.

Internal Handling

Chief Inspector H's investigation revealed that no-one had any recollection of the applicant having made the police aware of her condition while detained in custody. He noted that opportunities to declare this condition existed on a number of occasions, most notably when speaking to the custody officer while being processed, and to Doctor F during his examination. As she did not make officers aware of this condition, they were not in a position to take account of it. This position was reflected in the letter of response issued to the applicant dated 5 January 2009.

Consideration

The Commissioner notes that there is no record of the applicant making her agoraphobic condition known to the police. In her own statement made during the complaint process she states that

“they didn’t know I had agoraphobia”. There is a clear onus on persons entering police custody to make officers aware of any conditions that are not immediately apparent, or matters that they believe the police should consider. The consequence of not doing so may be that no account will be taken of these matters.

There is no evidence that the applicant brought this condition to the attention of police officers during her time in custody. The Commissioner therefore considers that this complaint was dealt with in a reasonable manner by Central Scotland Police.

Although the applicant in correspondence with the Commissioner’s office has included a further complaint about not having been placed in a “suicide watch cell”, this does not appear to have been made to Central Scotland Police. In order to deal with the applicant’s complaints comprehensively, the Commissioner has set out his views on this issue.

The Commissioner has assumed that the applicant’s reference to a “suicide watch cell” is in fact a reference to an “observation cell”. Such cells are designed so that observations may be made on someone in police custody. Typically such cells have a window on one wall.

Central Scotland Police’s standard operating procedures in respect of the custody and care of prisoners places a responsibility on custody officers to assess the vulnerability of a person detained and to decide on the level of supervision/observation required. This may range from constant observation for the most vulnerable, to checks once every hour for those that present no obvious vulnerability. Prisoners who are considered to be a special risk should be the subject of checks at least every 30 minutes.

As noted above, at the time of the applicant’s detention Sergeant E recorded the applicant’s declaration that she had “suicidal thoughts at present”. He placed her in an observation cell and arranged to have her visited every 30 minutes. Later in the evening, following the examination by Doctor F, Sergeant E reassessed the applicant’s visitation schedule and changed the frequency to every 60 minutes. Examination of the custody record generally supports that position. It is therefore clear that Sergeant E took account of the applicant’s declaration when she was processed into custody and reviewed her visitation arrangements following her medical examination. Sergeant E was compliant with the standard operating procedure and, in the Commissioner’s view, his actions were reasonable and justifiable.

Complaint 5: Insufficient information provided to Doctor F

The applicant received a copy of the report concerning her examination by Doctor F. In the report Doctor F stated that there had been a very limited amount of background information available to him prior to his examination of the applicant. The applicant’s position is that the police should have provided to Doctor F more information concerning the circumstances of her arrest.

Internal Handling

Chief Inspector H clarified with Doctor F that the comment in his report related to the applicant’s previous medical history and not to the circumstances of her arrest. Doctor F did not consider the reason for the applicant’s detention to be a medical issue; he stated that his role was to examine her mental health and to establish if she was fit for release or detention. He had been provided with her vulnerability assessment and took account of the relevant issues in his examination. Doctor F was satisfied that he had sufficient information to undertake a medical assessment.

Central Scotland Police’s position on this matter was set out by Superintendent J in his letter to the applicant of 5 January 2009. In February and March 2009, the applicant sought further information from Central Scotland Police on this issue; further clarification was provided to her reaffirming the role of the Doctor F.

Consideration

The Commissioner is satisfied that the enquiry conducted by Central Scotland Police in this connection was sufficient to clarify the position of Doctor F in respect of his examination of the applicant. The purpose of the examination by a police doctor is to provide guidance in respect of the applicant's suitability to be either detained or released from custody. The Commissioner is satisfied that Doctor F was supplied with all the information he required in order to perform this function. In the Commissioner's view, Central Scotland Police has fully explained its position in respect of this complaint.

Accordingly, the Commissioner considers that this complaint was dealt within a reasonable manner. No further action is required in this connection.

Complaint 6: Alleged failure to provide medication

The applicant's position is that while in custody she was not provided with medication which she required. She also complains that there was a disparity between the time that Doctor F stated her medication was given to her and the time recorded in the custody record.

Internal Handling

Chief Inspector H established that Doctor F had prescribed medication to the applicant and observed her taking this during the course of his examination. Doctor F recorded in his examination notes that the medication was given at 8.20 pm; however, it was recorded in the custody record as having been given at 8.30 pm. This disparity was identified by Chief Inspector H in his report and was explained by the fact that there was no computer in the medical room and the fact that custody record was updated at the end of the examination. Superintendent J provided this explanation to the applicant in his letter of 5 January 2009.

In her communication to Central Scotland Police on 15 February 2009 the applicant conceded that she was given medication by Doctor F but states that it did not agree with her metabolism. She also expressed concern that the interview with Constables A and B was at the same time as the medication was given to her. In a further letter from Central Scotland Police dated 16 April 2009 the applicant was informed that there had been no evidence that the medication provided to her at the time was not adequate for her needs as assessed by Doctor F.

Consideration

The Commissioner notes that the position of the applicant on this issue has changed over time. In her statement noted on 21 November 2008 the applicant states the following:

"... according to the police records I was given a tablet at 20.30hrs. I disagree with that position as it is my position that I received no medication".

However, in her letter to Central Scotland Police dated 15 February 2009 the applicant states the following:

"Given that the initial medication provided by [Doctor F] did not agree with my metabolism ..."

The above excerpts are clearly contradictory and the Commissioner is unaware as to why the applicant's position on the matter has changed. However, the evidence that the applicant was provided with medication by Doctor F is overwhelming. The Commissioner is satisfied that the enquiry conducted by Central Scotland Police was sufficient to clarify the position in respect of the medication provided to the applicant whilst in custody and the timing of this. In the Commissioner's view, Central Scotland Police has clearly explained the matter to the applicant.

Accordingly, the Commissioner considers that this complaint was dealt with in a reasonable manner. No further action is required in this connection.

Complaint 7: Insufficient consideration given to the applicant's welfare

The applicant claims that there was no heating in the cell area and that she was not provided with sufficient blankets to keep her warm.

Internal Handling

Although this complaint was not included in the applicant's initial correspondence or in her statement she did include it in the e-mail to Chief Inspector H on 26 November 2008. His enquiry established that the applicant had been provided with four blankets while in custody, the normal allocation being two. When she requested additional blankets, she was told by Sergeant L that the cell area was warm and that she had sufficient blankets for her needs. The applicant's request and its refusal are recorded in the custody record.

Chief Inspector H concluded that in the circumstances the applicant ought to have been provided with the additional blankets she requested as this may have assisted her to settle.

In his letter of response to the applicant dated 5 January 2009 Superintendent J repeated Chief Inspector H's view and an apology was given for the refusal to provide additional blankets. In addition, Superintendent J advised the applicant that he would provide guidance to custody staff to the effect that requests such as that made by her should be given favourable consideration. Chief Inspector H also arranged for input to be given to custody staff by a mental health worker on care and welfare issues.

Consideration

It is clear that Central Scotland Police has taken this complaint seriously, has issued an apology and learned from the matter. It is regrettable that the applicant was not given extra blankets when she requested these, but Central Scotland Police has acknowledged this omission and taken steps to avoid a similar situation occurring in future. In the Commissioner's view, it is difficult to see what more Central Scotland Police could do in respect of this complaint.

The Commissioner considers that this complaint was handled in a reasonable manner and requires no further action in this connection.

Complaint 8: Medication declined by custody staff

According to the applicant, she requested additional medication while in custody as Doctor F had not given her sufficient for her needs. Her complaint is that this additional medication was refused.

Internal Handling

It was established by Chief Inspector H that the applicant's request for further medication was made to Sergeant L late in the evening of 22 January. Sergeant L had advised the applicant that Doctor F was responsible for prescribing medication and that Doctor F had considered the medication sufficient for her needs. As Doctor F's examination had been conducted less than two hours previously the applicant's request was declined. The following morning the applicant requested a doctor once again. Contact was made with the on-call police doctor. He was advised that the applicant had been examined by Doctor F the previous evening and that he had prescribed her medication which she had taken. The on-call doctor advised that the medication was slow-acting and that she would suffer no detriment if she did not receive further medication

that morning. He advised that he would not be attending to examine the applicant. The applicant was told while in custody of the outcome of the contact with the on-call doctor.

In his letter of 5 January 2009, Superintendent J acknowledged the applicant's concern but advised that the medical staff were satisfied with the level of medication she had been provided.

Consideration

In the Commissioner's view, Central Scotland Police carried out reasonable enquiries into this complaint and provided a reasonable response to the applicant. In the Commissioner's view, in the absence of any clear medical problem, it is not for the police to question the clinical judgement of the police doctor.

Accordingly the Commissioner considers that this complaint was dealt with in a reasonable manner. No further action is required in this connection.

Complaint 9: Alleged failure to send an injury report to the Procurator Fiscal

The applicant believes that Doctor F's examination report should have been forwarded to the Procurator Fiscal along with the other papers relating to her case. She later complained that the report to the Procurator Fiscal did not include any reference to her being arrested from a medical health unit or that she was undergoing an assessment for Asperger's Syndrome.

The applicant maintains that her injuries were caused by a member of staff at the medical centre who she claims jammed her in the exit door of the premises. According to the applicant, this occurred after the applicant's assault upon Doctor C while she was at the door of the medical centre. The applicant claims that she asked Doctor F to photograph her injuries; however, Doctor F has no recollection of this.

Internal Handling

Chief Inspector H established that Doctor F was asked to assess the applicant's mental health and ascertain if she was fit for either release or detention. He was not asked to conduct a forensic examination of any injuries sustained by the applicant. Although Doctor F's examination identified physical injuries, Doctor F's position was that it would not be normal practice to produce a report for the Procurator Fiscal in those circumstances.

The circumstances of the assault were reported to the Procurator Fiscal in the police report. As the injury sustained by the applicant did not relate directly to the charge against her, Doctor F's examination report was not forwarded at that time. In August 2008 the Procurator Fiscal requested Doctor F's examination report from the police. It would appear that this followed contact between the applicant, or her solicitor, and the Procurator Fiscal. The request was passed to Doctor F who completed the report and passed it to the Procurator Fiscal around 25 August 2008. This information was conveyed to the applicant by Superintendent J in his letter of 5 January 2009.

In her letter dated 10 March 2009 the applicant asked why Constables A and B did not put details of her injuries in their written report and on to the police computer system. In the response from Superintendent J dated 16 April 2009 the applicant was advised that on being processed into custody she had been asked if she was suffering from any injury but had refused to answer. Superintendent J also advised that where injuries were relevant to the charge against an individual details of those would be included in the report to the Procurator Fiscal.

In her e-mail to Central Scotland Police dated 31 December 2009 the applicant complained that Superintendent J "never mentioned in any formal document that Doctor F's report was supposed to go with the Police statement and record to the Procurator Fiscal". In his response of 25 January 2010 the Deputy Chief Constable referred the applicant to the note of the meeting of 16 June 2009

which had previously been sent to her. At that meeting a discussion concerning the examination report had taken place and an explanation had been provided to the applicant. The discussion related to information provided to the applicant by a police sergeant indicating that police reports to the Procurator Fiscal should include details of injuries. Superintendent J had clarified the position by advising that the advice provided was general in nature and related to injuries sustained by victims.

Consideration

It is clear that the applicant's injury was sustained by her after her assault upon Doctor C. Accordingly, the injury did not have any direct bearing upon the charge which she faced. In the Commissioner's view, there was therefore no reason why details of the applicant's alleged injuries should have been transmitted to the Procurator Fiscal. In any event, as noted above the report was in fact supplied to the Procurator Fiscal at a later stage.

In the Commissioner's view, this complaint was handled in a reasonable manner. No further action is required in this connection.

The applicant's complaint regarding alleged omissions from the police report does not appear to have been communicated by her to Central Scotland Police. However, the Commissioner has examined the report sent to the Procurator Fiscal which clearly contains background information regarding the applicant's attendance at the medical centre in connection with a mental health assessment. While there was no specific reference in the report to Asperger's Syndrome, the Commissioner is satisfied that it contained sufficient information to allow the Procurator Fiscal to understand the circumstances.

Complaint 10: The photographing of injuries

The applicant complains that Doctor F refused to have her injuries photographed.

Internal Handling

The enquiry conducted by Chief Inspector H established that Doctor F noted bruising on the applicant's right arm. However, Doctor F's position was that his examination was not for the purpose of forensic examination, which would have required the presence of a police officer. In Doctor F's view, any requirement for a photograph was a matter for the police. The examination was, in Doctor F's view, only for the purpose of ascertaining the applicant's fitness to be released or detained. This was explained to the applicant by Superintendent J in his letter to her of 5 January 2009.

The applicant raised this matter again in her letter to Central Scotland Police dated 10 March 2009. On this occasion she asked why there was a difference between the injuries recorded by Doctor F and those photographed by her husband on being released from custody. In the letter of response, the original explanation was restated. Furthermore, it was explained to the applicant that any difference did not materially affect her care whilst in custody, nor was it significant in respect of the information forwarded to the Procurator Fiscal.

Consideration

Based on the information available at the time of the applicant's detention, the Commissioner is satisfied that there was no reason to believe that her injury was directly related to the of the allegation made against her by Doctor F. In the applicant's own correspondence she makes it clear that her injury was sustained at the door of the medical centre after the assault upon Doctor F. Accordingly, bearing in mind the reason the applicant was in custody, there would have been no requirement for the police to take photographs of her injuries.

In the Commissioner's view, this complaint was handled in a reasonable manner. Accordingly, no further action is required.

Complaint 11: The absence of any pressing of charges

In the applicant's statement noted by Chief Inspector H she suggests that she was subject to police procedures despite neither the hospital nor Doctor C pressing any charges.

Internal Handling

Having obtained statements from relevant witnesses Chief Inspector H examined the circumstances surrounding the applicant's detention. He noted that an allegation had been made about her conduct by independent witnesses at the medical centre. The circumstances were investigated by the attending police officers and there was a sufficiency of evidence to report the circumstances to the Procurator Fiscal.

This explanation was provided to the applicant by Superintendent J in his letter dated 5 January 2009.

Consideration

Chief Inspector H established clearly the circumstances of the applicant's detention and subsequent arrest from the officers who detained her. The decision to detain, arrest and subsequently report the applicant to the Procurator Fiscal was based on the evidence presented to the police by the staff at the medical centre. Once the matter was reported to the Procurator Fiscal it was a matter for him/her to decide whether the applicant should be prosecuted. It is important to emphasise that the applicant was subsequently convicted of assaulting Doctor C.

In the Commissioner's view, this complaint was handled in a reasonable manner. No further action is required in this connection.

Complaint 12: Alleged contradictory information

This matter was raised by the applicant in her letter to Central Scotland Police dated 15 February 2009. In her letter the applicant stated that the details of the police records obtained by her under the Data Protection legislation contradicted the outcome of the police investigation. However, she did not specify what these alleged differences were.

Internal Handling

In his letter dated 16 April 2009 Superintendent J advised the applicant that the response she had received from Central Scotland Police under the Data Protection legislation was based on the same information used by the force to respond to her complaint. The matter was discussed further at a meeting between Superintendent J and the applicant on 16 June 2009. The applicant stated at that meeting that there were differences between Superintendent J's letter of 5 January 2009 and the information she had received under the Data Protection legislation regarding the timings of her detention and arrival at the police office.

In the Deputy Chief Constable's letter to the applicant of 21 December 2009 the timings of her detention and arrival at the police office were clarified. The timings were taken from the custody record, the same custody record provided to the applicant by the force under the Data Protection legislation.

Consideration

Examination of Superintendent J's letter of 5 January 2009 reveals that there are inconsistencies in the timings provided. On page 11 of the letter the time of detention is stated (correctly) as "15:00hrs". On page 12, however, the time of detention is given as "15:50hrs". As the relevant paragraphs relate to the same subject it would appear that this was simply a typographical error. The letter to the applicant on 21 December 2009 clarifies the timings but it does not acknowledge that there was a mistake within Superintendent J's correspondence.

In the Commissioner's view, the timings of the applicant's detention have been clarified to her and the error in Superintendent J's letter is clearly a minor typographical one. In these circumstances the Commissioner considers that this complaint was handled in a reasonable manner. Accordingly, no further action is required in this connection.

Complaint 13: Alleged failure to allow the applicant's husband to visit her

This complaint was raised by the applicant in her letter to Central Scotland Police dated 10 March 2009. The applicant's husband had attended at the police office having been informed of her detention by the custody officer. However, he was denied the opportunity to visit the applicant and he felt that such a visit would have been beneficial to her health during her time in custody.

Internal Handling

In his letter of 16 April 2009 Superintendent J acknowledged that the presence of the applicant's husband at one of their meetings had been beneficial. Superintendent J was confident that had the applicant's husband been allowed to visit her while in custody, it would have helped her to better understand what was happening. Superintendent J offered the applicant an apology in this connection. He also advised that the officer in charge of the Custody Unit had been informed of the circumstances so that the benefits of permitting such visits could be made known to all relevant staff.

Consideration

In terms of Central Scotland Police's standard operating procedure on the care and welfare of prisoners, any refusal of a request to visit a prisoner must be recorded in the custody record along with the reasons for the decision. However, neither was recorded in the custody record relating to the applicant's detention.

Although permitting the applicant's husband to visit her may well have been appropriate in the present case, the Commissioner acknowledges that there may be circumstances in which allowing such a visit might not be appropriate. In the Commissioner's view, much will depend on the circumstances of each case.

Central Scotland Police accepts that the applicant's husband ought to have been allowed to visit her and has offered an apology for the fact that he was not. In the Commissioner's view, that was a reasonable response in the circumstances. Accordingly the Commissioner is satisfied that this aspect of her complaint was dealt with reasonably and no further action is required.

The applicant has also complained to the Commissioner's office that she was not provided with a change of clothing while in custody, and that her husband was not advised to bring her a change of clothing. Although this complaint has not been communicated by the applicant to Central Scotland Police, for the sake of completeness the Commissioner has set out his views on the matter.

Central Scotland Police's standard operating procedures on the custody and care of prisoners does not place a requirement on staff to offer a change of clothing to prisoners where no specific request has been made. According to the procedures, where such a request is made it should be

considered by the duty sergeant. The request should be recorded in the custody record together with the duty sergeant's decision on the matter. The custody record was examined during the course of the Commissioner's review and there is no record of any request by the applicant for a change of clothing. This contrasts with several other requests she made which have been recorded in the custody record. Furthermore, there is no suggestion by the applicant that she made such a request and that it was refused.

Accordingly, there is no evidence that the applicant asked officers for a change of clothes while in custody and there is no obligation upon Central Scotland Police to provide one where no such request has been made.

Complaint 14: Contact with Central Scotland Racial Equality Council

While detained in custody the applicant asked that a named individual from the Central Scotland Racial Equality Council ("the Equality Council") be informed of her detention. A message was left on the answering machine of the individual concerned at approximately 11:42 pm but the applicant believes that he should have been contacted earlier.

Internal Handling

Superintendent J examined the custody record and established that a message had been left on the answering machine of the individual concerned, at the time stated above. A note had been placed in the custody record stating that an attempt had been made to contact the individual earlier but that his office was closed. Superintendent J was also aware that the applicant had received a copy of the custody record and was therefore aware of the entries it contained.

Consideration

The Commissioner notes that the entries in the custody record are clear in so far as they record the contact with the named individual. What is not clear, however, is the time that the applicant requested that contact be made with this person. The only other entry that makes reference to the Equality Council is timed at 11:14 pm when the applicant informed the custody officer that she was on very good terms with them and that they "always sort out problems she has". It is, however, doubtful that this is the earlier time that the applicant believes the Equality Council should have been contacted as it was only a short time before the call timed at 11:42 pm. The Commissioner cannot, therefore, form a view with regard to any delay in trying to make the requested contact.

In so far as the legal requirement is concerned, the Commissioner considers that Central Scotland Police was compliant with the terms of sections 15 and 17 of the Criminal Procedure (Scotland) Act 1995. In particular, the Commissioner notes that on reception into custody the applicant was offered the opportunity to have notification of her detention sent to a solicitor and to one other person reasonably named by her. At that time she declined the notification to a solicitor but asked that her husband be contacted. The police complied with this request.

When the applicant's status changed to that of an arrested person, at 8.48 pm, the applicant was again offered the opportunity to have a solicitor and one other person informed of her status. The applicant asked that her husband be informed and again this was complied with. She declined the offer to have a solicitor informed.

The applicant has also complained to the Commissioner's office that she requested a solicitor during the course of her interview with Constables A and B; however, this complaint has not been communicated by her to Central Scotland Police. Again, in the interests of dealing with the applicant's complaints comprehensively, the Commissioner has set out his views on this issue.

It is worth highlighting again that the applicant declined the offer to have a solicitor informed when her status changed to that of an arrested person. As this offer was made shortly after her interview

was concluded the Commissioner would have expected the applicant to have raised any concerns at that point. In the circumstances, the Commissioner considers that there is no substance to this complaint.

In the latter stages of the Commissioner's review the applicant complained that Central Scotland Police had failed to contact her MSP, her MP and her local councillor despite her requests for them to do so. There is no record in the papers submitted to the Commissioner's office of the applicant having raised this complaint with Central Scotland Police. The applicant claims that she communicated this complaint to Superintendent J but that it was never addressed by Central Scotland Police.

Examination of the applicant's custody record reveals that there is an entry timed at 1:49 am on 23 January 2008 to the effect that she would be "making a report to her MP and to [Equality Council]". This was not, however, recorded as a request but rather an indication of the applicant's future intention. In the Commissioner's view, given that the applicant's other requests to have individuals contacted were recorded in the custody record, it would be surprising if any requests for other persons to be contacted were not similarly recorded.

In any event, as explained above, Central Scotland Police complied with the legal requirement in so far as notification of the applicant's detention to third parties.

Complaint 15: Delay in being dealt with at a police office

On 1 October 2008 the applicant called at Police Office X to speak to a senior officer. She claims that she was kept waiting for one hour without any explanation being offered for the delay. She also complained that on 3 October 2008 Inspector G refused to facilitate contact between her and the police doctor so that she could discuss his examination of her while in custody.

Internal Handling

Chief Inspector H established that the applicant had attended at the police office on 1 October 2008, unannounced, and that the senior officer on duty, Inspector G, was busy with other matters at the time of her visit. Chief Inspector H identified that the issue was not that the applicant was required to wait but that she was not given an explanation for the delay in the officer speaking to her.

Chief Inspector H learned that when the applicant called the police office on 3 October 2008 requesting Doctor F's contact details the request was refused by Inspector G. Inspector G's basis for doing so was that it was not the policy of Central Scotland Police to provide such details. Chief Inspector H concluded that Inspector G could have provided a better service to the applicant by offering to facilitate contact between her and Doctor F.

In his letter to the applicant of 5 January 2009 Superintendent J apologised to her in respect of both these complaints. Superintendent J also informed the applicant the officer concerned had had the failures drawn to his attention and that advice had been given to reception staff regarding expected service standards.

Consideration

In the Commissioner's view, by apologising to the applicant and seeking to learn from the complaints, Central Scotland Police dealt with this complaint in a reasonable manner. No further action is required in this connection.

Conclusions, Recommendations and Learning

Complaints 1 - 15

In the Commissioner's view, the manner in which these complaints were dealt with by Central Scotland Police was reasonable. Accordingly no further action is required in this connection.

Background

Following receipt of Central Scotland Police's letter of 5 January 2009 responding to the complaints dealt with in this report under reference PCCS/00371/PF-CSP (A), on 10 January 2009 the applicant raised further complaints about Chief Inspector H's handling of the investigation. Superintendent J was appointed to investigate these complaints.

A report was compiled and a letter of response sent to the applicant dated 21 April 2009. The applicant raised a number of concerns regarding this response and there followed a further exchange of correspondence. Superintendents J and Q thereafter met with the applicant on 16 June 2009. A minute of this meeting was taken and a number of action points were agreed.

On 22 June 2009 the applicant sent an email to Central Scotland Police seeking additional explanations in relation to her complaints. In general she focussed on aspects of the discussion which had taken place at the meeting of 16 June 2009. On 9 July 2009 the Deputy Chief Constable wrote to the applicant explaining matters further and enclosing a copy of the minute of the meeting of 16 June 2009. The Deputy Chief Constable explained that there were a number of outstanding actions from the meeting and that Superintendent J would deal with these, following which the Deputy Chief Constable would write to the applicant again.

On 21 July 2009 the applicant sent an e-mail to Central Scotland Police seeking clarification of a number of points detailed in the Deputy Chief Constable's letter to her of 9 July 2009. A response was sent to her on 22 July 2009 and the Deputy Chief Constable estimated that he would be in a position to respond to the outstanding points within two weeks. In the interim period Chief Inspector R, an officer in the area in which the applicant lived, was appointed as the single point of contact for the applicant within the force.

The applicant asked Central Scotland Police on numerous occasions when she was likely to receive the Deputy Chief Constable's response. In the event, this response was not sent to her until 21 December 2009.

On 31 December, following receipt of the letter of response, the applicant complained about Superintendent J's handling of her complaints. The Deputy Chief Constable requested a report on the matter and thereafter wrote to the applicant in response.

The Complaints

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

- (1) the length and frequency of meetings with Central Scotland Police;
- (2) that Chief Inspector H twisted the facts and tried to put words in the applicant's mouth;
- (3) that Chief Inspector H was rude and seemed uninterested during meetings with the applicant;
- (4) that the applicant was not offered the services of an "appropriate adult" when detained and also when later interviewed about her complaint;
- (5) that the investigations conducted by Chief Inspector H and Superintendent J were unnecessarily late in concluding;
- (6) that Superintendent J did not take the applicant's complaint seriously;

(7) that Superintendents J and Q did not mention that Doctor F had indicated that she could have been released into the care of her husband; and

(8) that Superintendent J did not inform the applicant that he had been invited to an NHS meeting.

The Commissioner's Review

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

Complaint 1: The length and frequency of meetings

This complaint was first made by the applicant in her email to Central Scotland Police of 10 January 2009. Her position was that the two meetings with Chief Inspector H took too long and that no statement was taken from her at the first meeting.

In her letter to Central Scotland Police on 31 December 2009 the applicant also complained that Superintendent J had too many meetings with her.

Internal Handling

On 13 January 2009, the Deputy Chief Constable informed the applicant that he had appointed Superintendent J to carry out an enquiry into the complaint about Chief Inspector H. The allocation of the enquiry to Superintendent J took account of his knowledge of the applicant's original complaints.

On 9 February 2009, Superintendent J met with the applicant to discuss her complaints. He arranged for an interpreter and an appropriate adult to be present at this meeting. Following the meeting Superintendent J made arrangements to obtain statements from all the relevant witnesses, both police officers and civilians. A statement was obtained from the applicant at a second meeting which took place on 20 March 2009.

Superintendent J established that Chief Inspector H had met the applicant on 13 and 21 November 2008.

Superintendent J concluded that the meetings between Chief Inspector H and the applicant were lengthy as they needed to cover all aspects of the applicant's complaints. No issues concerning the length of the meetings were highlighted at the time by anyone present, including the applicant's friends and the interpreter. Superintendent J did recognise that the applicant's health may have had a bearing on her ability to remain calm and focussed and offered his opinion that she had a tendency to cover a wide range of issues at meetings, sometimes wandering off the point a little. As a consequence the meetings could be lengthy. This explanation was provided to the applicant by Superintendent J in his letter dated 21 April 2009.

So far as the subsequent complaint made about Superintendent J is concerned, the Deputy Chief Constable examined the circumstances of his meetings with the applicant. He concluded that the meetings were not unduly lengthy given the number of issues that required to be discussed. In his response to the applicant the Deputy Chief Constable told her that Superintendent J had arranged refreshments and ensured that comfort breaks were taken. In addition, an interpreter and an appropriate adult were present at the meetings and no concerns had been expressed at the time.

Consideration

The Commissioner notes that, In November 2008 following her meetings with him, the applicant sent two complimentary e-mails to Chief Inspector H. In the e-mail dated 24 November she wrote:

“May I begin by saying how impressed I was with your efficiency; we only met in your office on Thursday 13th November 2008 and then we were meeting again on Friday 21st November. This was very impressive...”

In the same e-mail the applicant is also complimentary about Chief Inspector H’s handling of the her substantive complaints (although she does seek clarification of a number of issues).

In her email to Chief Inspector H of 26 November 2008, the applicant stated:

“It has been an honour to have you investigate my complaints... I appreciate you spent so many hours to listen to me and read most papers I provided....”

These emails indicate that the applicant had no concerns with the length of her meetings with Chief Inspector H at the time. It is not clear when or why the applicant changed her position in this regard but the emails highlight significant inconsistency in her thinking about those meetings.

In the Commissioner’s view, the meetings with the applicant and Chief Inspector H were no doubt designed to obtain the necessary information from her in respect of a very large number of complaints. The applicant herself initially appreciated the time taken to listen and read the paperwork she supplied and, in common with the other individuals in attendance, raised no concern at the time regarding the length or frequency of the meetings.

The Commissioner is also satisfied that the arrangements for the applicant’s meetings with Superintendent J were reasonable and took account of all the relevant circumstances.

In these circumstances, the Commissioner considers that this complaint was handled in a reasonable manner. Accordingly, no further action is required in this connection.

Complaint 2: Alleged manipulation of the facts

Internal Handling

The overall handling of this complaint is the same as detailed in complaint 1 above. Chief Inspector H’s position is that he simply interviewed the applicant and noted her concerns as accurately as he could.

During his enquiry, Superintendent J took account of the evidence available from both the police and civilian witnesses who had been present at both meetings.

When providing comment in relation to this allegation the police officers present, one at each of the two meetings, considered Chief Inspector H to have acted professionally and to have been patient with the applicant. One of the independent witnesses considered Chief Inspector H to have been “very nice” and had not seen anything wrong. The other witness described the meeting as “fairly conducted” but she did express some concern about the applicants inability to focus on her complaints. This witness believed that someone should have been present at the meeting to act as the applicant’s advocate.

Superintendent J also considered the complimentary comments which the applicant had made about Chief Inspector H at the time (detailed under complaint 1 above) and concluded that they did

not support the complaint. Superintendent J's conclusions were communicated to the applicant in his letter to her dated 21 April 2009.

Consideration

In her communications with Central Scotland Police the applicant does not state exactly why she believes Chief Inspector H "twisted" facts and placed words "in her mouth". Generally it appears that her concern is that Chief Inspector H recorded her complaints having interpreted what she actually said into his own words. It is not possible to determine how Chief Inspector H may have misinterpreted the applicant's complaints as she does not make this clear. By way of observation, however, the applicant's complaints are reasonably well articulated and it appears that her complaints are now clearly established.

The obtaining of the evidence from all the people present at the meeting was clearly helpful. Additionally, the e-mails sent from the applicant to Chief Inspector H indicate that she was content with his involvement at that time. At that stage, however, the result of his investigation was not known to her and she may have changed her position following this being made known to her.

The applicant has communicated on numerous occasions with Central Scotland Police and her complaints have been discussed with her many times. Based on the material available to him, the Commissioner considers that there is no evidence that Chief Inspector H misinterpreted the applicant's complaints, intentionally or otherwise. On the contrary there is ample evidence that he endeavoured to find out exactly what her concerns were at every opportunity.

In the Commissioner's view, Central Scotland Police dealt with this complaint reasonably. Accordingly, no further action is required in this connection.

Complaint 3: Alleged rudeness and disinterest

The applicant claims that Chief Inspector H refused to shake her hand and deliberately created a more hostile environment because she was complaining about the police. She also complains that on one occasion he raised his voice during the course of a telephone call.

Internal Handling

The overall handling of this complaint is examined under complaints 1 and 2 above. Superintendent J referred to Chief Inspector H's statement in which he stated that he has no recollection of the applicant offering to shake his hand. According to Chief Inspector H, had she done so he would have shaken her hand willingly. No other witnesses mention this matter in their statements.

In his letter to the applicant dated 21 April 2009, Superintendent J explained that there was no evidence to support this complaint and that it was considered by Chief Inspector H to be a misunderstanding on her part.

In relation to Chief Inspector H allegedly raising his voice, Superintendent J established that Chief Inspector H spoke to the applicant on the telephone on 5 December 2008 following receipt of an e-mail from her. The call concerned the anticipated conclusion of Chief Inspector H's investigation and when he told her that he would not meet the original time frame the applicant became upset. A lengthy discussion took place and Chief Inspector H's position is that he had to raise his voice simply to be heard as the applicant was talking over him.

In his letter of 21 April 2009, Superintendent J reminded the applicant her that on the two occasions he met her he had to raise his own voice as she had a habit of not allowing people to speak when trying to converse with her. Superintendent J pointed out that the applicant had not

taken offence at this when he did so. He concluded by saying that Chief Inspector H had no wish to offend the applicant but that he was sorry if she was offended.

Consideration

The Commissioner has reviewed the statements provided by all the parties present at the meetings between the applicant and Chief Inspector H. None of those present provide support for the position given by the applicant. As noted above, those present were complimentary about the way Chief Inspector H conducted the meetings. Additionally the e-mails from the applicant to Chief Inspector H, as identified in complaint 1 above, present a completely different picture of her thoughts about him in respect of the meetings.

There is clearly difference of opinion on this matter between the applicant and Chief Inspector H and from the information available that cannot now be resolved. Superintendent J advised the applicant that Chief Inspector H had not intended to offend her and offered an apology if she had been offended. In the circumstances that was a reasonable response.

Accordingly the Commissioner is satisfied that this complaint was dealt with reasonably and no further action is required.

Complaint 4: The appointment of an appropriate adult

The applicant complained that Inspector K did not allow officers to obtain the services of an appropriate adult when she was detained. She also complained that an appropriate adult was not present at her examination by the Doctor F. She later complained that an appropriate adult was not present at her interview with Chief Inspector H.

Internal Handling

The complaint concerning an appropriate adult not being appointed during her period of detention was made in the applicant's letters of 15 February and 10 March 2009. It was not therefore considered by Chief Inspector H during his investigation of the applicant's original complaints.

Superintendent J established that at the time of her detention the applicant was not offered the services of an appropriate adult. According to Doctor F he had a detailed conversation with the applicant about her medical history. Doctor F claims not to have experienced any difficulty in communicating with the applicant and did not consider that there was a need for an appropriate adult. Inspector K was informed of the result of the medical examination and did not consider the services of either an interpreter or an appropriate adult to be necessary.

When Superintendent J met the applicant he arranged for an interpreter and an appropriate adult to be present on both occasions. In the statement he provided to Superintendent J, Chief Inspector H said that he arranged for an interpreter due to communication issues as the applicant had made the lack of an interpreter part of her original complaint. At that time the applicant made no mention of an appropriate adult.

In his letter of response dated 16 April 2009 Superintendent J acknowledged that it was often difficult to determine the vulnerability of an individual, particularly where they might be suffering from a mental illness. To address this issue "alert cards" had been issued by managers of Assessment, Residential and Day Care Services to persons they considered to be vulnerable. The intention behind this was that the card would be produced by the person concerned whenever they engaged with the police. Production of the card would be the catalyst for ensuring that an appropriate adult was contacted by the Force Communication and Control Centre. Since raising her complaint the applicant has been issued with such a card.

In his letter of 21 April 2009 Superintendent J made reference to his own meetings with the applicant at which an appropriate adult had been present. Superintendent J expressed regret that Chief Inspector H had not made similar arrangements and apologised for this failure.

Consideration

The applicant's concern is that she was unaware of the appropriate adult scheme and that, had been she been, she would have specifically asked for one to be appointed.

It is clear that, from the perspective of the officers involved in her detention, the applicant appeared to understand the questions put to her at interview. Furthermore, there is no indication that she did not understand her responses to those questions. Chief Inspector H was aware of this background at the time of his meetings with the applicant.

The essential question is whether, at the time of her detention/arrest, the applicant should have been categorised as a vulnerable adult in terms of Central Scotland Police's Appropriate Adult Policy and Procedure. According to this policy and procedure, an appropriate adult should be obtained where a person, who is either a witness or a suspect, is considered to be "vulnerable". The term "vulnerable" is defined within the policy as:

"... someone who is aged 16 years or over and is mentally incapable of understanding the significance of Police questions or of their replies / statements."

The officers dealing with the applicant made an assessment of her vulnerability which took account of the opinion of both Doctors C and F, together with their own impression of how she communicated with them. Their firm view was that she did not fit the category of a person requiring the services of an appropriate adult. It is encouraging that Superintendent J took a wider interpretation of the definition when deciding to appoint an appropriate adult for the meetings he had with her. In the Commissioner's view, however, bearing in mind the fairly restrictive definition of "vulnerable" quoted above, the assessment made by the officers involved in the applicant's detention was reasonable.

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

However, it is important to highlight that that in February 2010 the Commissioner published a complaint handling review in a separate case (reference PCCS/00296/PF-CSP) in which he considered the suitability of the definition of "vulnerable" used by Central Scotland Police. In that case the Commissioner recommended that Central Scotland Police review its policy and procedures relating to appropriate adults in light of guidance published by the Scottish Government on this subject in 2007. This guidance was prepared by the Scottish Appropriate Adult Network, a body made up of representatives of the Scottish Government, local authorities and ACPOS. The purpose of the guidance is to provide a framework in which each appropriate adult service across the country can operate, without dictating systems or procedures at a local level.

The Commissioner's recommendation in that case is equally applicable to the present case. Central Scotland Police has since informed the Commissioner that they are currently reviewing their policy in this area. The Commissioner will be provided with an update at the conclusion of that review.

Complaint 5: Delay in investigation

The applicant alleges that Chief Inspector H and Superintendent J deliberately delayed the submission of their reports. According to her, this was to ensure that the original report was not available in time for her appeal against conviction. The applicant has also alleged that Superintendent J suppressed the applicant's complaints by taking too long to deal with them.

Internal Handling

This complaint was not raised by the applicant until her letter to Central Scotland Police of 31 December 2009. On receipt of the letter, the Deputy Chief Constable arranged for a review of all the circumstances. During that review it was established that Chief Inspector H had intended to complete his original investigation by 17 December 2008, the date given in the original letter to the applicant. He met with the applicant on two occasions and examined a number of additional complaints received from the applicant after her initial meeting. On 8 December 2008 Chief Inspector H wrote to the applicant advising that he would not meet the original target but that his report would be submitted to Superintendent J by 31 December 2008. The applicant was advised in that letter that Superintendent J would consider the report and respond to the applicant.

In his letter to the applicant of 25 January 2010 the Deputy Chief Constable advised the applicant that Central Scotland Police was unaware of the applicant's intention to lodge an appeal and that in any case this was not connected with the complaints process.

The Deputy Chief Constable reminded the applicant that he had apologised to her in his letter dated 21 December 2009 in respect of the delay in the completion Superintendent J's enquiries.

Consideration

Central Scotland Police's standard operating procedures dealing with non-criminal complaints state that, so far as practicable, complaints should be concluded within 8 weeks. As noted above, in the present case the applicant was advised that the target date for completion was 17 December 2008. However, due to the volume of information to be considered, Chief Inspector H realised that he would not meet that time frame and advised the applicant accordingly. In the Commissioner's view, this was an entirely reasonable approach in the circumstances. There is no evidence that Chief Inspector H deliberately delayed the enquiry or the submission of the original report.

The subsequent report compiled by Superintendent J was not submitted until well after the 8 week time frame. His letter of response to the applicant was sent on 21 April 2009, over 3 months after the complaints were lodged. During the course of the complaint process the applicant continued to engage with Superintendent J and sent numerous e-mails to him. This inevitably prolonged the consideration of the applicant's complaints. No evidence has been presented to the Commissioner that this delay was deliberate or intended to suppress the applicant's complaints. While the delay was no doubt disappointing to the applicant, she herself must take some responsibility for the length of time it took to deal with her complaints. It is clear that a considerable amount of time was spent dealing with the matters she had raised.

The issues that remained outstanding from the meeting in June 2009 were also not dealt with timeously. On 22 July 2009 the Deputy Chief Constable informed the applicant that he anticipated responding to the outstanding complaints in two weeks. Between 11 September and 10 December 2009 the applicant corresponded with Central Scotland Police on six occasions asking when she would receive the response. On two occasions she received a response from Chief Inspector R explaining that Superintendent J would be dealing with the outstanding issues. However, the final response was not sent by the Deputy Chief Constable until 21 December 2009.

In his letter the Deputy Chief Constable's apologised for the delay, explaining that the outstanding reply had not been prioritised in the manner that he would have expected. He also informed the applicant that Superintendent J had taken two periods of annual leave since his meeting with her in June 2009. The Deputy Chief Constable added that he had made Superintendent J aware of his expectations and that the latter offered his personal apology.

In the Commissioner's view, the delay in dealing with these outstanding matters was unfortunate, particularly as in July 2009 the applicant was informed that she would receive a response within two weeks. However, Central Scotland Police sought to explain the delay and apologised to the

applicant for this. In the Commissioner's view, this represents a reasonable approach to the matter and he requires nothing further of Central Scotland Police in this connection.

Complaint 6: Alleged failure to take the complaints seriously

This complaint was made by the applicant in her e-mail to Central Scotland Police on 31 December 2009. The email did not provide any detail to justify the applicant's allegation.

Internal Handling

The Deputy Chief Constable considered this complaint to be a general one concerning the investigation of the various complaints. In his response to the applicant dated 25 January 2010, the Deputy Chief Constable explained that Superintendent J had spent a considerable amount of time investigating her complaints. He had examined all relevant correspondence and had provided the applicant with a number of lengthy and considered responses. The Deputy Chief Constable considered that the applicant's complaints had been taken seriously.

Consideration

There is ample evidence that the issues raised by the applicant over the course of her complaints have been taken seriously. Substantial enquiries have been undertaken and the applicant has been provided with a number of detailed responses. Unfortunately, she accepts very little of the explanations she has been offered.

In the Commissioner's view, this complaint was dealt with in a reasonable manner. Accordingly, no further action is required in this connection.

Complaint 7: Alleged failure to release the applicant from custody

The applicant believes that Superintendents J and Q should have informed her that, according to Doctor F's report, she could have been released into her husband's care prior to her court appearance.

The applicant made a similar complaint to the Commissioner's office in October 2009 in which she alleged that Constables A and B failed to release her into her husband's care. However, she has not made this complaint to Central Scotland Police

Internal Handling

The applicant's complaints about Superintendents J and Q were made in her e-mail to Central Scotland Police of 31 December 2009. The Deputy Chief Constable examined the circumstances and responded to the applicant by letter of 25 January 2010. He informed her that she had been apprehended for an alleged assault, aggravated by the status of the victim (a doctor who worked at a day hospital). The Deputy Chief Constable explained that, in keeping with an offence under the Emergency Workers (Scotland) Act 2005, she was held in custody. The Deputy Chief Constable acknowledged that Doctor F's report stated that she was fit to be released or detained, but he stressed that the decision whether or not to release her was one for the police. The Deputy Chief Constable also highlighted that Doctor F's report made no reference to the applicant being released into her husband's care.

Consideration

Following the applicant's arrest Inspector K considered the circumstances of the alleged offence and the purpose of section 5(1) of the Emergency Workers (Scotland) Act 2005 ("the 2005 Act"). He concluded that the legislation was introduced to protect emergency workers in the course of their duty. Inspector K also stated that, in view of the publicity concerning the introduction of the

legislation, he considered that the applicant's detention was within the spirit of the Act. He also believed that to release the applicant would not have provided the appropriate support and protection to emergency workers. He therefore decided that the applicant should be detained in custody until her appearance in court the following day. The custody record was updated at 9:26 pm to that effect.

In the Commissioner's view, decisions by the police as to whether or not to release a suspect are often difficult exercises of discretion which require the consideration of a wide range of factors. In general, the Commissioner will not seek to challenge such a decision unless, based on all the information available to the decision-maker at the time, the Commissioner considers it unreasonable. In the present case, the Commissioner does not believe Inspector K's decision to fall into that category. The applicant was charged with an assault upon an individual whom the 2005 Act was devised specifically to protect. According to the evidence, she became hysterical when approached by the police and upon her arrival at the police office made it known that she had suicidal thoughts. Taking all these circumstances into account, the Commissioner does not consider that the applicant's continued detention in custody was unreasonable.

With regard to the applicant's complaint about Constables A and B, as explained above this has not been made by her to Central Scotland Police. Nevertheless, the Commissioner would observe that the decision to keep the applicant in custody was made by Inspector K, not Constables A and B. Accordingly, the Commissioner does not consider there to be any substance to this particular complaint.

Complaint 8: NHS meeting

The applicant believes that Superintendent J should have told her that he had been invited to a meeting with NHS staff in May 2009.

Internal Handling

The Deputy Chief Constable established that Superintendent J had been invited to a meeting in his capacity as Area Commander and as a senior representative of a service provider to the applicant. However, according to the Deputy Chief Constable Superintendent J did not in fact attend the meeting. In his response to the applicant, the Deputy Chief Constable outlined these circumstances, adding that the meeting remained a matter for the NHS.

Consideration

The Commissioner is not aware of the purpose of the meeting to which Superintendent J was invited. Furthermore, the applicant has not explained why she believes she should have been informed of this invitation. However, based on the available information, the Commissioner is satisfied that the Deputy Chief Constable established the facts and communicated them effectively to the applicant.

In the Commissioner's view, this complaint was handled in a reasonable manner. Accordingly no further action is required.

Conclusions

Complaints 1 - 8

In the Commissioner's view, the manner in which these complaints were dealt with by Central Scotland Police was reasonable. Accordingly the Commissioner requires no further action by Central Scotland Police.

Background

According to the applicant, on 26 December 2008 while she was a patient at a local hospital, she witnessed illegal drug taking by a fellow patient in the presence of hospital staff. Later that day the applicant telephoned Central Scotland Police seeking advice about the legality of smoking drugs in hospital although she did not identify the actual location of the alleged offence. Central Scotland Police provided the advice as requested.

On 27 December 2008 the applicant contacted the police again by telephone and on this occasion registered a complaint about the alleged illegal drug taking. On the same day she attended personally at a police office complaining that staff at the hospital allowed patients to smoke illegal drugs. On this occasion she was advised to make a formal complaint to the NHS. No arrangement was made to note a statement from the applicant regarding her allegation.

Shortly after her attendance at the police office, an officer telephoned her to discuss her allegation. The applicant was unable to take the call at that time and asked the officer to call back. Later that afternoon the applicant telephoned the police again complaining that the officer concerned had not called her back. She also expressed concern at how her allegation about drug taking had been dealt with. The applicant called the police office again that afternoon which culminated in a further call to her from an officer seeking additional information about her allegation.

The applicant later lodged a formal complaint about this matter with Central Scotland Police. During the course of her contact with the police in relation to other matters she expressed concern at the length of time it took the police to report the circumstances of the incident to the Procurator Fiscal.

The Complaint

Based on the contents of the correspondence received from the applicant, and the information obtained from Central Scotland Police the Commissioner has identified a single complaint, namely that the applicant's report of alleged drug taking at a local hospital took too long to investigate and was not dealt with properly.

The applicant believes that her complaint was initially not taken seriously by the police. She also formed the view that the police should not have allowed staff at the hospital to deal with the complaint themselves and should have investigated the matter independently. In addition she believes that Superintendent J should not have taken the report of the incident personally to the Procurator Fiscal: she considers that this can "complicate and pollute the audit trail of who receives what documents and when".

Internal Handling

Inspector M was appointed to conduct enquiry into the complaint and noted a statement from the applicant on 20 January 2009. Inspector M obtained details of the contact between the applicant and Central Scotland Police and concluded that there were deficiencies in the service provided. Specifically she found that there were two opportunities to engage with the applicant and obtain a statement from her in relation to her allegation, and that neither had been taken by the officers concerned.

Superintendent N wrote to the applicant on 23 February 2009 and offered an apology for the identified failures. He also advised that the officers concerned had been provided with corrective advice. Superintendent N added that the allegation of drug taking at the hospital was being investigated separately.

On receipt of the applicant's complaint Superintendent N advised Superintendent J, the operational commander for the area concerned, that the criminal allegation required to be investigated. The enquiry was allocated to Detective Constable P who noted a statement from the applicant on 6 January 2009. He then conducted enquiry at the hospital concerned, noting statements from staff there. However, he found no corroboration of the alleged criminal activity. Detective Constable P established that when made aware of the allegation by a member of Central Scotland Police on the morning of 27 December 2008, the hospital's own internal investigation had revealed no evidence of illegal drug taking. He considered the possible existence of CCTV evidence but there was none available. He identified the patients and former patients mentioned by the applicant in her statement and discussed the possibility of interviewing them and obtaining statements. However, hospital staff advised against this on the grounds of their medical conditions and the impact such enquiries might have on their ongoing treatment and relationship with staff.

Detective Constable P compiled a report dated 25 January 2009 which was provided to Superintendent J.

On 17 March 2009 Superintendent J personally delivered a report of the incident to the Procurator Fiscal, seeking guidance on any further enquiry that may be required. The Procurator Fiscal later directed that no further investigation was required.

In response to the applicant's concern about the report having been personally delivered to the Procurator Fiscal by Superintendent J, the Deputy Chief Constable referred the applicant to a letter dated 16 April 2009. That letter informed the applicant that the report had been provided to Superintendent J in hard copy in the form of a memorandum. He had in turn delivered the report to the Procurator Fiscal in hard copy seeking direction on any further enquiry required. The letter of 16 April 2009 also referred to a meeting with the applicant at which the role of the Procurator Fiscal had been explained to her.

Consideration

This complaint was recorded as a "quality of service" complaint. Central Scotland Police's standard operating procedures dealing with complaints state that quality of service complaints relate to the organisation and not to individual officers. The applicant's complaint was about the service delivered to the applicant when she reported alleged illegal drug taking. The enquiry conducted established that two officers had failed to arrange for a statement to be noted from the applicant when she reported the alleged crime. As a consequence two officers were counselled and provided with corrective advice in relation to the expected police response.

In the Commissioner's view, the applicant's complaint appears to have been classified wrongly in that it was in effect a complaint that specific officers neglected their duties. The consequence of mis-categorisation is that complaints may be under-recorded in one area ("on duty" complaints) and over-record in another ("quality of service" complaints). On this occasion, however, it did not actually affect the outcome for the applicant. Nevertheless the Commissioner recommends that Central Scotland Police take steps to reclassify the complaints in accordance with their own standard operating procedures.

As noted above, the criminal investigation was carried out Detective Constable P who ultimately was satisfied that there was insufficient evidence to substantiate the allegation. He submitted a report detailing his enquiries highlighting the concern which had been expressed about interviewing patients and former patients of the hospital.

Detective Constable P's report was delivered personally to the Procurator Fiscal by Superintendent J. The applicant complains that Superintendent J ought not to have done so and suggests that this is because of absence of a proper audit trail. However, it is clear that the report was delivered to the Procurator Fiscal who subsequently provided advice on whether further enquiries should be undertaken. The Commissioner does not consider there to be any substance to this complaint.

Conclusions, recommendations and learning

In the Commissioner's view, this complaint was dealt with in a reasonable manner so far as the enquiries and response are concerned. However, the Commissioner recommends that Central Scotland Police reclassify the complaints in accordance with its own standard operating procedures.

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