

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

This complaint arose as a result of a police officer from Northern Constabulary attending at the applicant's home in July 2009, in the company of her estranged husband, to inform her of the death of a relative.

The applicant complained that the officer had breached confidentiality by telling her estranged husband about her relative's death, and that it was inappropriate to have asked her husband to accompany the officer to the applicant's home.

The Commissioner found that both complaints had been dealt with reasonably by Northern Constabulary.

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

The applicant is estranged from her husband who continues to live near to her.

At about 9.40 pm on 7 July 2009 Constable A was informed by a colleague that there had been a sudden death. Constable A was informed that the applicant was the next of kin and was asked to attend her home to inform her of the death.

Constable A decided that he should not attend the applicant's home alone. He believed that he should be accompanied by a friend or relative of the applicant so that they could comfort her when she was informed about the death of her relative. Constable A contacted Sergeant B, who was off duty at the time, and informed him of his intention to speak to the applicant's estranged husband in order that he could attend the applicant's home.

At about 10 pm on the same day Constable A spoke to the applicant's husband at his home address. Also present at that time was the applicant's adult daughter who resided with the applicant. Constable A told them both about the death and they agreed to go with him to the applicant's home to deliver the message to her.

Constable A thereafter attended at the applicant's home accompanied by her husband and daughter, both of whom entered shortly before Constable A. When Constable A entered, the applicant asked him to leave. According to Constable A, he told the applicant that he had a message to pass on and she allowed him to sit down. He then told her about the death of her relative and provided her with details of another officer to contact if she required any further information.

The applicant's position is that the message concerning the death of her relative was actually passed to her by her husband. According to the applicant she refused to speak to Constable A when he entered her home and Constable A remarked that he would therefore speak to the applicant's husband. The applicant states that in response to this she said "No, you won't that's a breach of confidentiality". According to the applicant Constable A continued to talk to her estranged husband. At that point the applicant told both her husband and Constable A to leave her home.

The Complaints

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

- (1) that Constable A breached confidentiality by telling her estranged husband that the applicant's relative had died; and
- (2) that Constable A acted inappropriately by asking the applicant's estranged husband to accompany him to the applicant's home.

The Commissioner's Review

The applicant first contacted the Commissioner's office by letter on 3 December 2009. She thereafter submitted an application form on 12 January 2010.

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 breach of confidentiality

The applicant's position is that she, not her husband, was her deceased relative's next of kin. She therefore questioned why Constable A had given information to her husband about the death of her relative.

Internal Handling

Both of the above complaints were communicated to Northern Constabulary by the applicant on 20 September 2009. Inspector C was appointed to conduct a preliminary enquiry.

Inspector C obtained an operational statement from Constable A. In that statement Constable A stated that he had asked the applicant's husband to accompany him so that the applicant had "someone she knew to comfort her when [he] passed on the message".

Constable A stated that he was allowed to take a seat in the applicant's home following which he told her about the death of her relative. He also provided her with details of another officer who was dealing with the death should she wish to contact him. Constable A did not deny that he had spoken to the applicant's husband and daughter about the relative's death. When Constable A left the applicant's home, her husband informed him that he and his daughter would stay at the house for a while to comfort the applicant.

Inspector C interviewed the applicant at her home address on 15 October 2009 and obtained a statement from her. He explained to the applicant that it was not uncommon for the police to ask a family member to be present when informing someone of the death of a relative. In response to this the applicant stated, "I'm not interested, when medical people pass on information they don't get other people to be there ... that's the rules except for the police."

On 25 November 2009 Superintendent D wrote to the applicant in response to her complaints. In his letter, Superintendent D informed the applicant that he believed Constable A to have been acting in the best interests of all concerned. He said that Constable A's intention was to "ensure that the message was delivered as soon as possible and with as little upset to you as could be managed". Superintendent D added that it was "unfortunate, especially in such sad circumstances, that it was not possible to achieve this aim."

Consideration

The applicant and Constable A clearly have different recollections of how the news of the relative's death was conveyed. In the Commissioner's view, however, this is of no significance given that Constable A does not deny that he spoke to the applicant's husband about the death of the relative.

The Commissioner recognises the dilemma faced by police officers who are asked to deliver such messages to members of the public. In such circumstances, officers have to balance the desire to deliver the message as quickly as possible with the need to ensure that the message is delivered sensitively. That often involves asking friends or relatives to assist in delivering the message so that the recipient may be comforted when receiving the news.

On this occasion Constable A decided that the most appropriate way to convey the message was to seek the assistance of the applicant's estranged husband. From the information available to the Commissioner, neither the applicant's husband nor her daughter raised any concerns about this course of action and both accompanied Constable A to the applicant's home. According to Constable A's statement, the applicant's daughter informed him that she would comfort the applicant. It also appears that after Constable A left, the applicant's husband remained at the house with a view to comforting her.

In the Commissioner's view, Northern Constabulary conducted appropriate enquiries into this complaint and issued a reasonable response. Accordingly the Commissioner considers that this complaint was dealt with in a reasonable manner.

Complaint 2: Alleged inappropriate action by Constable A

The applicant's position is that Constable A was aware of the history between the applicant and her husband and on that basis should not have asked her husband to accompany him to the applicant's home.

Internal Handling

The internal handling is as described in complaint 1 above.

Consideration

The Commissioner's consideration of the handling of complaint 1 is equally relevant to this complaint.

For the reasons given above, the Commissioner considers that this complaint was dealt with in a reasonable manner.

Conclusions, Recommendations and Learning

Complaint 1: Alleged breach of confidentiality

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

Complaint 2: Alleged inappropriate action by Constable A

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

John McNeill
Police Complaints Commissioner for Scotland

Hamilton House
Caird Park
Hamilton
ML3 0QA