

# 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 arose from his being stopped by the police whilst driving.

Of the two complaints considered, the Commissioner found that one was dealt with in a reasonable manner, while the other was not. The Commissioner made a single recommendation in this connection.

## 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

On 28 March 2010, the applicant was stopped by officers of Grampian Police whilst driving his car. The applicant alleges that one of the officers, Constable A, beckoned him out of his car using his finger. The applicant also states that Constable A made a sarcastic remark to him when he left the police vehicle.

## 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 a police officer beckoned the applicant towards a police vehicle with his fingers; and
- (2) that a police officer made a sarcastic remark to the applicant.

## 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: Beckoning gesture by police officer

The applicant stated the following in his statement of 23 April 2010:

*“When I looked back I could see the front seat passenger had his right hand up to the windscreen and was waving two of his fingers beckoning me to come to him.*

*I couldn’t believe the policeman was doing this to me. Neither of the policemen got out and came to me ...*

*I felt the officer gesticulated at me was more the way you would attract an animal than a person.”*

### Internal Handling

The applicant made the first of his complaints to Grampian Police on 3 April 2010, following which it was passed to Sergeant B for investigation. Statements were obtained from the applicant; the two passengers in his car at the time, Mr D and Ms E; and the officers involved in the incident, Constables A and C.

Constable A advised in his statement that he had approached the applicant’s vehicle and motioned him to wind down his window. The applicant then opened his door and Constable A advised that he had been stopped for a speeding offence and asked him to sit within the rear of the police vehicle.

A similar account was given by Constable C.

According to Mr D’s statement, he was “pretty sure” that the police officers had not come to the applicant’s car and that the applicant had gone to the police car. However, he did not see either of the officers wave to the applicant to get out of the car and go to them.

Ms E could not remember much about the journey. She recalled the applicant getting out of the car but did not remember if the police came to the car.

In his report of 26 May 2010 Sergeant B noted that, due to the passage of time between the incident and his being appointed as enquiry officer, no video recording was available from the police vehicle. Sergeant B raised this as a learning point in his report, stating that where it is anticipated that video evidence from a road policing vehicle may be available this should be secured prior to the complaint being allocated to the enquiry officer.

On 26 May 2010, Chief Inspector F provided the following response to the complaint:

*“After meeting with you, Sergeant [B] interviewed both officers and the passengers in your car in order to gain a full understanding of the circumstances that day. From the outset, the officer at the centre of your complaint emphatically denied any impropriety or wrong doing on his part.*

*Having read your statement, I note that your primary complaint relates to the manner in which you were ‘asked’ to exit your vehicle and join my officers in the Police vehicle. The Officers are both clear in their recollection that the passenger in the Police vehicle approached the driver’s door of your car and spoke briefly with you there. I appreciate this is at odds with your recollection, however I am faced with considering both viewpoints and with some doubt existing as to what actually occurred, I cannot uphold your complaint in this regard.”*

### Consideration

Although Mr D was “pretty sure” that the police had not approached the applicant’s car, he did not witness any officer gesturing towards the applicant. Constables A and C also provide no support for the applicant’s claim, and the remaining witness, Ms E, provides no support for either version of events.

In these circumstances, the Commissioner considers that Grampian Police was correct to find the applicant’s complaint as unsubstantiated. Although it would have been preferable if, in his response, Chief Inspector F had provided brief details of the accounts which had been given by Mr D and Ms E, the Commissioner considers that overall the applicant was given sufficient information to inform him as to how Grampian Police reached its decision on his complaint.

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

### Complaint 2: Sarcastic remark

In his statement, the applicant described this complaint as follows:

*“During the process in the car the officers were polite but when I had the ticket and I asked if ‘he was happy now’ the officer said he was happy and that upset me even more.”*

### Internal Handling

Chief Inspector F stated the following in his letter of 26 May 2010:

*“It is fair to say that the Officers were aware of your apparent displeasure at being stopped, however they consider that despite this, their actions and conversation remained both reasonable and appropriate.”*

He went on to state:

*“Road Policing, by its very nature, can sometimes be quite challenging, albeit I always expect my officers to treat members of the public with courtesy and respect, whatever the circumstances. To emphasise this fact, I have recently circulated a message to all my staff, reminding them of the professionalism I expect from them when acting as Road Policing Officers within the Grampian Police area.*

*In conclusion, there are occasions when I have to accept that it will not be possible to determine exactly what has occurred in a situation, primarily due to a lack of independent evidence. In this particular instance, I am satisfied that at the very least your complaint has been thoroughly investigated and the officer concerned has been made aware of your specific concerns.”*

### Consideration

On 12 April 2010, Mr G of Grampian Police issued an email stating that the applicant had telephoned that day wishing to add to his complaint (i.e. complaint 1 above). The email contains the following passages:

*“[The applicant] alleges that when he was charged, he asked the Subject Officer if he was happy with himself and got the response ‘I am now’. He believes the Officer was sarcastic to him although he did not view his own comment, in any way, as sarcastic.*

*Can you please forward this email to the Enquiry Officer when he/she has been identified for consideration during the enquiry and response.”*

As noted above, on 23 April 2010 Sergeant B obtained a statement from the applicant in which he repeated this complaint (see the passage quoted above). Despite this, neither Constable A nor Constable B makes any reference to this complaint within their statements (both dated 24 April 2010). In addition, the issue is not covered in Sergeant B's report of 24 May 2010. Although Chief Inspector F states in his letter of 26 May 2010 that the officers considered their “actions and conversation” to be “reasonable and appropriate”, there is no explicit basis for this in either of the officer's statements. In any event, Chief Inspector F's letter of response does not specifically address the complaint; nor is it recorded in the Complaint about the Police (CAP) form.

For these reasons, the Commissioner does not consider that this complaint was dealt with in a reasonable manner. However, given the minor nature of the complaint and Chief Inspector F's reminder to all his staff regarding the need for professionalism when dealing with members of the public, the Commissioner does not consider it necessary to recommend any substantive action in this connection. The Commissioner does, however, recommend that Grampian Police record the complaint.

## Conclusions, Recommendations and Learning

### Complaint 1: Beckoning gesture by police officer

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

### Complaint 2: Sarcastic remark

In the Commissioner's view, this complaint was not dealt with in a reasonable manner. The Commissioner recommends that Grampian Police takes steps to record the complaint.

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