

Report of a Complaint Handling Review in relation to Central Scotland Police

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

Summary and Key Findings

This applicant's complaints arise from alleged inaction on the part of Central Scotland Police following an allegation that she had been assaulted.

Of the three complaints considered, the Commissioner found that two were not dealt with in a reasonable manner. However, for the reasons given in the report no recommendations were 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 is a Polish national who has lived in Scotland since 2009. At the time of the incident giving rise to her complaints she was living with her partner Mr A (also Polish) in a room within a house. The applicant's landlady, Ms B (another Polish national) also lived within the house, as did Mr C.

At approximately 11.30 am on 10 April 2010 the applicant called Central Scotland Police from a police "call point" alleging that Ms B had assaulted her following a disagreement about her accommodation.

The applicant's account

According to the applicant, following the arrival of Constables D and E she informed them that she had been assaulted. She and the officers then made their way to the applicant's accommodation. The officers spoke to Ms B in another room within the house but the applicant did not know what was said. The applicant stated that on returning to the main living area she told the officers that she wanted to take Ms B to court for hitting her. According to the applicant, the officers then left without explaining anything to her.

Later the same day the applicant attended at a police office and spoke to Constables F and G. She informed them that she was not content with what had been done that morning and that she wished action to be taken against Ms B for assaulting her. According to the applicant the officers told her that they could either warn or charge Ms B in respect of the incident. The applicant thought that the word "charge" related to money and she agreed that Ms B should be warned, which the officers subsequently did. According to the applicant, she had no complaint about

Constables F and G; she had simply misunderstood the difference between the words “warn” and “charge”.

The police account

Constable D and E’s position is that the applicant told them only about a general disagreement with her “flatmates” and at no time mentioned having been assaulted. According to the officers the applicant advised them that, as a result of the disagreement, she wished to leave the accommodation but had nowhere to go. Constable D obtained a telephone number for a department of the local authority which deals with homeless persons but on calling received no reply. Constable D thereafter passed the number to the applicant. Before leaving the address Constables D and E spoke to Ms B and Mr C. As their English was limited, arrangements were made for Ms B’s brother to attend to assist with interpretation. Ms B and Mr C confirmed that they “did not get on” with the applicant and Mr A, but did not request any police assistance.

Constables F and G state that the applicant reported the alleged assault to them and that she agreed the most appropriate way to deal with the matter was by way of a warning. A short statement to that effect was recorded by Constable F in her notebook, which the applicant signed. Ms B was subsequently warned in respect of the incident. According to both officers, attempts were also made with the local authority to arrange alternative housing for the applicant.

On 19 August 2009, the applicant attended at a police office to lodge complaints 1 and 2 below. Inspector H thereafter obtained statements from the applicant and Mr A through an interpreter. A separate statement was noted in relation to the applicant’s allegation that she had been assaulted by Ms B. Sergeant J was appointed to make enquiries into the alleged assault. The applicant intimated complaint 3 in a letter she sent to Central Scotland Police in November 2010.

The Complaints

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

- (1) that the police did not respond appropriately to the applicant’s allegation of assault;
- (2) that the police did not offer the applicant the services of an interpreter; and
- (3) that the police inappropriately assisted in the illegal eviction of the applicant and “did not care”.

The Commissioner’s Review

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

Complaint 1: The response to the alleged assault

As the applicant made no complaint about the actions of Constables F and G, the Commissioner has focussed solely upon the complaint made about Constables D and E in this connection.

The applicant stated the following regarding this complaint:

“ I explained [to Constables D and E] I had been attacked by [Ms B] and that she had hit my face and pulled my hair.

... I told them I would like to take [Ms B] to court for hitting me. The police lady was not nice to me and seemed to be taking [Ms B] and [Mr C]'s side.

... I heard laughing from the kitchen and that gave me the impression they were being nice to [Ms B] and not being so nice to me.

They never explained anything to me before they left. I don't know what they had done, if they had warned [Ms B] or anything."

Internal Handling

Inspector K was appointed to investigate the applicant's complaints. As part of his investigation, statements were obtained from Constables D, E, F, and G along with the audio recording of the applicant's telephone call to the police (a transcript of which was made) and the incident record relating to the call.

Inspector K established that the applicant had reported the following during the call:

"I am staying in front of your Polis Station and it is very important situation, cause our tenant (landlord) eh, she, she hit me so please come down, come sooner and please come down and help me with this, its scared ..."

The member of staff who took the call, Mr L, noted the following details in the incident log:

"Female at the police call point in her PJ's. Unknown what the issue is as her English is not the greatest."

In allocating the call to Constables D and E by radio message, Constable M (now retired) referred only to the details noted by Mr L in the incident log. No mention was made of an alleged assault. In his report Inspector K stated:

"It is arguable that with the poor audio quality from the police Call Point and [the applicant] being distressed, this central point could have been misheard, however, this result has allowed the recording of the matter and potential police action to be corrupted at an early stage."

Inspector K also noted Constable D and E's position in which they denied that the applicant had at any time made an allegation of assault to them. Inspector K also noted that although Mr A was present during the alleged assault he did not know if the applicant had informed Constables D and E of this.

Inspector K also noted the accounts of Constables F and G, who recalled the applicant attending the police office and reporting that she had been assaulted. According to both officers, however, the applicant told them that she had not disclosed the alleged assault to Constables D and E.

On 8 October 2010, Superintendent N provided the following response to the complaint:

"From an examination of our records it would appear that when you first telephoned Central Scotland Police on Saturday, 10th April 2010, you did report that you had been assaulted, however, due to a failure on our part, this information was not properly recorded and thereafter the actions of my officers have not been in keeping with what I would expect. This is a failure for which I would wish to apologise.

... In relation to your complaint of assault, I can confirm that this has been allocated to [Sergeant J] at [police office] for further enquiry."

Superintendent N arranged for Mr L to be given advice regarding the importance of establishing the nature of calls made to the police.

Consideration

As established by Inspector K, the content of the applicant's call was not properly recorded by Mr L. Superintendent N acknowledged this, apologised for the error, and arranged for enquiries to be made into the applicant's allegation of assault.

In allocating the enquiry to Constable D, Constable M provided the following information:

"... I don't know what the issue is and her English is not the best, could you attend and sort that one out?"

Accordingly, it is clear that Constables D and E were not made aware of the assault allegation at the point at which they were dispatched to the scene. Whilst the applicant is clear in her statement that she informed Constables D and E that she had been assaulted, both officers are also clear that she did not do so. Significantly, according to Constables F and G the applicant informed them that she had not disclosed the alleged assault to Constables D and E earlier that day.

In light of this evidence, the Commissioner does not consider that the applicant's complaint about Constables D and E can be substantiated.

Superintendent N clearly acknowledged that the applicant's allegation of assault had not been recorded properly and that this had affected the way in which the incident had been dealt with. However, Superintendent N omitted to address the specific complaint which had been made about Constables D and E, namely that after being informed of the allegation they had failed to explain to the applicant the actions they had taken. As noted above, the Commissioner considers that this aspect of the complaint is unsubstantiated. In the Commissioner's view, Superintendent N should also have informed the applicant that advice had been provided to Mr L regarding the need to establish the nature of calls made by members of the public.

For these reasons, the Commissioner does not consider that this complaint was dealt with in a reasonable manner. However, in light of the information provided above, the Commissioner does not consider it necessary to recommend any further action.

Complaint 2: Provision of interpreter

The applicant stated the following in her statement:

"Both sets of officers did not offer me an interpreter and I did not understand what they were saying to me."

In respect of her communication with Constables F and G the applicant stated:

"I didn't ask for an interpreter and the two police officers, one male, one female, didn't offer me one."

In terms of her expectations regarding this complaint, the applicant stated that she wished to ensure "all police officers use an interpreter for people who do not understand English fully."

Internal Handling

Inspector K established that Constables D, E, F and G had all formed the view that the applicant understood English and communicated effectively in that language. According to Constable G he

specifically asked the applicant if she wished the services of an interpreter but she declined this offer.

In his response dated 8 October 2010 Superintendent N said:

“In regard to your observations to Inspector [H] about you needing the services of an interpreter, I understand from my officers that the services of an interpreter were offered to you, an offer which was apparently declined and, in that regard, I consider that element of your complaint is not substantiated on the evidence available to me.”

Consideration

There are a number of sources of evidence in relation to this complaint. Firstly, given the terms of Mr L’s note within the incident log (in which he described the applicant’s English as “not the greatest”) it is clear that Mr L had difficulty understanding the applicant.

This can be contrasted with the accounts of Constables D and E who state that the applicant’s English was good and that she communicated effectively in that language. Furthermore, in speaking to Ms B and Mr C, Constables D and E assessed that their understanding of English was limited and thereafter arranged for Ms B’s brother to attend in order to assist with interpretation. This suggests that Constables D and E were alert to potential language difficulties and would have considered obtaining an interpreter for the applicant had they believed this was necessary. Additionally, Constable G stated the following:

“[The applicant] presented as an intelligent, coherent person, with a very good knowledge of spoken English. However, due to the nature of her complaint, and in anticipation of having to record a statement from her, I asked her if she required the assistance of a Polish interpreter. [The applicant] was amused by this question, and stated that she had good English and did not require this service.”

Although Inspector H used an interpreter when obtaining statements from the applicant and Mr A, Central Scotland Police has informed the Commissioner’s office that this was due to the nature of the applicant’s complaint. Like many of the other officers, however, Inspector H formed the view that the applicant’s comprehension of English was to a high standard.

In circumstances where police officers consider that an interpreter is required in order for discussions with an individual to be understood, then clearly one should be obtained. In the present case, however, all the officers who dealt with the applicant considered that she communicated well in English. In these circumstances, there was no obligation upon those officers to arrange the services of an interpreter.

In the Commissioner’s view, Superintendent N’s response would have benefited from the inclusion of further information regarding the accounts given by the officers who dealt with the applicant. Nevertheless, the Commissioner considers that the details provided were sufficient in the circumstances. Accordingly, the Commissioner considers that this complaint was dealt with in a reasonable manner.

Complaint 3: Officers assisted in the applicant’s eviction

The applicant stated the following in this connection:

“The police lady was not nice to me and seemed to be taking [Ms B and Mr C’s] side. The police told me we would have to leave the property if [Ms B] said we had to go. I told them I had no place to go but they didn’t help me and I believe they did not care.”

On 4 November 2010 Central Scotland Police received a letter from the applicant in which she stated the following:

“This woman assaulted me, they used force to throw us. First of all that was illegal eviction so police not suppose to let them throw us. Eviction need to be made by court.”

Internal Handling

The applicant’s concerns in this respect appear not to have been recorded by Central Scotland Police as a specific complaint; however, the applicant’s issues regarding her tenancy were a key feature of Inspector K’s enquiry and report.

In his report Inspector K made reference to the update provided by Constable D to the police control room on 10 April 2010. Inspector K quoted the following passage from the “result” section of the incident log:

“This is a civil matter over tenancy matters. Two Polish couples reside at [street], the second of whom have come to this country 5 months ago. They befriended the tenants and were allowed to stay with them temporarily. They have had a fall out and looking for advice re how to proceed with having the unwanted tenants removed. They have been given the necessary advice accordingly and no further action is required.”

Inspector K also made reference to the subsequent attendance of Constables F and G at the applicant’s accommodation. The following passage was quoted from the “result” section of the incident log:

“At 1745 hrs complainer attended at [police office] requesting advice regarding a disagreement with her landlord from whom she sublets a bedroom. She advised that she had called the police earlier today who attended and spoke to both parties. She was concerned that as her landlord and family were drinking, there might be trouble tonight. ... We contacted [homeless unit] on her behalf and she has been advised to contact them on Monday.”

Inspector K made reference to a further call relating to the applicant on 11 April 2010. Inspector K quoted a passage from the incident report although this time the passage was from the initial section rather than the result section:

“Caller is Polish and due to her being nervous states that she is renting the premises from someone who is renting if from the landlord. States that the people that she is renting the premises of have attended and are physically forcing them to leave. They left when they informed them that she was speaking to police, but would like to see police about being assaulted.”

Prior to officers responding to this call the applicant telephoned the police again advising that the matter had been resolved and that the police were no longer required.

Consideration

It was not clear from the applicant’s statement that she wished to make this particular complaint. In the Commissioner’s view, her intention to do so became clear only when she wrote to Central Scotland Police in November 2010, some weeks after she had received the response to her original complaints. In light of this Inspector K cannot be faulted for the fact that his report did not include complaint 3. The majority of the information contained in the applicant’s letter of November 2010 comprised background information, most of which was either included in her previous communication or was not directly relevant to her complaints. Nevertheless, when taken together with her statement, the letter did contain an expression of dissatisfaction regarding the police

having allegedly assisted in an unlawful eviction. Central Scotland Police has confirmed to the Commissioner's office that Superintendent N endorsed the applicant's letter, asking that it be filed with the other case papers and that no further action was required. Consequently, this complaint was not addressed by Central Scotland Police. In light of this, the Commissioner does not consider that it was dealt with in a reasonable manner. In the Commissioner's view, however, the information below is sufficient to provide the applicant with a reasonable response to the complaint.

Assistance in eviction

Inspector K found that Constables D and E had dealt with the issues raised by the applicant on 10 April 2010 as a matter relating to her tenancy. At the stage when Constables D and E finished dealing with the applicant she remained in her accommodation. On that basis the officers took no part in the alleged eviction.

Later the same day, Constables F and G dealt with the applicant's allegation of assault; however, it is evident that she also told them about the difficulties with her tenancy. Like the other officers, however, at the stage when Constables F and G left the applicant she remained in her accommodation, although Constable G did form the view that she was preparing to leave by gathering together her belongings. The officers therefore took no part in her alleged eviction.

The applicant called the police again on 11 April 2010 alleging that she was being forced to leave her accommodation. However, as noted above the applicant later called the police back to inform them that the matter had been resolved and that there was no need for them to attend.

In summary, on each of the occasions when the applicant called the police regarding her tenancy, the officers took no active role in removing her from her accommodation. Indeed, she remained in the accommodation following the police involvement. The basis for the applicant's belief that the police assisted in the alleged "eviction" is not known.

Lack of care

According to Constable D, she tried calling a department of the local authority which deals with homeless persons, but could not get through. Constable D states that she also offered to drive the applicant and her partner to a friend or family's house.

Constables F and G state that they also called the local authority helpline to enquire if alternative housing could be offered to the applicant and her partner.

Accordingly the evidence suggests that, far from displaying a lack of care, the officers who dealt with the applicant made attempts to assist her in finding alternative accommodation.

Conclusions, Recommendations and Learning

Complaints 1 and 3

In the Commissioner's view, the manner in which these complaints were dealt with by Central Scotland Police was not reasonable. However, for the reasons given, no recommendations are made in this connection.

Complaint 2: Provision of interpreter

In the Commissioner's view, the manner in which this complaint was dealt with by Central Scotland Police was reasonable. Accordingly, no recommendation is made in this connection.

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