

# Report of a Complaint Handling Review in relation to Lothian and Borders Police

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

## **Summary and Key Findings**

This complaint relates to several criminal allegations made by the applicant to Lothian and Borders Police about an individual with whom she had been in a relationship. The applicant believes that her allegations were not properly investigated and made a complaint to Lothian and Borders Police to this effect.

The Commissioner found this complaint to have been handled reasonably and made no recommendations.

## The Commissioner's role

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

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

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

## Background

On 25 February 2008 the applicant attended a police station where she spoke to Constable A. She informed Constable A that she had had a relationship with Mr B which ended in September 2007 and alleged that Mr B had since approached her accusing her of having infected him with a sexually transmitted disease. The applicant also made allegations that Mr B had been following her, had arranged for other people to follow her, sent her abusive text messages and made abusive telephone calls. In addition, she claimed that her son had been involved in a road traffic incident for which she believed Mr B to have been responsible. Subsequent enquiries by Lothian and Borders Police found no evidence to support any of these allegations.

Later the same day the applicant contacted Lothian and Borders Police to report that she had been followed by two males in a motor vehicle. On 26 February 2008 she made a similar allegation, this time involving a male, who she believed to be Mr B, following her in a motor vehicle. Police officers attended the applicant's home following both these reports and found no evidence to support either allegation. Constable C states that when he visited the applicant's home in response to the second allegation he was informed by her mother and father that the applicant had been suffering from a mental illness.

On 27 February 2008 the applicant contacted Lothian and Borders Police using a false name alleging that she had been attacked by three men who had attempted to rape her. Constable C attended this incident with Constable D and states that he immediately recognised the applicant. Upon being questioned the applicant confirmed her true identity. Constable D took the applicant to

a local police station while Constable C conducted door to door enquiries in relation to her allegation. No witnesses were traced who could corroborate the allegation. The applicant's father was contacted and confirmed that the applicant's condition had worsened over the previous 24 hours.

The applicant was taken to a local hospital where she was examined by a psychiatrist, Doctor E, who found that the applicant was suffering from psychotic and delusional tendencies. The applicant was thereafter detained under the Mental Health (Care and Treatment) (Scotland) Act, 2003.

Whilst detained at a local hospital the applicant made further allegations to Lothian and Borders Police that Mr B was sleeping with other women with the aim of infecting her with a sexually transmitted disease. Following consultation with another doctor, Doctor F, the applicant was deemed fit to be interviewed as a witness. Detective Constable G spoke to the applicant on 7 April 2008 and informed her that all allegations she had made against Mr B had been investigated and Mr B had been warned not to contact her.

Following this meeting the applicant wrote a letter to Lothian and Borders Police in which she claimed that damaged had been caused to her husband's car and that this had not been taken seriously by the police. An investigation by Constable H confirmed that the car had been damaged but found that there were no eye witnesses to the incident, although two youths had been seen running up the street where the car was parked at the time of the incident. Attempts to identify these individuals proved unsuccessful.

## The Complaints

Based on the contents of the application form, the correspondence received from the applicant, and the information obtained from Lothian and Borders Police the Commissioner has identified a single complaint, namely that that Lothian and Borders Police did not properly investigate allegations reported to them.

## The Commissioner's Review

The applicant first contacted the Commissioner's office by telephone on 22 October 2008. She thereafter submitted an application form on 6 February 2009. This section sets out the Commissioner's views on the manner in which the applicant's complaint was handled by Lothian and Borders Police.

### *Internal Handling*

The applicant raised her complaint in a letter to Lothian and Borders Police dated 16 April 2008. A Complaint about the Police (CAP) form was completed which categorised the complaint as one of "quality of service".

Inspector J carried out an investigation into the complaint and obtained statements from Constables A and C. In addition, Inspector J reviewed a report submitted by Detective Constable G in relation to her involvement with the applicant.

Inspector J visited the applicant at her home on 29 June 2008 and informed her of his findings. During this meeting Inspector J noted a statement from the applicant in his notebook, which reads as follows:

*"I can confirm that I wrote a letter to the police when I was in [hospital] as an in patient. I have discussed the content of the letter with Inspector [J] and the issue involving [Mr B], I am satisfied with the assistance given by [Detective Constable G]. I am satisfied that the damage to my husband's vehicle has been fully investigated and there is no apparent connection with [Mr B].*

*The incident ... on 27 February 2008 was exaggerated as I was approached by three men and my father told me to shout rape which would get the police to come...*

*I feel this is all in my past, I am moving on in life and the police have done everything they can to help me. I now wish to conciliate the complaint I made in the letter."*

A final response to the complaint was sent to the applicant on 9 September 2008 from the Deputy Divisional Commander. In the letter the Deputy Divisional Commander informed the applicant that Mr B has been spoken to in relation to the allegations and advised that he should not attempt to contact the applicant.

In response to the complaint the Deputy Divisional Commander stated the following:

*"... I accept that after all the points you raised were fully discussed and explained to you by Inspector [J], you have agreed to conciliate this matter."*

#### *Consideration*

In the Commissioner's view, the validity of the complaint which the applicant has brought to the Commissioner's attention is undermined by her apparent willingness to conciliate the matter.

For completeness, however, the Commissioner considers that Inspector J conducted reasonable enquiries into the applicant's complaints. Inspector J also reviewed the police response to each allegation made by the applicant and concluded that each had been properly investigated. The Commissioner shares that view. No evidence in support of the applicant's allegations was found and therefore no further action was taken by the police.

### **Conclusions, Recommendations and Learning**

In the Commissioner's view, the manner in which this complaint was dealt with by Lothian and Borders Police was reasonable. The Commissioner has no recommendations regarding the handling of this complaint.

**John McNeill**  
**Police Complaints Commissioner for Scotland**

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