

# 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 complaint arose from an exchange he had with police officers following an incident within his taxi.

The Commissioner did not consider that the complaint was dealt with in a reasonable manner. A single recommendation was made 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

The applicant (a taxi driver) states that on 30 October 2010 he picked up a male and two female passengers who were all under the influence of alcohol. According to the applicant, the male passenger was abusive towards him and he therefore stopped his taxi, following which the male got out. The two females remained in the taxi but declined the applicant's offer to take them home. The applicant called the police and the females then got out of the taxi.

Constables A and B state that whilst on foot patrol they received a call from Northern Constabulary's control room requesting that they attend a taxi rank to speak to the applicant about the behaviour of passengers in his taxi. While en route, Constables A and B were stopped by two females who told them they had just been ejected from a taxi by the driver (the applicant). It was clear to Constables A and B that the two incidents were connected. According to Constable B the two females told him the following:

*"... the driver had thrown them out of their seats by braking heavily just before the traffic lights, but fortunately, both witnesses had their seatbelts on. The reason the driver had braked heavily was because the [husband of one of the females] who was in the passenger seat had merely asked the driver if he knew where he was going as there were two addresses that they were going to and he wasn't sure if the driver knew where they were wanting to go first.*

*The [female's husband] was allegedly then told aggressively by the driver 'do you not think I know where I'm f\*\*\*\*\*g going' and the driver braked heavily before the lights and told the [witness's] husband to get out the taxi which he did."*

The two females did not wish to make a formal complaint against the applicant and were content for him simply to be spoken to in this connection.

After the females left his taxi, the applicant called the police again cancelling his request for assistance. The applicant was thereafter contacted by the police and asked to remain at the rank because police officers “wanted a word with him.”

According to the applicant, Constables A and B thereafter approached him and he explained to them what had occurred. The applicant states that the officers were aggressive, threatening and rude towards him.

## The Complaint

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 a single complaint, namely that police officers threatened the applicant with arrest and made inappropriate comments towards him.

## The Commissioner’s Review

This section sets out the Commissioner’s views on the manner in which the complaint was handled by Northern Constabulary.

The applicant stated the following in his statement:

*“The male officer told me that I had better show some respect for the police ... I phoned the police to try and diffuse a situation and nearly got arrested. I was told I had an attitude problem and that I had better wind my neck in ...*

*I went to walk away and I was told that if I walked away I would have been arrested for a Breach of the Peace. I really didn’t believe I was hearing this. I stood where I was and then I was told to come over here and taken into [street]. I was then given a lecture by the male officer who made comments about my standard of driving even although a complaint about my driving was not officially made. I did stop the car, but that was to get the male person in the front of the car to stop swearing at me.*

*The male officer [Constable B] was the dominant one and it looked as though he was showing off. He was really angry and was nearly foaming at the mouth. I think it is only a matter of time before he seriously hurts someone with that temper.*

*The female [Constable A] told me that I should start listening to good advice.*

*I may add I wasn’t shouted at but I was belittled in their manner and in the way they spoke to me.”*

## Internal Handling

Inspector C was appointed to make enquiries into the applicant’s complaint and obtained statements from the applicant and Constables A and B.

Constable A stated the following:

*“[The applicant] gave us his account of what had happened and whilst doing so he appeared annoyed and agitated by what had happened. He was asked if he wished to make any formal complaint and he stated that he did not. [Constable B] and myself advised [the*

applicant] of the allegations made by the females regarding his driving, but stated to him that they did not wish to pursue any formal complaint either. [The applicant] appeared to me to become angry regarding this. He began talking loudly over [Constable B] and myself and at one point stated that he wanted to go no further without having another witness there. It appeared to me that he was losing his temper. I told [the applicant] that he was not a suspect and we were merely there to give him some advice. He then said words to the effect of 'I've had enough of this' and turned around and made to open the door to his taxi. [Constable B] firmly told [the applicant] to calm down and stop shouting at us. He asked [the applicant] to move over onto the pavement so that his details could be noted. [The applicant] agreed to this, although he still appeared agitated.

While [Constable B] was noting [the applicant's] details, I attempted to advise him that as a taxi driver carrying members of the public that he should be aware that he is in the public eye and may be vulnerable to people making complaints about him, and that he should keep himself right with regard to his driving at all times. I again stated to him that no formal complaint had been made on this occasion, and we were merely giving him some advice. While I did this, [the applicant] continued in his aggressive manner, interrupting me several times. Each time he did this, I asked him to calm down and listen to what I was saying. He did not appear to be receptive to any advice, stating that we must have better things to do."

Constable B stated the following:

*"On initially speaking with him and explaining what had happened, [the applicant] immediately became aggressive towards myself and Constable [A] gesticulating that he was the victim and that the [witness's] husband had sworn at him. [The applicant] also stated that both the female witnesses ... were extremely drunk, which was not the case.*

*Constable [A] and myself tried to give [the applicant] some suitable advice regarding the manner of his driving but he was having none of it and continued to be aggressive towards us. At this point [the applicant] told us to get lost and attempted to get in his taxi and drive off. I stopped [the applicant] and told him to calm down and wind his neck in as he was being very rude and aggressive towards Constable [A] and myself.*

*At this point I asked [the applicant] to make his way over to the pavement as we required to get his details and so that we could try and diffuse the situation. [The applicant] was not happy at this although he did come over to the pavement. Constable [A] then attempted to speak with [the applicant] and give him some suitable advice regards the manner of his driving and the fact that just like the police, taxi drivers are in the public eye and need to be vigilant and remember that they are carrying paying members of the public ... [The applicant] continued his aggressive manner towards Constable [A] and indeed was swearing at her although I cannot remember exactly what he said ...*

*I did not belittle [the applicant] in any way although did raise my voice due to his aggressive manner towards both myself and Constable [A].*

*If anything [the applicant] was aggressive towards us and had a dreadful manner for someone who is dealing with paying members of the public every day."*

On 5 December 2010 Inspector C provided the applicant with the following response to his complaint:

*"Constables [A and B] spoke to you and both comment you appeared angry with the allegations made regarding your earlier driving. They comment you appeared to be losing your temper and would not listen to the advice being offered.*

*I have also taken note of your concerns regarding both officers in their dealings with you and have advised them accordingly of this ...*

*Based on the evidence available to me, and that both officers deny any wrong doing together with no corroboration of your allegations I have decided, on the balance of probability to take no further action against the officers you complaint about.”*

### Consideration

Constable B acknowledges that he told the applicant at one stage to “wind his neck in”, which is consistent with one of the claims made by the applicant. According to Constable B, this was said in the context of trying to calm the applicant down; to some extent Constable B is supported in this by Constable A who also talks of attempts to calm the applicant. The Commissioner accepts that there is no evidence to support the applicant’s claim that this comment was said in the context of incivility or rudeness by the officers. However, the fact that Constable B acknowledged having made the comment should have been highlighted and explained in Inspector C’s response to the complaint.

Despite the detailed statements they provided, neither officer comments on whether the applicant was told during the exchange that he would be arrested if he walked away from the officers. In the Commissioner’s view, this was a key element of the applicant’s complaint which required to be addressed in the officers’ statements, as well as in the response to the complaint.

In light of these omissions, the Commissioner does not consider that this complaint was dealt with in a reasonable manner. The Commissioner recommends that Northern Constabulary seeks further statements from Constables A and B addressing the applicant’s allegation that he was threatened with arrest in the event that he walked away from the officers. A further response should be issued to the applicant in light of these additional statements.

The applicant has also complained to the Commissioner’s office about the time taken from the giving of his “initial statement” to a “full statement” being taken from him. It appears that the applicant is referring in this connection to the period between his being spoken to by Constables A and B, to his providing a statement during the complaints investigation.

The applicant first indicated his desire to raise a complaint with Northern Constabulary on 30 October 2010. A statement was obtained from him on 15 November 2010, a little over two weeks later. In the Commissioner’s view, this was not an excessive period. Overall, the applicant’s complaint was concluded within 36 days which the Commissioner considers to be a reasonable period.

### Conclusions, Recommendations and Learning

In the Commissioner’s view, the manner in which this complaint was dealt with by Northern Constabulary was not reasonable. The Commissioner recommends that Northern Constabulary

seeks further statements from Constables A and B addressing the applicant's allegation that he was threatened with arrest in the event that he walked away from the officers. A further response should be issued to the applicant in light of these additional statements.

**John McNeill**  
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