

## Introduction

Learning Point summarises those complaint handling reviews conducted by the Commissioner in which opportunities for learning across policing bodies in Scotland have been identified. Although reviews are normally published, the Commissioner considers that the issuing of regular bulletins will assist policing bodies to learn from the recommendations he has made in individual cases. This will, in turn, encourage improvements to practices and procedures across the entire Scottish police service.

This edition of Learning Point covers reviews finalised by the Commissioner between April and November 2011. It is not intended to be an exhaustive account of all the decisions made during this period. Rather, the focus is upon the principles established by the Commissioner which have wider application than the individual case.

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### 1. Police powers

The general principle developed by the Commissioner in respect of complaints about the use of police powers is that police forces must explain clearly to complainers the basis upon which the powers in question were exercised. Several recent cases demonstrate the application of that principle.

In PCCS/299/09/PF-SP, the complainer alleged that his detention under section 14 of the Criminal Procedure (Scotland) Act 1995 ("the 1995 Act") had been unlawful. In response, the complainer was advised simply that he was a suspect in relation to an alleged breach of the peace. No attempt was made to explain why there was considered to be reasonable grounds for his detention, despite the fact that such grounds clearly existed.

In PCCS/153/10/PF-SP the complainer challenged the basis upon which officers had searched his wife and young child in connection with an offence he himself was alleged to have committed. The complainer was

informed that the searches were carried out under section 60 of the Civic Government (Scotland) Act 1982 which allows the police to search persons which they have reasonable cause to suspect may be in possession of stolen property. Again, however, no attempt was made to explain to the complainer *why* this ground was satisfied in relation to the complainer's wife and child, despite there being clear evidence to justify the search.<sup>1</sup>

PCCS/422/10/PF-SP is an example of a case in which, in responding to a complaint of incivility arising from the detention of the complainer under section 14, the police force did not disclose to the complainer its finding that the detention itself had been unlawful. Although the complainer had not alleged that his detention was unlawful, the Commissioner considered that the force's finding was a matter of significance to him and ought to have been disclosed.

Further examples of cases involving complaints regarding the use of police powers are given below.

### **Powers under Mental Health legislation**

In PCCS/268/09/PF-LBP the complainer was detained by police at his home as a result of serious concerns expressed by his wife and a doctor regarding his mental health. In response to his subsequent complaint about the incident, the complainer was advised simply that the officers had acted within the law and with his best interests at heart.

<sup>1</sup> Other examples of failure to explain the basis for the use of police powers include PCCS/359/09/PF-NC; PCCS/45/10/PF-NC; PCCS/268/09/PF-LBP; PCCS/330/10/PF-GP


The Commissioner acknowledged that the officers were acting in the complainer's best interests, but did not consider that the legal basis for his detention had been explained to him. While section 297(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 permits (subject to certain conditions) the detention of persons with mental disorders, the power to do so is exercisable only in public places rather than private residences, where the present complainer's detention took place.

In response to the Commissioner's recommendation in the case, the police force concerned effectively acknowledged that there was no basis for the complainer's detention under section 297(1). However, given the concerns expressed by the doctor present at the scene, it was considered that the officers had acted in accordance with the force's standard operating procedures.

Similar issues arose in PCCS/330/10/PF-GP in which the complainer challenged the legality of his detention under section 297(1). The Commissioner considered that the complainer's detention was justified in the circumstances. However, he also considered that the force's standard operating procedures did not provide sufficient guidance to officers as to how individuals who need immediate care and treatment are to be distinguished from those who do not.

The Commissioner acknowledged that such guidance should not be overly-prescriptive but considered that in its absence there was a risk that decisions to remove persons to a place of safety under section 297 would be made on an arbitrary basis. The Commissioner therefore recommended that the force liaise with the Mental Welfare Commission to establish the scope for suitable amendments to the procedures.

### Commissioner's comment

 In all cases involving complaints about detention under section 297(1) the Commissioner expects policing bodies to justify fully the use of this power by setting out the evidence satisfying each of the requirements listed in section 297(1)(a) and (b).

### *The power to require personal details under S13 of 1995 Act*

In PCCS/383/10/PF-L&B, the complainer had taken part in a political demonstration and was required by police officers to provide his personal details under section 13 of the 1995 Act. Section 13 empowers a police officer, where s/he has reasonable grounds for suspecting that a person has committed an offence, to require certain information from the person (including their name,

address and date of birth). The complainer declined to provide these details and was thereafter detained under section 14 of the 1995 Act.

In response to the complainer's subsequent complaint, the force concerned acknowledged that the complainer ought to have in fact been arrested under section 13(7) rather than detained under section 14. However, the force considered that the officers would have been justified in arresting the complainer in the circumstances. In particular, it was concluded that one of the officers involved had suspected the complainer to have committed a breach of the peace.

However, according to his statement the officer concerned had informed the complainer that enquiries were being made to establish "what offence, if any, had been committed". In light of this, the Commissioner did not consider there to be any evidence to support the view that the officer had reasonable grounds to suspect that an offence had been committed.

Accordingly, based on the evidence the Commissioner did not consider there to be any grounds for the officers to require the complainer's personal details under section 13, and consequently no lawful basis for his subsequent detention (or arrest). The Commissioner recommended that the force apologise to the complainer in this connection.

### *Seizure of vehicles*

In PCCS/539/10/PF-SP, the complainer (who resides in the UK but is a national of another EU member state), was stopped in his vehicle by police officers and later charged with a contravention of sections 143(1) of the Road Traffic Act 1988 (driving without valid insurance).

The charge was based on a particular interpretation of EU residency rules which meant that the complainer, having been resident in the UK for more than 185 days, was required to insure his vehicle in the UK rather than use the policy issued in his own country. The complainer's vehicle was also seized under section 165A of the 1988 Act. For various reasons, the complainer's car was sold by the recovery agent some time later.

The complainer was later convicted of driving without valid insurance but, following a reference by the Scottish Criminal Cases Review Commission (SCCRC), the High Court quashed his conviction. The Crown conceded during the appeal that the complainer had in fact been driving with valid insurance at the time. Although the court did not issue a formal opinion, it

appears to have acknowledged that the complainer's conviction was based on a misinterpretation of the relevant EU residency rules.

Both prior to and subsequent to the quashing of his conviction, the complainer alleged to the police force concerned that the seizure of his vehicle had been unlawful. The force found that the actions of its officers had been lawful.

The legal aspects of the complainer's case were complex; however, in light of the quashing of his conviction, the Commissioner considered there to be no lawful basis for the seizure of the vehicle. By quashing his conviction, the High Court had, in effect, found the complainer to have committed no offence. The Commissioner therefore recommended that an apology be given to the complainer in this connection.

### Commissioner's comment

“ The Commissioner also considered the complainer's case to have potential implications for other foreign drivers who might be arrested and even convicted based on an erroneous application of the residency rules. The Commissioner therefore raised these concerns with the Scottish Government, Crown Office and ACPOS.

## 2. Custody complaints

In PCCS/32/11/PF-LBP, the complainer alleged that he had been held in custody unnecessarily following his detention and subsequent arrest for a breach of the peace. The complainer had been charged with the offence at approximately 2am and was released at around 5.35 pm. Although the custody record shed no light on why he was kept in custody beyond his being arrested and charged, the complainer believed that this was because he had asked to speak to the officer who had arrested him.

In responding to the complaint, the force acknowledged that the complainer was held in custody for longer than was necessary, but was nevertheless satisfied that his continued detention was lawful. Given that the reason the complainer remained in custody was to facilitate his request to speak to the arresting officer, the complaint was found to be unsubstantiated.

In his report, the Commissioner questioned whether the complainer's continued detention could properly be described as lawful given the force's acknowledgement that it was not necessary. The Commissioner also did not consider it relevant that the continued detention appeared to have occurred because of the complainer's request to speak to the arresting officer. Specifically,

there was nothing to prevent the complainer being released pending further contact with the officer concerned rather than being held in custody for this purpose. In the circumstances, the Commissioner recommended that the force apologise to the complainer for holding him in custody unnecessarily.

Further issues relating to custody were considered by the Commissioner in PCCS/363/10-PF-SP. There, the complainer had been placed in an observation cell due to his vulnerability, and was observed by an officer placing his trousers around his neck in an apparent attempt to harm himself. The complainer's clothing was thereafter removed entirely and he was not provided with alternative clothing for at least six hours. The complainer subsequently complained about his being left naked in the cell.

As part of his review, the Commissioner considered the Custody Manual of Guidance issued by the Association of Chief Police Officers in Scotland (ACPOS) in 2010. This provides that, while no form of clothing is totally safe in such circumstances, "suicide resistant clothing" should be supplied where this is available. As the force's standard operating procedures contained no reference to the supply of such clothing, the Commissioner recommended that these be amended in order to provide for this in appropriate circumstances.

A further issue arising from complaints about police custody is the use of handcuffs. In PCCS/116/10/PF-D&G, the complainer – then aged 66 – was detained in respect of an alleged attempt to pervert the course of justice. He subsequently complained about the decision of the officers to place him in handcuffs. In response, the complainer was advised that it was "standard force policy" to handcuff all persons who are detained or arrested (with the exception of juveniles who were said to be assessed on a case by case basis).

In reviewing the complaint, the Commissioner considered the terms of the force's standard operating procedures which provide that "all custodies should be treated on an individual basis" in terms of the potential threat they pose to themselves or others. It was therefore clear that the force concerned did not adopt a standard policy whereby all detained or arrested persons are handcuffed.

The Commissioner therefore recommended that accounts be taken from the officers involved and that a further response be issued to the complainer explaining clearly whether the decision to handcuff him was justified in the circumstances.

A similar issue arose in PCCS/514/10/PF-LBP. There, the complainer (accompanied by a film crew) had attended a department store with a loudhailer which he used to make comments about cosmetic products. Several members of the public were alarmed by his conduct and he was thereafter detained by police officers who handcuffed him.

The complainer subsequently complained about the use of handcuffs and in response was informed that this was “normal procedure and assists in transporting detained and arrested persons to a police station.” No attempt was made to obtain the accounts of the officers concerned as to why they considered it necessary to apply handcuffs in the circumstances.

In the Commissioner’s view, the response issued to the complaint gave the impression that handcuffing was standard practice and was justified simply in order to transport suspects to a police station. It was clear from the force’s standard operating procedures, however, that a risk-based approach required to be taken in respect of decisions whether or not to handcuff suspects. Once again, the Commissioner recommended that the officers concerned be requested to justify their decision to use handcuffs and that a further response be provided to the complainer.

Although the Commissioner fully acknowledges that officers must ensure the safety of themselves and others, it is important to reiterate that recourse to handcuffs amounts to the use of force and must be justified in every case. It is particularly notable in the above cases that relatively senior officers mistakenly believed their respective forces adopted blanket policies whereby all suspects are handcuffed regardless of the risk they pose.

### 3. Police questioning

A complaint of oppressive questioning during a suspect interview was one of the matters considered by the Commissioner in PCCS/186/10/PF-LBP. There, the complainer had been interviewed as part of a fraud enquiry and opted to make no comment on the advice of his solicitor. At one stage in the interview, one of officer’s told the complainer, “This is potentially going to be played to a jury or a Sheriff and then if you’re saying no comment to certain questions do you not think that incriminates you, in some way?” The complainer’s subsequent complaint about the conduct of the interview was rejected by the force concerned.

### Commissioner’s comment

The Commissioner commented in his report that juries in Scotland are routinely directed not to draw

adverse inferences from a suspect’s silence during interview. In light of this, the Commissioner considered the officer’s comment to be misleading and a recommendation was made to remind him of a suspect’s right not to incriminate himself, and the implications of this for police questioning.

### 4. Complaints about senior officers

One of the issues addressed by the Commissioner in the guidance he issued to policing bodies in 2011 was the standard of response produced by police boards and authorities to complaints about senior officers. Frequently the Commissioner finds that in focussing on whether an inference of misconduct is established, boards and authorities fail to address the substance of the complaint itself. Within the guidance, the Commissioner urges boards and authorities to go further than the minimum standards required by the conduct regulations.

These and other issues were considered further in PCCS/343/10/PA – DGPA and PCCS/110/10/PA-DGPA.<sup>2</sup> In the first of these cases, the complainer made several complaints about a Chief Constable and Deputy Chief Constable.

As part of its handling of the complaints, the authority provided the officers subject to complaint with copies of a report detailing the findings made by one of its officials. While the Commissioner did not consider this to be objectionable, no consideration had been given by the authority to providing the complainer with a copy.

The Commissioner recommended that the report be provided to the complainer (redacted as necessary in order to satisfy data protection obligations).

In the same case, the authority had responded to the complaints by advising simply that these did not give rise to a reasonable inference of misconduct on the part of the officers concerned. The Commissioner highlighted in his report that it was not sufficient merely to advise complainers of the decision in respect of their complaints. Rather, policing bodies must provide complainers with sufficient information properly to inform them of how key conclusions were reached in the determination of their complaints.

The same issue arose in PCCS/110/10/PA-DGPA where the Commissioner found the authority’s response to a complaint to be overly brief and technical, and failed to explain how the decision had been reached. The

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<sup>2</sup> See also PCCS/30/09/PA-GJPB

complainer had also complained about the involvement of a particular official in the handling of her complaints, who she claimed had a conflict of interest. Despite having been communicated to the authority, this concern was never addressed.

#### Commissioner's comment

“ In his report, the Commissioner commented that where a complainer challenges the independence or impartiality of anyone involved in the handling of their complaints, it is incumbent on the policing body to make appropriate enquiries and, where possible, allay concerns about the involvement of the individual in question. As no such steps were taken in the present case, the Commissioner recommended that the authority addressed fully the complainer's concerns.

### 5. Appropriate Adults

The Commissioner continues to receive applications from complainers who feel that an Appropriate Adult ought to have been appointed in respect of their involvement with the police.

In PCCS/234/10/PF-LBP, the complainer - an individual with learning difficulties - complained about the failure to appoint an Appropriate Adult on three separate occasions when he had come into contact with the police. In addressing these complaints, the Commissioner noted that the procedures followed by the force concerned focussed almost exclusively upon the provision of Appropriate Adults in the context of formal police interviews, and did not extend to situations where a suspect is cautioned and charged without interview.

Reference was made to the guidance issued by the Scottish Appropriate Adult Network (the Network), a body comprising representatives of the Scottish Government, local authorities and ACPOS. According to the guidance, an Appropriate Adult should be present, not only during formal interview, but also when a suspect is charged.

#### Commissioner's comment

“ The procedures followed by the force had been in place for some years and recommended that these be revised to better reflect the guidance issued by the Network. Specifically, the Commissioner recommended that the force ensured that the provision of Appropriate Adults is extended beyond the police interview setting, to situations in which suspects are cautioned and charged without interview.<sup>3</sup>

<sup>3</sup> The same recommendation was made in PCCS/221/09/PF-LBP, a case involving an individual with Asperger Syndrome.

The role of the Appropriate Adult was highlighted recently by Lord Carloway<sup>4</sup> who recommended that both the definition of “vulnerable suspect” and the function of the Appropriate Adult be placed on a statutory footing<sup>5</sup>. Pending any such changes, it is essential that police forces ensure that their procedures for the appointment of Appropriate Adults reflect the terms of the Network's guidance, and are adhered to.

### 6. Final responses to complaints

In November and December 2011, the Scottish Police College held several courses for officers of Professional Standards Departments on aspects of the Commissioner's Statutory Guidance on complaints handling.

An important element of the course was the approach taken by policing bodies to written responses to complaints, which have been the subject of criticism by the Commissioner over the past few years. The participation of attendees in the practical exercises relating to this issue indicated a clear awareness of what was required in order to produce effective written responses to complaints. The challenge will be ensure a similar level of awareness within divisions.

The general principle which the Commissioner applies when considering the content of written responses is that these should contain sufficient information properly to inform a complainer as to how key conclusions were reached in the determination of their complaints.

Since April 2011, the Commissioner has made numerous adverse findings based on inadequate written responses to complaints.<sup>6</sup> In the vast majority of these cases the poor quality of the responses was the only deficiency in the handling of the complaints.

#### Commissioner's comment

“ In the event that the quality of written responses were to improve, this would result in a significant reduction in the number of adverse findings made by the Commissioner. The Commissioner expects both his guidance and the recent training courses to assist in achieving this objective.

<sup>4</sup> The Carloway Review, Report and Recommendations, 17 November 2011

<sup>5</sup> See Chapter 6.4

<sup>6</sup> See e.g. PCCS/40/10/PF-SP; PCCS/101/10/PF-LBP; PCCS/361/09/PF-CSP; PCCS/46/10/PF-GP; PCCS/439/10/PF-NC; PCCS/372/10/PF-SP; PCCS/405/10/PF-SP

## 7. General complaints handling

Since April 2011 the Commissioner has made adverse findings in respect of a wide range of issues not covered under the above headings. PCCS/78/10/PF-SP, for example, demonstrates the importance of obtaining written confirmation from a complainer of their desire to withdraw a complaint. Where such confirmation is obtained – e.g. in the form of a signed notebook entry or exchange of emails – the Commissioner will generally not include the complaint in any complaint handling review produced in the case. Conversely, where no such confirmation is obtained and the complainer insists in his application that he did not withdraw the complaint, the Commissioner will generally include the matter in his review.<sup>7</sup>

PCCS/161/10/PF-SP and PCCS/564/10/PF-SP are examples of complaints being classified wrongly as ones relating to “quality of service”. The proper categorisation of complaints is important not simply for statistical purposes: it may also affect the level of enquiry undertaken. It is therefore essential that complaints are correctly classified at the outset.

The Commissioner has also encountered a number of cases in which officers have, as part of a complaints investigation, submitted almost identical operational statements.<sup>8</sup> If two or more civilian witnesses were to supply identical statements during a complaints investigation, this would quite legitimately lead to questions about the credibility of the individuals concerned or the reliability of their evidence.

In the Commissioner’s view, the same questions arise in circumstances where police officers provide identical statements. The Commissioner therefore urges police forces to ensure that officers submit their own accounts and do not simply copy those prepared by colleagues.

A further issue identified by the Commissioner in recent cases concerns the approach taken to obtaining operational statements from officers who have retired from police service in the period between the incident giving rise to the complaint and the subsequent investigation.

The Commissioner has commented in a number of cases (involving various forces) that retirement from the police service does not, in itself, justify the decision not to obtain a statement from an officer as part of a complaints investigation.<sup>9</sup> It is also essential that all

<sup>7</sup> See also PCCS/564/10/PF-SP

<sup>8</sup> See e.g. PCCS/149/10/PF-D&G

<sup>9</sup> PCCS/4/11/PF-SP is a recent example

information relevant to a complaint is passed to the Commissioner’s office at the time of the initial request for the complaints file.<sup>10</sup>

### Commissioner’s comment

“ The Commissioner also wishes to remind police forces again of the need to maintain auditable records of enquiries undertaken during a complaints investigation.<sup>11</sup> Failure to do so hinders the Commissioner in the exercise of his functions and may lead to doubt being cast on whether particular enquiries were in fact undertaken, particularly where the complainer disputes this.

## 8. Unreasonable demands

In a previous edition of Learning Point,<sup>12</sup> reference was made to a case in which the Commissioner had taken the unusual step of recommending to a police force that it no longer dealt with complaints of a specified description made by a complainer.

The Commissioner took this action due to the sheer amount of correspondence the complainer had sent to the force; the substantial amount of resources which had been expended in dealing with his complaints; and the fact that the complainer continued to correspond with the force in connection with these complaints.

Similar recommendations have been made by the Commissioner in other, more recent cases.<sup>13</sup>

### Commissioner’s comment

“ The Commissioner takes this step only in extreme cases, where it is considered that the complainer has placed or is placing an unreasonable burden on the police complaints system. In the Commissioner’s view, such recommendations are essential in order to protect the system from abuse.

<sup>10</sup> See e.g. PCCS 161/10/PF-SP

<sup>11</sup> See e.g. PCCS/105/10/PF-GP; PCCS/94/10/PF-SP

<sup>12</sup> Issue 2 November 2010

<sup>13</sup> See e.g. PCCS/50/11/PF-NC; PCCS/145/10/PF-NC; PCCS/116/11/PF-FC; PCCS/194/10/PF-GP

## Police Complaints: Statistics for Scotland 2010-11

The third edition of the PCCS produced Police Complaints: Report on Statistics for Scotland was published on the 11 October and shows that in the year to 31 March 2011 complaint cases about the police have fallen by 8.0% to 4206, a three year low. The report, individual force reports and annexes of all individual statistical data tables is available at: [http://www.pcc-scotland.org/quality\\_assurance/statistics/police\\_complaints\\_statistics\\_for\\_scotland\\_2010-11](http://www.pcc-scotland.org/quality_assurance/statistics/police_complaints_statistics_for_scotland_2010-11).

Looking forward, for the first time next years' document will include data in relation to gender and ethnicity. In addition, the Commissioner has decided that data in relation to the time taken to complete all non-criminal complaint investigations should also be included. Currently, the timescale for such complaints is completion within 40 working days.

Staff from the PCCS are in discussion with software suppliers Force Information Systems to make the necessary changes to the reporting software to enable the updated programme to be installed before the end of the financial year. There will be no additional burden on forces in terms of data collation.

## Commissioner's comment

“ The complaint handling system should be quick and simple for all complainers and for the staff involved. This will add to the efficiency of the system, which in turn will influence people's perceptions of how police complaints are handled in Scotland.

## Complaint recording audits

In the Police Complaints: Report on Statistics for Scotland the Commissioner commented on variations in complaint levels inconsistent with force's share of Scotland's population and announced his intention to carry out audits to help understand these variations.

As a first step, staff at the PCCS have begun carrying out audits of individual forces initial complaint recording practices. With the co-operation of Fife Constabulary and with assistance of the Scottish Government Office of the Chief Statistician in developing a robust methodology, a pilot audit was carried out in August this year. The report on the audit revealed a non-

recording rate of 0.6%. The Commissioner gave the force a "full assurance" in respect of initial complaint recording.

- The report, including details of the methodology, is to be found at: <http://www.pcc-scotland.org/assets/0000/3910/FifeAuditFINAL.pdf>
- The report in respect of Dumfries and Galloway can be found at: [http://www.pcc-scotland.org/assets/0000/3981/D\\_GAuditFINAL.pdf](http://www.pcc-scotland.org/assets/0000/3981/D_GAuditFINAL.pdf)

Fieldwork has now been completed in Northern Constabulary, Central Scotland Police and Tayside Police. Grampian, Strathclyde and Lothian and Borders will all be audited in the New Year.

## Commissioner's comment

“ Accurate and consistent recording of complaints about the police helps secure public confidence in the system and contribute to a strong evidence base from which to inform the development of future policy.

## Statutory Guidance training

The PCCS Statutory Guidance outlines the new six stage police complaints process. A copy of the guidance is available on the PCCS website at: [http://www.pcc-scotland.org/assets/0000/3923/PCCS\\_statutory\\_guidance\\_web.pdf](http://www.pcc-scotland.org/assets/0000/3923/PCCS_statutory_guidance_web.pdf)

To promote awareness and understanding of the process, all encompassing training for 120 staff from Professional Standards Department and specialist investigators took place at the Scottish Police College in November and December. Prior to attending the training, delegates were issued with a pre-read document produced by the PCCS which was designed to test their knowledge of the Statutory Guidance.

The training, which is delivered under the auspices of ACPOS Professional Standards Business Area, included inputs from both PCCS and the Crown Office and Procurator Fiscal service (COPFS). Presentations included, complaint handling – the six stage process, proportionality, determination and the final letter.

The presentation on proportionality by the PCCS Head of Complaints, Robin Johnston, includes case studies that can be delivered to individual force Professional Standards Departments or local force enquiry officers, subject to resource availability.

All members of the Scottish Police Service will need to know about the new complaints procedures and what it means to them. Currently work is ongoing to design and develop a general awareness DVD for frontline officers and staff throughout Scotland.

In addition, it is planned to produce an extract of the Statutory Guidance for all Supervisors and Managers early in 2012. First and second line managers will have a key role to play in local complaints handling and they will require sufficient knowledge to give them confidence to handle complaints. Senior managers will require a sufficient level of knowledge and understanding, to enable them to carry out their roles

### Complaint handling standard operating procedures

Prompted by the Statutory Guidance, which was issued in August 2011, the Commissioner wrote to the Chair of ACPOS Professional Standards Business Area, DCC John McNab indicating his intention to carry out an audit of the standard operating procedures (SOPs) for complaints about the police from all eight forces.

The intention is to allow an assessment in relation to the recently published statutory guidance, in line with the Commissioner's functions to secure efficient and effective complaint handling arrangements. It is also in recognition of the statutory duty on relevant authorities to 'have regard to the guidance in carrying out the functions to which the guidance relates.'  
<http://www.legislation.gov.uk/asp/2006/10/section/45>

While the outcome of the consultation on police reform is still awaited it is increasingly likely that the outcome will be a single police force. The Commissioner is aware that Chief Constable Kevin Smith, in his capacity as President of ACPOS, will be responsible for a National Portfolio Board that will oversee a number of programmes leading to the creation of a Scottish Police Service.

As one of these programmes is Professional Standards, the Commissioner has written to Mr. McNab to discuss potential input by PCCS, taking account of his general functions as detailed in Section 42 of the Public Order and Criminal Justice (Scotland) 2006.

Pending those discussions, the Commissioner takes this opportunity to remind relevant authorities that in undertaking complaint handling reviews, the statutory guidance is the baseline against which he assesses how complaint handling has been undertaken by them.

If you have any feedback on Learning Point or Quality Matters please email  
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### Commissioner's comments

“ A single method of recording, reporting and investigating complaints is critical to strengthening the accountability and integrity of the police complaint handling system across the whole of Scotland.

### Persistent complaints research

Increasingly organisations, in both the public and private sectors, are required to manage people who make persistent complaints. This small group of individuals can consume a disproportionate amount of an organisation's resources, pursuing what they believe are legitimate complaints, for longer and with more intensity than the majority of the population would consider reasonable

The Commissioner is building on research undertaken in Australia<sup>1</sup> to help the police in Scotland identify potentially persistent complainers early. As well as developing a mechanism for effective management of case closure, the aim is also to develop a response model that combines both preventive and reactive elements for police to use when managing this group of people.

At the outset, a list of key warning signs or features of querulousness and of management strategies was drawn up based upon available literature and a data collection sheet designed. The data sheet focused on identifying 'early' and 'late' signs of querulousness and on both 'preventive' and 'curative' management strategies utilised by the complaints handling agencies (police force and PCCS).

Data were collected on 60 complainants. 20 'querulous' individuals, 20 'persistent' individuals and 20 controls. The querulous and persistent cases were selected by experienced complaint handling professionals at the Police Complaints Commission for Scotland. Control cases were selected by the professional standards staff at Grampian Police, who also completed the data sheets. All control cases were closed cases that had been resolved without referral on to the PCCS.

It should be possible to develop a strategy for identifying many of the querulous complainants as they emerge in the course of the complaints process and divert them to an appropriate management strategy.

The final report is due to be delivered in January by the Forensic Network, who carried out the work on behalf of the PCCS. These and other findings from the research will be analysed and used to inform the creation of practical guidance for all police in Scotland, with the potential to roll out to other public sector bodies.

<sup>1</sup> Lester G, Wilson B, Griffin L, Mullen PE, Unusually Persistent Complainants, *British Journal of Psychiatry*, 2004, 184.