

# Report of a Complaint Handling Review in relation to Fife Constabulary

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

## **Summary and Key Findings**

The five complaints contained dealt with in this review arise from the police response to allegations of assault made by the applicant.

The Commissioner found that Fife Constabulary dealt with all the complaints in a reasonable manner 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

According to the applicant, on 31 March 2010 while walking her dogs, she was assaulted by two other dog-walkers, a woman, Ms B and a man, Mr C. The applicant reported the incident to her local police station, following which Constable D began an investigation.

On 12 April 2010, the applicant was walking her dogs when she saw Ms B and Mr C again. The applicant contacted the police to report the matter and began following both individuals. When no police arrived, the applicant contacted the police again. According to the applicant she was told at this stage that there were no officers available to attend the incident, in response to which she advised the call handler that she would have received assistance more quickly if she had telephoned 999. The applicant states she was told by the call handler that it would not matter what number she telephoned as there were no officers available to attend. Around 30 minutes later, Constable D located the applicant nearby the place where the incident had taken place; however, Ms B and Mr C had by that stage left the area.

On 14 April 2010, the applicant was driving her car when she saw Ms B in the street and proceeded to follow her. Ms B thereafter contacted the police as she thought the applicant was trying to find out where she lived. From the information provided by Ms B, Constable E identified the applicant and contacted her by telephone to discuss the incident. Constable E was, however, unaware of the alleged assault reported earlier by the applicant and this caused some confusion, resulting in the applicant advising that she wished to make a complaint. Inspector F then contacted the applicant in an attempt to clarify matters; however, the applicant was not satisfied with the information he provided.

Constable D subsequently spoke with Constable E and established Ms B and Mr C's identities. During subsequent interviews, both admitted to having been involved in an altercation with the applicant but stated that the applicant had struck Ms B first. Constable D then contacted the applicant, Ms B and Mr C to explain that, in his view, the most appropriate course of action was to issue a Formal Adult Warning to all parties. This was on the basis that, according to the evidence, the incident consisted of a fight between all three parties, rather than an unprovoked assault on the applicant.

On 14 May 2010, the applicant sent a letter of complaint to Fife Constabulary. The complaint was allocated to Inspector G for enquiry.

## The Complaints

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

- (1) that the applicant was told that dialling 999 would not get her assistance any more quickly;
- (2) that on 14 April 2010 Constable E made accusations against the applicant and did not have any information on the assault she had reported previously;
- (3) that on 14 April 2010 Inspector F gave the applicant false information which caused her unnecessary anxiety;
- (4) that the length of time taken to deal with the assault allegation was excessive; and
- (5) that the investigation of the applicant's complaints was not conducted properly.

## The Commissioner's Review

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

### Complaint 1: Dialling 999 would not assist applicant

In her letter of complaint to Fife Constabulary, the applicant described this complaint as follows:

*"The call handler on 12<sup>th</sup> April stated a 999 call would make no difference to the response to a call, as there was no one available to attend. [The applicant] does acknowledge that [in] her conversation with the inspector of the call handler [he] did apologise for the failings of the Police force on 12<sup>th</sup> April."*

#### Internal Handling

Inspector G obtained statements from Constables D and E and Inspector F. He also contacted the applicant by telephone and subsequently by letter to ask her to meet with him so he could note a statement from her. Inspector G received no response to these requests. Inspector G also made reference to the incident logs created following the applicant's contact with the police.

On 12 July 2010 Inspector G submitted a report to Superintendent H detailing his findings in respect of the applicant's complaints. Chief Inspector J responded to the applicant by letter on 23 July 2010.

Inspector G noted the following in his report:

*“Call contact records confirm the two telephone calls, which [the applicant] made to Fife Constabulary Force Contact Centre on 12<sup>th</sup> April. The text of the calls is not in dispute. [The applicant] informed me that she spoke to an Inspector (identity unknown) in the [Force Control Centre] the same day and that he has made a full apology to you with regard to the above complaint. She also told me that she accepted the apology and considers this aspect already dealt with.”*

Chief Inspector J stated the following in his response:

*“It appears this aspect of your complaint has been concluded through the involvement of an Inspector within the Force Contact Centre where you have been given an apology... therefore in light of the apology you have received, and from your comments above, it is my understanding this matter has been resolved to your satisfaction.”*

### *Consideration*

Ordinarily, the Commissioner would expect that where a verbal acceptance of an apology is given, this should be confirmed either in writing by the complainer or by him/her signing an officer's notebook. However, given the applicant's apparent reluctance to provide a statement, such confirmation was unlikely to be obtained.

In light of the applicant's acknowledgement in correspondence that she received an apology,, the Commissioner considers that the conclusion reached by Fife Constabulary is a reasonable one.

In the Commissioner's view, the manner in which this complaint was dealt with by Fife Constabulary was reasonable.

### **Complaint 2: Alleged Conduct of Constable E**

The applicant alleged that when Constable E contacted her on 14 April 2010 he made accusations against her, suggesting if she did not have any road tax on her vehicle, she would be targeted by the police. She also claims that Constable E did not have any information about the alleged assault she had reported.

### *Internal Handling*

Constable E provided the following recollection of his conversation with the applicant:

*“About 2145 hours, same date I made the telephone call to [the applicant] in which I identified myself and the reason for calling. I explained the situation in full to [the applicant] who stated that she had contacted police regarding the incident which was being investigated by [Constable D]. This was not to my knowledge and a swift apology was given to [the applicant] when I was made aware of this information. [The applicant] stated that she wanted to find out where the woman lived in order to inform police as in her opinion police were not carrying out enquiries satisfactory. I advised her not to take the matter into her own hands and asked her to be patient. I advised that she is free to drive where she pleases although it was not advisable to try and find out where the female resided. No mention was made of [the applicant] having invalid road tax or that she would be targeted etc.”*

In his investigation report, Inspector G noted:

*“There is no independent evidence to clarify the exact content of the telephone conversation between [the applicant] and [Constable E]. As such I find this aspect of the complaint unsubstantiated.”*

In his reply to the applicant, Chief Inspector J outlined the circumstances surrounding Constable E's involvement in the case in detail and went on to state Constable E's position:

*"It is the position of [Constable E] that he stated to you not to take the matter into your own hands, be patient and whilst you were free to drive where you wished you should not be attempting to find the address of the female involved. [Constable E] is adamant he made no mention of invalid road tax and had no cause to do so."*

### *Consideration*

As no call recording facilities exist at the police station in question, it is not possible to establish precisely what was said. In the Commissioner's view, Constable E's statement addressed all the issues the applicant raised in her complaint and Chief Inspector J's response informed her in detail of the reasoning behind Inspector G's conclusion. In the absence of any further information, the Commissioner does not believe that the complaint can be substantiated either way.

Consequently, the Commissioner considers that this complaint was dealt with in a reasonable manner.

### **Complaint 3: Alleged Conduct of Inspector F**

The applicant complains that when she spoke to Inspector F on the evening of 14 April 2010, he was rude, provided her with false information and did not know who was on-shift.

### *Internal Handling*

According to Inspector F, when he contacted the applicant she provided the Crime File reference that she was given in respect of the alleged assault she had reported. This reference was different to the one created by Constable E earlier that day. Inspector F stated that he advised the applicant that Constable E was not listed in the reference she provided. Inspector F's statement continues:

*"... [the applicant] took this as I did not know who was involved or if in fact a [Constable E] actually existed."*

According to Inspector F, he then undertook further enquiries and established that two separate incidents had been reported by the applicant and Ms B. His statement continues:

*"Armed with this information and the fact that I had traced [Constable E] that [the applicant] was referring to at 2245 hours same date I re-contacted [the applicant] in an attempt to put her mind at ease re the call she had received from [Constable E], but to no avail and she wished no further contact with me and stated she would again write in to complain."*

Inspector G noted the following in his report:

*"... there is again no independent evidence to clarify the exact content of the telephone conversation between [the applicant] and [Inspector F]. As a result I find this aspect of the complaint to be unsubstantiated."*

In his letter of response Chief Inspector J informed the applicant of all of the above information. He went on to state:

*"The exact content of your conversation with [Inspector F] is not known, with there being two separate versions of what was or was not said, your version and that of [Inspector F]. However, it is apparent the confusion created by the two separate investigations being*

*carried out by [Constable D] and [Constable E] respectively, has led to a clear breakdown in communication with an unsatisfactory conclusion prior to that call being terminated.”*

Chief Inspector J concluded by stating:

*“Unfortunately there is insufficient evidence provided to substantiate your allegation that the Inspector was rude to you. As such, I am unable to pursue that matter further.”*

### *Consideration*

As noted above, there are no call recording facilities at the police station in question and therefore no way of establishing for certain what was said between the applicant and Inspector F. Nevertheless, Chief Inspector J’s response was detailed and provided the applicant with a full explanation of the evidence, and the reason why the complaint could not be substantiated.

In light of this, the Commissioner considers that this complaint was dealt with in a reasonable manner.

## **Complaint 4: Time taken to deal with allegation of assault**

### *Internal Handling*

Constable D described in his statement the reasons why the initial investigation of the alleged assault took the length of time it did. Specifically, he stated this was explained by his shift rotation and the amount of evidence available. Inspector G wrote the following in his report:

*“The identities of the two persons remained unknown until 14<sup>th</sup> April when one of them [Ms B] made the complaint [about the applicant following her]. [Constable E] passed on full details to [Constable D] as the reporting officer in the initial report by e-mail that day. [Constable D] was on rest days at the time and received the information on his return to duty on 18<sup>th</sup> April. The first of the suspects was traced and interviewed that day. The second suspect was traced two days later. I am satisfied that the reporting officer took all reasonable steps to progress this matter in the early stages and on receipt of information regarding identification of the suspects progressed the matter that day. As such, I find this aspect of the complaint unsubstantiated.”*

In his response, Chief Inspector J explained to the applicant that there was initially little evidence available with which to further the enquiry. He went on to advise:

*“... there was no additional evidence available at that time and the identity of the other two people involved was not known. Whilst you captured part of the incident on your mobile telephone and downloaded stills from the phone, which you subsequently gave to [Constable D], I understand the pictures obtained were of poor quality. For his part [Constable D] carried out investigation at the location of the incident to enquire with other dog walkers to establish if they could help with providing the identity of the two people involved. This met with a negative result. Other potential lines of enquiry were therefore limited due to the circumstances of the incident.*

*... The report received by [Constable E] on 14<sup>th</sup> April 2010 was clearly crucial in assisting the enquiries being carried out by [Constable D], which ultimately led to him tracing the other people involved and concluding his investigation.*

*The report received by [Constable E] which led to him contacting you after only two days was completely different to the incident on 31<sup>st</sup> March 2010, particularly in regard to available evidence. [Constable E] obtained evidence that linked you to the vehicle you had*

*been seen using. This allowed for a line of enquiry that quickly identified you and resulted in the telephone call from [Constable E].”*

### Consideration

In his report Inspector G provided a detailed explanation accounting for the passage of time from the applicant initially reporting the alleged assault to the interviewing of all suspects and the conclusion of the investigation. Similarly, Chief Inspector J’s response provides a detailed account of events and explains the reason why Constable E managed to contact the applicant soon after Ms B made her complaint. The Commissioner considers that the explanation provided was reasonable and that the applicant has been given a sufficient information to allow her to understand Fife Constabulary’s position.

In the Commissioner’s view, the manner in which Fife Constabulary dealt with this complaint was reasonable.

### Complaint 5: Improper investigation of complaints

The applicant complains that the investigation undertaken by Inspector G was not conducted properly, and that her request for an “unbiased” officer of higher rank to carry out the investigation was ignored.

### Internal Handling

Inspector G commented as follows in respect of this complaint:

*“[The applicant] further stated that she did not wish to speak to me as she felt the matter should be dealt with by a more senior officer as part of her complaint was against an Inspector.”*

Chief Inspector J provided the following response:

*“My decision to allow [Inspector G] to continue with the investigation reflected my view that the involvement of another Inspector (who was actually Acting Inspector) did not debar [Inspector G] from investigating your complaint.”*

### Consideration

Fife Constabulary’s standard operating procedures for handling complaints provides that an officer of at least the rank of Inspector should carry out enquiries into complaints, unless the complaint is against a more senior officer. Specifically, the procedures provide:

*“The Investigating Officer must be of or above the rank of Inspector and equal in rank to or have higher rank than the officer subject to investigation.”*

In light of this, the Commissioner considers that Chief Inspector J’s decision to allow Inspector G to carry out the investigation was reasonable and in accordance with procedure.

In her application to the Commissioner’s office, the applicant also states that Inspector G was biased and that she requested an “unbiased” officer investigate her complaint. Inspector G’s recollection of that conversation is noted in the above quote; it makes no reference to the applicant referring to him as biased.

As Inspector G had no previous involvement in the incidents which gave rise to the applicant’s complaints, the Commissioner considers that he was sufficiently independent to carry out the

investigation. In terms of the contents of Fife Constabulary's file, there is no evidence to support the applicant's claim that Inspector G was biased.

In the Commissioner's view, the manner in which Fife Constabulary dealt with the applicant's complaint was reasonable.

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

For the reasons given, the Commissioner considers that these complaints were dealt with 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