

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 applicant's complaints arose from police involvement with her at her home on 23 December 2006. The police had been called to assist an ambulance crew who had attended at the applicant's home following a call from a concerned relative.

Following the incident the applicant made a series of complaints to Northern Constabulary. Many of these were examined by the former Commissioner in a complaint handling review published previously (PCCS/0806/00174/PF-NC). This review dealt with additional complaints made about the same incident.

Of the five complaints considered, the Commissioner concluded that two had been handled in a reasonable manner. The Commissioner concluded that the remaining three complaints (complaints 2, 4 and 5) were not handled in a reasonable manner. In respect of complaint 2, the Commissioner considered that Northern Constabulary did not address the applicant's true complaint. In respect of complaint 4, the Commissioner found that while the substantive response to the complaint was reasonable, the language used was not. In respect of complaint 5, the Commissioner did not consider that this had been adequately investigated.

The Commissioner raised as a learning point the need for Northern Constabulary to avoid the use of inappropriate language in its responses to complaints. The Commissioner recognised, however, that this deficiency may now be purely historical.

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

In June 2008 the Commissioner published a complaint handling review (CHR) in respect of a number of complaints made by the applicant about Northern Constabulary (reference PCCS/0806/00174/PF-NC, referred to in this report as "the previous CHR"). During the course of that review the Commissioner identified five complaints which, although communicated to the Commissioner's office, did not appear to have been made to Northern Constabulary. It is these complaints which form the basis for this report.

Background

At about 6:50 pm on 23 December 2006 the applicant was alone within her home when members of the Ambulance Service received a call that she had taken an overdose. The call was made by a relative. Although the ambulance crew (Persons A and B) confirmed that the applicant was in her home, they experienced difficulty in gaining access. Accordingly, they requested the assistance of the police.

Constable C and Sergeant (now Inspector) D attended at the location and state that they tried to attract the applicant's attention. They were unable to do so and therefore decided to force entry to the property by smashing a pane of glass in a window. The window was then opened and Constable C entered the property, allowing the others access.

The applicant was attended by Persons A and B who told Constable C and Sergeant D that she was unresponsive to attempts to rouse her. There was no obvious evidence of medication having been taken by the applicant. There was, however, an overturned glass, believed to have

contained wine, lying on the floor near to where the applicant was found. Persons A and B believed that the applicant should be removed to hospital for further checks.

The applicant was taken to the ambulance which was parked outside her home. She was then taken to hospital, Constable C and Person A accompanying her in the rear of the ambulance. The other member of the ambulance crew, Person B, drove the ambulance and Sergeant D followed in a police vehicle.

The applicant was subsequently arrested at the hospital on a charge of breach of the peace. She later made a number of complaints to Northern Constabulary concerning this. A number of these complaints were considered in the previous CHR.

No view is expressed by the Commissioner in this report on Northern Constabulary's responses to the recommendations made in the previous CHR. These responses will be addressed separately.

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 C and Sergeant D did not make their presence known before forcing entry to the applicant's home;
- (2) that Sergeant D did not witness an incident in the ambulance as he was smoking outside the applicant's home at the relevant time;
- (3) that Constable C and Sergeant D left a relative of the applicant's to secure her home;
- (4) that Chief Inspector E, who carried out the investigation into the applicant's original complaints did not make an appointment and arrived unannounced at the applicant's home to discuss her complaints; and
- (5) that the police did not interview medical staff until three months after the incident.

Inspector F was appointed as the enquiry officer in relation the above complaints. He met the applicant and obtained a statement from her. In that statement she provided information relating to the complaints examined in this report together with additional information concerning the investigation into her original complaints. Inspector F thereafter obtained additional statements from the officers who were subject to the complaint. When requesting those statements, Inspector F identified the areas that had not been addressed previously and also the additional issues raised by the applicant in her statement. At the conclusion of his enquiry he submitted a short report accompanied by a document entitled "Some Bullet Points" and a draft letter of response for consideration by Chief Inspector G.

A letter of response was sent to the applicant by Chief Inspector G on 18 November 2008. The applicant contacted Northern Constabulary on 23 November 2008 highlighting her concerns about the content of Chief Inspector G's letter. Chief Inspector G wrote to the applicant on 5 December 2008 assuring her that he had reviewed all the evidence available to him and advising that he had no intention of entering into further correspondence in this connection.

The Commissioner's Review

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 to make presence known

Internal Handling

Inspector F referred to the operational statements of Constable C and Sergeant D. Sergeant D stated the following:

"I shouted through the letter box, announcing that we were the police, requesting that the occupant open the door to ambulance staff. [Constable C] and I also went round the exterior of the house... finding many of the curtains drawn and all of the ground floor windows secure. We could not see any person in the house and repeated shouting and knocking brought no response from within."

Constable C stated that both he and Sergeant D had tried unsuccessfully to attract the attention of the applicant and get her to come to the door or windows.

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

"The officers clearly announced who they were and what their enquiry was about. This was witnessed by the ambulance staff. You also recall receiving a message on your house phone later. This message had been left at the time when the police were trying to gain entry to your house. It would appear the officers made all reasonable attempts to identify themselves to you."

Consideration

In the Commissioner's view, it is important to remember that the police officers and ambulance crew who attended the applicant's home on the night in question did so following a call from a relative who believed the applicant had taken an overdose. It is clear that the officers' actions when attending the applicant's home were founded upon general concern for the applicant's well being.

It is also notable that, despite making a clear complaint in this connection, the terms of the applicant's statement are less forthright. The applicant's statement contains the following passage:

"If the glass was broken by police officers, I did not hear them declare anything or who they were before breaking the glass. The only thing I know is that the next day I picked up my phone... and there was a bleeping sound that there was a message for me. I listened to that and it was [Constable C]. I can't remember what he said except that he stated he was [Constable C] and it was a very short message... I think he made the call just before they broke the window."

Accordingly, at the time she gave her statement the applicant's position was simply that she *did not hear* the officers declare their presence. In other words, according to the applicant, the officers may well have declared their presence but she did not hear them doing so. The fact that the applicant received a message from Constable C which she believes was left shortly before the window was smashed adds further weight to the conclusion that all reasonable steps were taken by the officers to alert her to their presence.

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

Complaint 2: Sergeant D's alleged inability to witness an incident

In her statement of 5 September 2008, the applicant stated the following:

"[Sergeant D] was seen by my brother in law... to be smoking outside my home and he wouldn't have seen what happened in the back of the Ambulance when I fell and [Constable C] was in the house and there is no way that he witnessed that anyway."

Internal Handling

Inspector F established that at the relevant time Sergeant D was a smoker but Constable C was not. In his statement, Sergeant D states that he has no specific recollection of smoking outside the applicant's home on the night in question. He concedes that it was possible that he walked away at some point to smoke but claims that if he did so he would have tried to ensure that he was not within view of the others present.

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

"The officer concerned has been asked about this incident and he does not recall if he smoked during this incident. Although there is no Force policy on this subject, it would not be good standards for any officer to conduct himself in such a manner, however, there is no misconduct issue involved. He has been informed of your concerns on the subject."

Consideration

It is clear from her statement that the applicant's complaint is not that Sergeant D was smoking outside her home. Rather, her complaint is that because Sergeant D was smoking outside her home at the time, he was not in a position to witness a disturbance that took place while the applicant was within the ambulance. Northern Constabulary did not address this complaint.

According to the statements given by Sergeant D and Constable C that while outside the applicant's home they were alerted to an incident within the ambulance. Both officers then attended at the rear of the ambulance where they saw the applicant on the floor of the ambulance. Person A advised them that the applicant had struck him on his mouth; however, neither Constable C nor Sergeant D state that they witnessed this incident. Their accounts relate to what they after their arrival at the ambulance. Accordingly, even if the applicant is correct that Sergeant D was smoking outside the applicant's home, there is no evidence that he witnessed the incident described by Person A. Accordingly, there is no substance to the applicant's complaint in this connection.

Given that Northern Constabulary did not address the applicant's true concern, the Commissioner considers that its handling of this complaint was not reasonable. In the Commissioner's view, however, the finding he has made in respect of this complaint amounts to a suitable resolution for the applicant.

Complaint 3: Alleged failures regarding the securing of the applicant's home

Internal Handling

The following passage is quoted from Sergeant D's statement:

"In other circumstances it would be accepted practice for an officer to remain at the locus pending the arrival of a joiner to secure the house. However, in this instance, [the relative]

indicated that he would personally board the window and secure the house. He was a close relative of [the applicant], lived very nearby and was willing to assume responsibility for this and I considered that this was a suitable arrangement in the circumstances.”

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

“The police would normally call out a Council joiner to do this work, so that your property would not be left insecure. Your relative volunteered to undertake this task instead. This was another judgment call which the officer responsible is satisfied merited the course of action taken. He has been informed of your concerns. There is no misconduct issue here.

Consideration

From the information available to the Commissioner, Sergeant D was not given any reason to believe that the applicant’s relative could not be trusted to carry out this task effectively. In the Commissioner’s view it was entirely reasonable for Sergeant D to have accepted the relative’s offer.

In the Commissioner’s view, appropriate enquiries have been undertaken in relation to this complaint and a reasonable response given to the applicant. Accordingly, no further action is required in this connection.

Complaint 4: Alleged failure to make an appointment

The applicant alleges that Chief Inspector E, who carried out the investigation into the applicant’s original complaints, did not make an appointment and arrived unannounced at the applicant’s home to discuss her complaints.

Internal Handling

Inspector F identified that Chief Inspector E had since retired from the police service. Consequently he was not informed of the complaint.

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

“The senior officer concerned tried unsuccessfully to contact you prior to his call. His chance visit proved lucky as you were available on the day and the meeting was duly conducted. Police officers often call on persons in such circumstances. I do not understand what there is to complain about. This is not a misconduct issue.”

Consideration

In the Commissioner’s view, although the substance of Chief Inspector G’s response was reasonable, his use of the term “I do not understand what there is to complain about” was inappropriate and indicative of a level of personal frustration.

The Commissioner returns to this issue at the end of this report.

Complaint 5: Alleged failure to interview medical staff timeously

The applicant complains that police officers did not interview medical staff at the hospital until three months after the incident.

Internal Handling

Inspector F acknowledged that witness statements should be taken at the time of the incident or shortly thereafter in order to produce the best evidence. He commented that there was no apparent reason for the delay in interviewing the medical staff in the applicant's case.

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

"There is no set timetable for interviewing witnesses but it is best to do so as soon as possible... The witnesses in this case had no difficulties recalling the events of this case. The officer concerned has been informed of your comments. There is no misconduct issue here."

Consideration

In messages he sent to Constable C and Sergeant D on 8 October 2008 Inspector F asked both officers why it had taken so long to interview the medical witnesses in the applicant's case. In the event, neither officer's statement makes any reference to this issue. It is therefore not surprising that Inspector F concluded that there was no apparent reason for the delay.

In light of this omission, the Commissioner does not consider that it was handled in a reasonable manner. However, given the passage of time, the Commissioner does not consider that any further enquiries would be likely to yield reliable evidence. In the Commissioner's view, the finding he has made in respect of this complaint amounts to a suitable resolution of this matter for the applicant.

Conclusions, Recommendations and Learning

Complaint 1: Alleged failure to make presence known

For the reasons given, the Commissioner considers that this complaint was handled in a reasonable manner. Accordingly no further action is required in this connection.

Complaint 2: Alleged smoking outside the applicant's home

For the reasons given, the Commissioner does not consider that this complaint was handled in a reasonable manner. In the Commissioner's view, the finding he has made in respect of this complaint amounts to a suitable resolution for the applicant. Accordingly no recommendation is made in this connection.

Complaint 3: Alleged failures regarding the securing of the applicant's home

For the reasons given, the Commissioner considers that this complaint was handled in a reasonable manner. Accordingly no further action is required in this connection.

Complaint 4: Alleged failure to make an appointment

In the Commissioner's view, although Chief Inspector G's substantive response was reasonable, his use of language was not. In light of this, and the wider concerns described below, the Commissioner has concluded that this complaint was not dealt with in a reasonable manner. In

the Commissioner's view, however, this finding in itself amounts to a suitable resolution for the applicant. Accordingly no recommendation is made in this connection.

Complaint 5: Alleged failure to interview medical staff timeously

For the reasons given, the Commissioner does not consider that this complaint was handled in a reasonable manner. However, given the passage of time, the Commissioner does not consider that further enquiries are likely to produce reliable evidence. Accordingly, no recommendation is made in this connection.

Concluding remarks

As noted above, the Commissioner considers the tone and language adopted by Chief Inspector G in various passages of his letter of 18 November 2008 to have been inappropriate. At times the language he used seemed to be driven by personal frustration rather than a desire to bring the complaints to a conclusion. A very clear example of this is as follows:

“You were arrested for a crime you committed. You pleaded guilty to this crime and were properly convicted. You have since refused to accept those facts and have engaged in a rambling, nonsensical diatribe with this Force and other parties. It is obvious that we have no answer to your problem.”

If there was any prospect of Chief Inspector G's response bringing this series of complaints to a conclusion, it is unlikely that it was assisted by the inclusion of such a passage.

The Commissioner recognises that such deficiencies within Northern Constabulary's handling of complaints may now be purely historical. Indeed, Northern Constabulary has recently assured the Commissioner that improvements have been made in respect of its handling of complaints. The Commissioner raises this issue as a learning point for Northern Constabulary, but is hopeful that its current approach to complaints is free from the language and tone which features in Chief Inspector G's response to these particular complaints.

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