

# 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**

The complaints dealt with in this report arise from the actions of police officers following a call expressing concern for the welfare of the applicant's horses.

The Commissioner considered the handling of four complaints and found that three were dealt with in a reasonable manner. In respect of the fourth complaint the Commissioner concluded that this did not constitute a complaint about the police and was therefore beyond his statutory remit.

## 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 7 January 2009 Northern Constabulary received an anonymous phone call reporting that there was a dead horse in a field and alleging that horses in the area did not have much food. Constable A was made aware of the call and confirmed that the dead horse belonged to the applicant.

Constable A reported the incident to Inspector B who discussed the circumstances with Mr C from the Scottish Society for the Prevention of Cruelty to Animals (SSPCA). It was decided in light of this discussion that Constable A, Detective Sergeant D and Mr E (a local veterinary surgeon) should visit the applicant. Constable A states that Mr E attended because the local SSPCA inspector was off work sick. According to his statement Mr E explained to Mr C that the veterinary practice for which he worked was in dispute with the applicant over unpaid bills. Mr E states that Mr C asked him to attend as another vet was unable to do so.

On 9 January 2009 Constable A, Detective Sergeant D and Mr E went to the applicant's land where her horses were kept. The applicant arrived at the property shortly after.

Constable A and Detective Sergeant D state that the applicant asked to feed the horses before they were examined and was allowed to do so. Mr E adopted a similar position in his statement, stating that there was no objection to the applicant's request in this connection. However, the applicant claims that she asked to feed and water her horses before the examinations were carried out but was told that the examinations were more important. According to the applicant she was able to give a "placatory" amount of food to the horses.

Constable A and Detective Sergeant D state that after completing his examination Mr E discussed with the applicant the condition of her horses. According to the statements of Constable A and Detective Sergeant D, Mr E told the applicant that the condition of three horses was such as to give cause for concern and that veterinary treatment was required in respect of one other horse as soon as possible. The applicant blamed the condition of this horse on treatment provided by the veterinary practice which employed Mr E.

According to Constable A the applicant was informed that the SSPCA would follow up the enquiry and visit her the following week. Constable A states that on 16 January 2009 she returned to the applicant's property with Mr E and SSPCA Inspectors F and G. Following an inspection of the horses one was taken into the possession of the SSPCA and left in the care of Mrs H. The applicant was charged with an offence under the Animal Health and Welfare (Scotland) Act 2006.

## The Complaints

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

- (1) that the applicant was not contacted by police prior to their visit and that they entered her land without her permission;
- (2) that the involvement of Mr E in the examination of the applicant's horses represented a conflict of interest;
- (3) that the police obstructed the applicant from feeding her horses; and
- (4) that Detective Sergeant D was disrespectful towards the applicant.

## The Commissioner's Review

An advocacy worker acting on behalf of the applicant first contacted the Commissioner's office by letter on 3 July 2009. The applicant thereafter submitted an application form which was received by the Commissioner's office on 10 August 2009.

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

### Complaint 1: Alleged failure by police to contact the applicant before their arrival

On 20 January 2009 the applicant's advocacy worker sent a letter of complaint to Northern Constabulary. The letter described this complaint as follows:

*"[The applicant] was not contacted prior to the visit although her telephone number was known by Mr [E] and the police officers entered her land without her being present and without her permission."*

#### Internal Handling

A Complaint about the Police (CAP) form was completed which recorded this complaint as one of irregularity in procedure. Inspector J investigated the complaint and obtained statements from the applicant, Constable A, Detective Sergeant D and Mr E.

Inspector J's preliminary report concluded that under the terms of the Animal Health and Welfare (Scotland) Act 2006 there was no requirement to notify the applicant prior to police attendance,

other than as a courtesy. Inspector J also concluded that Constable A did not know the applicant's phone number and that, although Mr E did know the number, he did not consider it appropriate to contact her.

In his response to this complaint, Chief Inspector K stated the following:

*"In the first instance, there was no requirement to notify you in advance of the visitation, nor indeed is it common practice, and to have done so could have proved prejudicial to any potential criminal investigation. Secondly, the enquiry team entered your land for the purpose of speaking with you and were there only a matter of minutes when you turned up. This is a perfectly legitimate course of action and not one I would in any way disagree with.*

*I should perhaps also draw your attention to the Animal Health and Welfare (Scotland) Act 2006, which contains provisions for animal inspectors and police constables to enter premises without warrant for the purpose of exercising their duties under the legislation. The Act defines 'premises' to include land or building. In this instance there was no need to resort to such recourse but had the need arisen then formal measures could have been invoked."*

### Consideration

In the Commissioner's view, Northern Constabulary conducted appropriate enquiries into this complaint and explained clearly to the applicant why she was not contacted prior to the officers' attendance. Northern Constabulary has also explained the legal authority upon which the actions of its officers were based.

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 conflict of interest

The letter of complaint submitted to Northern Constabulary on behalf of the applicant described this complaint as follows:

*"[The applicant] raised concerns about a conflict of interest concerning [Mr E's] involvement as she is in dispute with [Veterinary Surgery 1]. This was not properly addressed by the police officers present and [the applicant] feels the visit should have been rearranged for a time when an independent Vet could attend."*

### Internal Handling

Inspector J's enquiries are as detailed under complaint 1.

Chief Inspector K responded to this complaint as follows:

*"... the police were not the lead agency in this investigation and therefore had no involvement in the selection of a vet from [veterinary surgery 1]. I have since spoken with the SSPCA district manager on this point and he informed me that the SSPCA contacted both veterinary practices in [location], however, [veterinary surgery 2] declined to tender for the work leaving [veterinary surgery 1] as the only viable option. I am also informed that [veterinary surgery 1] disclosed your ongoing dispute, however, given that the appointed vet was to be contracted to the SSPCA and also paid by them, they considered that all reasonable efforts had been taken in the circumstances to avoid any suggestion of a conflict of interest.*

*I should also state that the appointed vet was not one whose work was subject to your ongoing dispute. There was therefore no reason to delay or re-schedule the visit and the nature and concern for the welfare of the animals was such that an immediate attendance was required in any case.”*

#### Consideration

It is clear that Mr E was asked to inspect the applicant's horses by the SSPCA and not Northern Constabulary. As such, the Commissioner does not consider that the applicant's concern about this issue can properly be described as an expression of dissatisfaction about the police. Accordingly, this complaint is beyond the Commissioner's statutory remit and was not one which Northern Constabulary required to deal with. Despite this, Chief Inspector K sought to explain matters to the applicant which, in the Commissioner's view, is an example of good practice on the part of Northern Constabulary.

### **Complaint 3: Alleged obstruction regarding the feeding of the horses**

The letter of complaint submitted to Northern Constabulary on behalf of the applicant described this complaint as follows:

*“The officers by their presence and forcing her to engage with them obstructed [the applicant] from feeding her horses.”*

#### Internal Handling

Inspector J's enquiries are as detailed under complaint 1 above.

Chief Inspector K responded to this complaint as follows:

*“The officers acknowledge that when it was explained that the purpose and intention of the visit was to examine your horses, you requested time to feed the animals before any examination took place and this request was acceded to without pre-condition or hindrance. If you felt compelled to remain with the officers and the vet during their examinations, rather than feeding the horses, then that was a personal decision and not one which I consider amounts to obstruction or duress. The vet was involved in the conversations and he concurs with the police officers' accounts of events that you were not obstructed from feeding your horses.”*

#### Consideration

As noted above, the applicant claims to have been allowed to provide a “placatory” amount of food to her horses prior to the examinations taking place. Her statement contains the following passage:

*“By 1230-1300 they had only done 4 horses and I still hadn't fed and watered them properly. I kept saying that I needed to feed and water my horses and I was very forcibly told by the Detective that they needed to do that. I took that because I had to be present to give instructions that I couldn't go and feed the horses.”*

Constable A appears to support the applicant's account in this respect, stating that the applicant “continually repeated that we had kept her back from feeding her horses with the time we had taken to examine them”.

In essence, the applicant's complaint is that because she was forced to remain with those who attended her land, she was unable to feed her horses. The accounts given by Constable A, Detective Sergeant D and Mr E all indicate that the applicant's request to feed her horses was

granted. The applicant herself accepts that she fed her horses, although does not believe that the amount of food provided was adequate. Although it is not clear to the Commissioner whether the applicant was “forced” to remain with the police officers and Mr E during the examinations, the evidence indicates that at no time was the applicant prevented from feeding her horses.

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 4: Alleged disrespect shown by Detective Sergeant D**

The letter of complaint submitted to Northern Constabulary on behalf of the applicant described this complaint as follows:

*“[The applicant] was left with the impression that the Detective who was present had prejudged both her and the situation and he had not approached the visit with an open mind. His attitude towards her was disrespectful.”*

##### *Internal Handling*

Inspector J’s enquiries into this complaint are as detailed under complaint 1.

Chief Inspector K’s response to the complaint is as follows:

*“The officer himself denies the suggestion that he had anything other than an open mind in his approach to this investigation and further refutes the claim that he was in any way disrespectful towards you. His standpoint is supported by his female colleague.*

*The veterinary surgeon was interviewed specifically on this point and he states that at no time did he hear the detective officer speak to you disrespectfully. He further states that both officers displayed professionalism and maintained an objective attitude throughout their dealings with you.*

*I believe, however some consternation was caused by a remark by the detective officer about the timely completion of paperwork which you felt was discriminatory. The officer in making this comment was unaware that you had a medical condition that precluded you from undertaking administrative tasks. I regret if the remark has caused any offence, however, I am satisfied there was no overt act to offend, embarrass or discriminate and that the officer’s remark was made in complete innocence.”*

##### *Consideration*

In the Commissioner’s view, appropriate enquiries were undertaken into this complaint which established no evidence to support the applicant’s complaint. This finding was conveyed clearly by Chief Inspector K in his response.

In these circumstances the Commissioner considers that this complaint was dealt with in a reasonable manner by Northern Constabulary. Accordingly no further action is required in this connection.

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

##### **Complaint 1: Alleged failure by police to contact the applicant before their arrival**

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

### **Complaint 2: Alleged conflict of interest**

In the Commissioner's view, the applicant's concern regarding this issue does not amount to a complaint about the police and is therefore beyond the Commissioner's statutory remit.

### **Complaint 3: Alleged obstruction regarding the feeding of the horses**

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

### **Complaint 4: Alleged disrespect shown by Detective Sergeant D**

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

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