

Report of a Complaint Handling Review in relation to Northern Constabulary

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

Summary and Key Findings

NOTE: This is an amended version of the report published by the Commissioner on 19 March 2010. The amendments follow intimation by Northern Constabulary of a factual inaccuracy in the original report.

On 24 November 2007 the applicant was ejected from a public house by door stewards. Thereafter an altercation took place between the applicant and the door stewards outside the public house. The applicant complained that Northern Constabulary failed to investigate his allegation that he had been assaulted (complaint 1). He also complained that Northern Constabulary delayed unduly in dealing with this allegation (complaint 2).

The Commissioner found that Northern Constabulary dealt with complaint 1 in a reasonable manner. In respect of complaint 2, the Commissioner found that Northern Constabulary had not addressed this and therefore recommended that it did so.

The Commissioner's role

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

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

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

Background

Applicant's account of events

(The following account is taken from the applicant's letter to the Commissioner's office dated 11 August 2008. This letter was subsequently forwarded by the Commissioner's office to Northern Constabulary with the applicant's permission).

The applicant explained that on 24 November 2007 he was assaulted by door stewards outside Public House X. The applicant maintained that CCTV evidence would prove his version of events.

Steward A's account of events

(The following account is taken from Steward A's statement to police provided on 24 November 2007).

Steward A explained that on 24 November 2007 he and Steward B had asked the applicant to leave Public House X because the applicant had been barred. In response to being asked to leave, the applicant smashed his pint glass on the floor and thereafter headed towards the exit accompanied by Stewards A and B. Outside Public House X the applicant pushed Steward A backwards and was consequently restrained by Steward A and his colleagues until the police arrived.

Steward B's account of events

(The following account is taken from Steward B's statement to police provided on 24 November 2007).

Steward B explained that he and Steward A had asked the applicant to leave Public House X. Although given the option by Steward A to finish his drink at the door, the applicant smashed his pint glass on the floor and thereafter headed towards the exit. Outside Public House X the applicant pushed Steward A backwards and was consequently restrained by door staff until the police arrived.

The Complaints

Based on the contents of the application form, correspondence from the applicant which clarified his complaints and the information obtained from Northern Constabulary, the Commissioner has identified the following complaints:

- (1) that Northern Constabulary failed to investigate an allegation of assault; and
- (2) that Northern Constabulary delayed unduly in dealing with the above allegation.

The Commissioner's Review

The applicant first contacted the Commissioner's office by letter on 11 August 2008. He thereafter submitted an application form on 23 January 2009 attaching a further letter detailing his complaints.

On 22 January 2010 the applicant, in another letter to the Commissioner's office, further clarified his complaints.

Complaint 1: Alleged failure to investigate an allegation of assault

The applicant, in his letter dated 11 August 2008, maintains that he was assaulted by door stewards at Public House X on the night of 24 November 2007 and that Northern Constabulary did not investigate his allegation.

Internal Handling

The applicant first contacted Northern Constabulary in a letter dated 7 July 2008. On 11 July 2008 Deputy Chief Constable C replied to the applicant stating that he had called for a report into the matters raised and would write again in more detail.

On 14 August 2008, having received no response from Deputy Chief Constable C, the applicant wrote to Northern Constabulary expressing his desire to make a complaint about the police. The applicant referred Northern Constabulary to the letter which he had sent to the Commissioner's office on 12 August 2008. Northern Constabulary subsequently requested this letter by faxing the applicant's written authorisation to the Commissioner's office on 19 August 2008.

On 18 August 2008 Deputy Chief Constable C wrote to the applicant advising that he had received the letter dated 14 August 2008 and that "it was receiving attention". A Complaint about the Police (CAP) form was completed on 19 August 2008.

On 20 August 2008 Chief Inspector D wrote to the applicant advising that he had asked Chief Inspector E to appoint a senior officer to look into the applicant's case and that this senior officer would contact the applicant directly.

Acting Inspector F was thereafter appointed to note a statement from the applicant. In the statement, dated 30 September 2008, the applicant maintained that CCTV evidence would establish his innocence and prove that he was assaulted by door staff on 24 November 2007. On 7 October 2007 the applicant was permitted by Acting Inspector F to view the CCTV footage in question. Following this viewing the applicant continued to maintain that the CCTV proved that he had been assaulted by door staff.

The statements provided by Stewards A and B, both noted on 24 November 2007, were also examined as part of the complaints investigation. As noted above, both Stewards A and B maintain in their statements that it was the applicant who pushed Steward A backwards, following which the applicant was restrained until the arrival of the police.

On 12 November 2008 Chief Inspector E wrote to the applicant explaining that he had closed the complaint because the officers who viewed the CCTV footage could find no evidence to corroborate the applicant's allegation that he had been assaulted. Furthermore, Chief Inspector E explained that the interviews which took place at the time of the incident provided no evidence that the applicant had been assaulted.

Consideration

Northern Constabulary conducted a thorough investigation into this complaint, examining all relevant witness statements and viewing the relevant CCTV footage with the applicant.

Both Stewards A and B explain in their statements that it was the applicant who pushed Steward A backwards outside Public House X, which Northern Constabulary considered to be the version of facts supported by the CCTV footage.

The Commissioner, having examined the statements of Stewards A and B and viewed the CCTV footage of the incident, is satisfied that Northern Constabulary's conclusions are justified. The Commissioner therefore considers that this complaint was handled in a reasonable manner. Accordingly, no further action is required of Northern Constabulary in respect of this complaint.

Complaint 2: Unreasonable delay

The applicant, in his letter dated 11 August 2008, complains about the length of time taken by Northern Constabulary to deal with the issues raised by him in his letter of 7 July 2008.

Consideration

Northern Constabulary has not addressed this complaint and the Commissioner therefore recommends that it does so.

Conclusions, Recommendations and Learning

Complaint 1: Northern Constabulary failed to investigate an allegation of assault

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

Complaint 2: Unreasonable delay

As Northern Constabulary has not addressed this complaint, the Commissioner recommends that it does so.

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