

Report of a Complaint Handling Review in relation to Grampian Police

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

Summary and Key Findings

The applicant's complaints arise from an interview conducted with her son in connection with alleged offences.

Of the two complaints dealt with in this report, the Commissioner found that both were dealt with in a reasonable manner. No recommendations were made.

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 and her son, Mr A, were interviewed by Grampian Police about a number of telephone calls which had been made to another individual. Subsequently, the applicant and Mr A were both charged under section 127(2)(c) of the Communications Act 2003.

The applicant claims that, prior to their being charged, Mr A was not given an opportunity to provide his versions of events. The applicant also claims that Mr A suffered an asthma attack whilst being interviewed, and that no consideration was shown to him by the officers present.

The Complaints

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

- (1) that Grampian Police did not afford Mr A the opportunity to give his side of events before being charged; and
- (2) that Grampian Police did not apologise to Mr A for failing to help him when he took an asthma attack.

The Commissioner's Review

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

Complaint 1: Failure to obtain the applicant's version of events

Internal Handling

The applicant's complaints were allocated to Sergeant B for investigation. Sergeant B obtained statements from Constable C, the officer who conducted the interviews with the applicant, and Mr A and Constable D who were present during the interviews. According to both officers, they attended the applicant's home and she and Mr A were thereafter interviewed before being charged.

In his response to the complaint, Superintendent E narrated what Mr A had said at interview, and stated:

"What any individual chooses to say during an interview under caution is up to that person. The Police are permitted to ask pertinent questions, but responses given must be noted verbatim. I am content that on this occasion [Mr A] was given a fair opportunity to freely say what he wanted in regard to the matter."

Consideration

The statements given by Constables C and D detail the content of the interview with Mr A. It is clear from these statements that Mr A was given the opportunity to provide his versions of events.

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

Complaint 2: Failure to assist Mr A

Internal Handling

In his statement, Constable C stated that during the interview Mr A became upset and tearful but did not appear to be having an asthma attack. According to Constable C, Mr A calmed down after Constable D spoke with him in a separate room.

Constable D stated that after the interview she took Mr A into a separate room and spoke with him to calm him down. Mr A told her he was asthmatic and she told him to take his inhaler if he was feeling out of breath. According to Constable D, however, at no time did Mr A suffer an asthma attack.

Sergeant B also spoke with Ms F who had attended Mr A's interview as an appropriate adult. According to Ms F, Mr A appeared to suffer an asthma attack, following which Constable D had accompanied him to get his inhaler. Ms F added that Constable C had not been required to assist Mr A as Constable D had already done so.

Superintendent E provided the following response to the complaint:

"From [Sergeant B's] report, I am reassured that as soon as [Mr A became distressed, he] requested to end the interview and seek his asthma inhaler. The investigating Officers, one of who assisted [Mr A] by way of reassurance to calm him whilst he took his medication,

immediately supported these requests... I am satisfied that the Officers acted in a professional manner in carrying out these tasks and that they were done with the best interests of [Mr A] in mind."

Consideration

In terms of the accounts given by the witnesses, it is unclear whether Mr A suffered an asthma attack during the course of the interview. Constable C states that he did not appear to have suffered an attack; Constable D states that he did not do so; and Ms F states that he appeared to suffer an attack. In these circumstances, the Commissioner would have expected a statement to have been obtained from Mr A whose account may have confirmed the position. In the event, no such account was taken from Mr A.

Ordinarily, the Commissioner would have recommended that Grampian Police obtained a statement from Mr A regarding what occurred during the interview. However, the complaint is that Grampian Police did not apologise for failing to help Mr A after he suffered an asthma attack. In the Commissioner's view, regardless of whether Mr A actually suffered an asthma attack, there is evidence of steps having been taken by Constable D to calm the applicant and to encourage him to use his inhaler. In other words, contrary to what the applicant alleges in her complaint, it is clear that efforts were made to assist Mr A in this connection.

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

Conclusions, Recommendations and Learning

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

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