

Report of a Complaint Handling Review in relation to Dumfries and Galloway Constabulary

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

Summary and Key Findings

The applicant is a registered sex offender and is monitored by the Offender Management Unit within Dumfries and Galloway Constabulary. His complaints arose from information sent from the Offender Management Unit to the Reporter to the Children's Panel. Specifically, the applicant complained to Dumfries and Galloway Constabulary that this information contained false allegations about him. He also complained that the police had been harassing him by visiting him more often than necessary.

The Commissioner found that Dumfries and Galloway Constabulary dealt with both complaints in a reasonable manner.

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 a registered sex offender and is currently monitored by the Offender Management Unit within Dumfries and Galloway Constabulary.

Early in 2009, the applicant fathered a child with Person A. When the existence of the child became known, child protection measures were put in place and the child was removed to a place of safety. The applicant was subsequently prohibited from having any contact with the child. The child's case is regularly reviewed by the Children's Panel.

On 17 September 2009, Detective Sergeant B sent a letter to the Reporter to the Children's Panel, Person C. Attached to this letter was a description of the various risk assessments which had been undertaken in relation to the applicant and an assessment of the likelihood of his re-offending.

The attachment also provided background information in relation to the applicant's living arrangements and his interaction with the local authorities. Part of this background information stated:

"... Information received on 24.08.09 that [the applicant] was seen during the early hours of 21st/22nd August, 2009 entering [address X] and put the lights on and then at 0130 hours the lights were turned off within the property and it would appear that [the applicant] had not left the property. This information remains unconfirmed at this time."

... [the applicant and Person A] have been seen together by Police officers and information has been received as recently as 5/08/09 to the effect that [the applicant] is still

in contact with [Person A]. Attempts are still being made to firm up on this information with regards to dates and times.”

The applicant submitted a letter of complaint to the police, through his solicitor, on 5 October 2009. He alleged that the letter of 17 September 2009 contained false accusations as he had not been at address X or in the company of Person A on the dates alleged. The applicant also complained that he had been visited more by the police in the preceding six months than he had during his eight years on the Sex Offenders Register. As a result of this, the applicant felt that the police were harassing him.

The Complaints

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

- (1) that Dumfries and Galloway Constabulary passed false information concerning the applicant to the Children’s Reporter; and
- (2) that Dumfries and Galloway Constabulary has visited the applicant more often than is necessary.

The Commissioner’s Review

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

Complaint 1: Passing false information

The applicant alleges that the letter of 17 September 2009 contained false accusations, namely that he had been seen in the company of Person A and at address X on the dates alleged.

Internal Handling

The applicant’s complaint was received by Dumfries and Galloway Constabulary on 9 October 2009 and was passed to Detective Inspector D for investigation. She responded to the applicant’s solicitors on 28 October 2009. In her response, Detective Inspector D stated she had reviewed Detective Sergeant B’s letter of 17 September 2009 and was unable to find any claim that police officers had seen the applicant in the company of Person A or at address X. Detective Inspector D also made arrangements to meet with the applicant’s solicitor on 9 November 2009 to discuss the complaints in greater detail. Detective Inspector D’s note of the meeting contains the following passage:

“... [The applicant’s solicitor] showed me a document written by [Detective Sergeant B] which although not referred to in his letter of 17 September 2009 had apparently been attached to the said letter. The document detailed confidential intelligence and the findings of risk assessments. [The applicant’s solicitor] advised that this information had been provided to her client by [Person C].”

Detective Inspector D explained to the applicant’s solicitor that the police have an obligation to provide relevant information to other child protection agencies to enable proper assessments of whether any harm could be caused to a child. Detective Inspector D advised the applicant’s

solicitor that consequently it was appropriate to share the information gathered by Detective Sergeant B with Person C. Detective Inspector D went on to explain that this intelligence should not be shared with the subject to whom it relates and that it seemed Person C had shared the information with the applicant without permission or consent. Detective Inspector D noted the applicant's solicitor as taking a very reasonable position on this issue. According to Detective Inspector D, the solicitor agreed to write to the applicant to advise him that the police had not acted inappropriately or illegally and that the applicant could rebut any information he felt was inaccurate through the "children's panel process".

Consideration

Under section 53(2)(a) of the Children (Scotland) Act 1995 the police, if they has reasonable cause to suspect that "compulsory measures of supervision" may be necessary in respect of a child, are under an obligation to pass to the Reporter to the Children's Panel any information it has received about the child. The Commissioner notes that Detective Inspector D informed the applicant's solicitor of this.

As noted above, the police clearly advised Person C that the intelligence in question was either unconfirmed or that further work required to be carried out. Detective Inspector D's report does not mention if the intelligence was subsequently confirmed or whether further work was carried out. However, given the circumstances presented to the police there is no doubt that they were entitled to provide this information to the Children's Reporter. It was then for the Children's Reporter to take any further action he or she deemed necessary. The Commissioner notes that Detective Inspector D also informed the applicant's solicitor that the applicant could challenge the veracity of any information provided to Person C through the "children's panel process."

In the Commissioner's view, the applicant's solicitor was provided with appropriate information by Detective Inspector D. Accordingly, the Commissioner considers that this complaint was dealt with in a reasonable manner. No further action is required in this connection.

Complaint 2: Number of visits by police

The applicant claims that he has been visited much more often by the police in the six months preceding his complaint than he has during his eight years on the Sex Offenders Register. The applicant believes this treatment is unwarranted and constitutes harassment.

Internal Handling

In her letter to the applicant's solicitor of 28 October 2009 Detective Inspector D provided an explanation for the increase in police visits to the applicant. According to Detective Inspector D, this had stemmed from the applicant's concealment of his relationship with Person A and the birth of their child. Detective Inspector D explained:

"Since the birth of his child, coupled with his own secretive and uncooperative behaviour, multi agency public protection arrangements (Mappa) have considered that the risk of sexual harm presented by [the applicant] has increased and accordingly he has been subject to closer scrutiny by the authorities. The Mappa panel has specifically directed that [the applicant] is visited more frequently by police managing his case."

After meeting with the applicant's solicitors on 9 November 2009, Detective Inspector D noted

"The explanation provided by me to [the applicant's solicitors] in my letter dated 28 October 2009 has been fully accepted by [the applicant's] legal representation."

Consideration

The information obtained by Detective Inspector D during her investigation confirmed that there had been an increase in police visits to the applicant. However, this was as a result of a direction from the Multi Agency Public Protection Arrangements (MAPPA) panel that the applicant be monitored more closely. The basis for this decision was MAPPA's conclusion that the risk of the applicant re-offending had increased.

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

Conclusions, Recommendations and Learning

Complaints 1 and 2

For the reasons given, the Commissioner considers that Dumfries and Galloway Constabulary handled these complaints 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