

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

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## 1. Role of the PIRC

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Sections 34 and 35 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (“the Act”) provide that the Police Investigations and Review Commissioner (“the PIRC”) may examine the manner in which particular kinds of complaints are dealt with by Police Scotland and the Scottish Police Authority. Through agreements with UK police bodies operating in Scotland, the PIRC may also examine the manner in which these bodies deal with complaints. The PIRC cannot review complaints of criminal behaviour against police officers or police staff, or complaints made by persons serving, or who have served with the police, about the terms and conditions of their service.

In performing this review function, the PIRC obtains information from the police body which dealt with the complaint. This information is considered together with information provided by the person who made the complaint (“the applicant”). An assessment is then made as to whether in all the circumstances the complaint was dealt with to a reasonable standard. Among the factors taken into account when making this assessment are the following:

- whether sufficient enquiries into the complaint have been carried out by the policing body;
- 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;
- whether the policing body’s response to the complaint is adequately reasoned; and
- 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.

## 2. Key findings

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The complaints in this case arose from the applicant’s detention by officers of Police Scotland.

Seven complaints were considered, namely:

1. that the officers who detained the applicant did not afford her the opportunity to get changed and insisted that they would have to accompany her at all times;
2. that the officers who handcuffed her were rough when doing so;
3. that the applicant was asked for her personal details by the Custody Sergeant at the charge bar despite already having provided them to the officer who detained her;

4. that when being strip-searched the applicant's clothes were thrown on the floor;
5. that the applicant suffered a panic attack but a female custody officer took no action;
6. that the applicant was banging on the cell door trying to attract attention when the Custody Sergeant told her to "*stop whinging*"; and
7. that the police officers "*wouldn't listen*" to the applicant's story on the night she was arrested.

The review found that three complaints were dealt with to a reasonable standard while the remaining four complaints were not. Three recommendations and a learning point were made in this connection.

### 3. Background

On 8 March 2016 the applicant's twin sister Ms B (who suffers from learning difficulties) attended at a Police Office, accompanied by both her mother and the applicant's older sister Ms A. Ms B reported that the applicant had threatened to hit her during an incident the previous day. Ms B's allegation was partially supported by her mother, who confirmed that she had heard the applicant shouting at Ms B, however stated that she could not hear the exact words said.

At approximately 22.00 hrs the same evening, Constables C and D attended at the applicant's home and detained her for questioning under Section 14 of the Criminal Procedure (Scotland) Act 1995. The applicant was taken to the Custody Suite at the local Police Office for interview.

Due to the applicant's behaviour at the charge bar, her obvious distress and her refusal to comply with Risk Assessment procedures or to confirm her personal details to the Custody Sergeant (Sergeant E), her clothing was removed and she was placed in a cell under constant observations until she had calmed enough to be interviewed.

At around midnight the same day, the applicant was interviewed under caution by Constables C and D, after which she was charged with a breach of Section 38 of the Criminal Justice and Licensing (Scotland) Act 2010 (threatening and abusive behaviour). As she had refused to provide her name and address to Sergeant E when being booked into custody, the applicant was also charged with an offence under Section 13 (1) of the Criminal Procedure (Scotland) Act 1995. A standard prosecution report was thereafter submitted to the Crown Office and Procurator Fiscal by Constable C.

On 11 March 2016 the applicant contacted Police Scotland by telephone and made a formal complaint about the treatment she had received throughout her time in police custody. On 20 March 2016 Sergeant F obtained a statement from the applicant and agreed with her five complaints to be investigated.

On 15 July 2016 the applicant provided an additional statement and agreed a further complaint to be investigated.

A letter dated 28 November 2016 responding to the applicants' complaints was thereafter issued by Chief Inspector G.

## 4. The Review

### Complaint 1: No opportunity to change

In her statement dated 20 March 2016, the applicant said that when Constables C and D attended at her home to detain her, she was wearing “nightclothes” and so she asked if she could change into “more appropriate clothing”. The applicant complained that Constables C and D told her they would have to be with her at all times. The applicant interpreted this as meaning she would need to change in front of the two male officers, so she agreed to be taken to the custody suite in the clothes she was already wearing.

### Police Handling of Complaint 1

In his letter to the applicant dated 28 November 2016 Chief Inspector G wrote:

*“I refer to your statement and to information provided by the investigating officer in determining my decision...”*

*When a suspect is detained by police in terms of the Criminal Procedure (Scotland) Act 1995, they no longer have the right to go about their lawful business in the usual manner, as they are a detained person. In these circumstances, police procedures dictate that officers maintain constant observations of the detained person, for officer safety reasons and in order that any risk to the officers and the detainee is minimised. In addition, when a person is detained and in particular where officers have no previous contact with that person, any potential element of risk is often difficult to assess, therefore it is incumbent on the officers to take control of any such situation. Where a detainee requires to change their clothing prior to being conveyed to police office, this would be facilitated where possible and in the presence of a police officer who is the same gender as the detainee. Under no circumstances should officers of different [sic] gender be present when detainees require to change clothing.*

*I note from your statement you did initially request to change your clothing but later informed the officers you would attend the police office in the attire you were wearing. Had you continued to request a change [sic] your clothing, I am satisfied the officers would have done their best to meet your request...*

*With the information available, I am satisfied that officers acted appropriately and I am therefore unable to uphold your allegation.”*

### Consideration of Complaint 1

It is the applicant’s position that the two male police officers told her they needed to be with her at all times: as a result she believed that she would need to change clothes in front of them, which she was not willing to do, therefore she was denied the opportunity to change into more appropriate clothing.

As part of the complaint investigation, Constable C provided a statement addressing the allegations made by the applicant. Constable C states that “*it was suggested [to the applicant] on at least five occasions*” that he could arrange for female officers to attend to assist in getting her changed, however the applicant refused this suggestion and also refused his offer to take clothes with her, stating that she would attend as dressed.

It has been confirmed to the PIRC that no statement was obtained from Constable D as he was absent on long-term sick leave for the duration of the complaint enquiry, therefore there is no further account of the applicant’s interaction with the police officers whilst inside her home.

Chief Inspector G has identified that when the applicant was detained, she was wearing a “*leisure top, t-shirt, [and] leisure trousers*”, and this is confirmed by the CCTV provided from the Custody Suite at the Police Office. It is therefore clear that, although the applicant may not “*normally wear these clothes outside*”, she was not underdressed. Furthermore, both the applicant and Constable C confirm that the applicant ultimately agreed to attend at the Police Office in the clothes she was wearing.

It would have strengthened Chief Inspector G’s response to have referred to the rationale given by Constable C in his statement and to the CCTV when explaining his conclusion to the applicant. However, as Chief Inspector G has explained the relevant procedures to be followed in the circumstances, it is considered that a sufficient rationale has been provided to the applicant as to why her complaint has not been upheld,

For these reasons, it is concluded that this complaint was dealt with to a reasonable standard. No further action is required of Police Scotland in this connection.

## Complaint 2: Handcuffed “*roughly*”

In her statement dated 20 March 2016, the applicant complained that Constable C was “*very rough*” when placing her in handcuffs, and stated that she “*was not being obstructive in any way*” therefore “*could not understand the need for the handcuffs to be applied as [she] was not being aggressive*”.

## Police Handling of Complaint 2

In his letter to the applicant dated 28 November 2016 Chief Inspector G wrote:

*“I am advised you were placed in handcuffs as you were a detained person and I must inform you that this is normal police procedure when a person is detained in relation to a criminal investigation. In addition, when officers have contact with members of the public during the course of their duties there is often an element of risk. In order to ensure the safety of officers and reduce any potential risk posed, detained persons are routinely placed in handcuffs. This allows officers to take control of the person being detained and minimises the risk to the officers and to others.*

*You state your wrists were bruised following the application of the handcuffs as they were heavy. I must advise you that the handcuffs applied to you are standard issue*

*police handcuffs, routinely used for the control and restraint of persons detained or arrested by police. I note that when asked to do so by you, the officers who detained you released the handcuffs a little in order that they were a little more comfortable on your wrists. At times where the person to whom the handcuffs are applied is of slim or slight build or stature, bruising may occur when a person unaccustomed to wearing them, moves their hands or wrists awkwardly.*

*I am informed that on the day you provided a statement to [Sergeant F] she explained to you the reasons for the handcuffs being applied. In addition I am advised she allowed you to hold them and feel the weight of the handcuffs, which you state were rough and tight when applied to you. Please be aware that the police issue handcuffs are designed to control detained and arrested persons, in order that they are not a danger to themselves of [sic] others.*

*I am aware you provided... 2 photographs which show marks to your arms, which you allege were as a consequence of wearing the handcuffs. As the officers who detained you had no previous dealings with you, any risk you posed to them was undetermined and the course of action taken by them was appropriate and proportionate.*

*I have been advised the information recorded on your custody record makes no mention of any complaints or issues raised by you... As such, I am unable to uphold your allegation that the officers were rough in placing you in the handcuffs."*

## Consideration of Complaint 2

Police Scotland's standard operating procedure in relation to the Care & Welfare of Persons in Police Custody ("the Custody SOP"). states, at paragraph 5.1.3 that "*apprehension should be made with the minimum amount of force necessary*", and that any use of force necessary to effect a detention or arrest "*must be recorded in the custody record in accordance with the criteria for the use of force contained within the Use of Force SOP.*"

Police Scotland's standard operating procedure in relation to the Use of Force ("the Use of Force SOP") states, at paragraph 15.2, that Police Scotland does not give "*a blanket directive*" that every prisoner or detainee will be handcuffed as the application of handcuffs is the use of force and must therefore be justified. The SOP goes on to state that officers are "*encouraged to consider the use of handcuffs whenever it may be necessary to ensure their own safety, the safety of others or the safety of the prisoner.*"

Police Scotland's Officer Safety Training Manual further provides that officers should be prepared to justify the use of handcuffs, and demonstrates that circumstances in which to apply handcuffs are:

*"Where the officer deems it necessary to prevent the subject from assaulting, injuring or offering violence to a member of the public*

*Where the officer deems it necessary to prevent the subject from assaulting, injuring or offering violence to themselves or other police officers*

*Where the officer deems it necessary to prevent the subject from escaping or attempting to escape from custody*

*When the officer deems it necessary to prevent the subject from harming themselves...*

In his response to the applicant, Chief Inspector G has provided an explanation as to why handcuffs may be used to facilitate a detention and has provided an opinion as to whether this action was “*appropriate and proportionate*”. Chief Inspector G has additionally acknowledged that the applicant did advise Constable C that the handcuffs were hurting her, at which point the handcuffs were loosened.

However Chief Inspector G has not provided the applicant with the relevant justification for why handcuffs were specifically used in her case. This is because there is no justification provided for the applicant’s handcuffing by Constable C in his account responding to the applicant’s complaints; and it does not appear that Sergeant F specifically queried this matter with Constable C, despite this being the crux of the applicant’s complaint. As a result, Chief Inspector G’s conclusion cannot be considered well-reasoned on the basis of the information available.

For these reasons, it is concluded that this complaint was not dealt with to a reasonable standard. It is recommended that a further account be obtained from Constable C addressing specifically why he found it necessary to handcuff the applicant during her detention. A further response should thereafter be sent to the applicant detailing the justification given by Constable C, and explaining – with reference to the Use of Force SOP and the Officer Safety Training Manual – whether or not it is considered that the justification provided by Constable C is sufficient, and therefore whether or not the applicant’s complaint that she was handcuffed unnecessarily, is upheld.

### Complaint 3: Asked questions twice

In her statement dated 20 March 2016, the applicant said that whilst being processed at the charge bar at the Police Office, Sergeant E asked for her personal details. The applicant complained that she had already provided these details to Constable C when he detained her, therefore she did not understand why she was being asked the questions again, or why Constable C could not provide the details to Sergeant E on her behalf since she was “*distressed*” and “*extremely emotional*”.

### Police Handling of Complaint 3

In his letter to the applicant dated 28 November 2016 Chief Inspector G wrote:

*“I am informed when you were conveyed to [the Police Office], you were at that time, detained in terms of section 14 of the Criminal Procedure (Scotland) Act 1995. When a person is so detained, they are required by the detaining officers to provide their name, address, date of birth, place of birth and nationality. Thereafter, when the detainee arrives at a police office, a set procedure is followed and a form completed by the Duty Officer who accepts the detained person into their custody. That procedure involves the Duty Officer requiring to provide [sic] their details, in order that they be accurately recorded in line with legislative requirements and police procedures.*”

*I am aware that having been required to provide your details by the Duty Officer, you refused to provide them. I am informed that despite attempts by staff from the Custody Suite at [the Police Office] to record this information, you would not provide your details to them. Please be aware that when a person is brought into police custody either as a detainee or arrested person, they are afforded their rights, which includes affording them access to a solicitor for legal advice. Again, this is a procedure which officers from Police Scotland must adhere to and is in fairness to the person detained or arrested. In making efforts to obtain details from you, the Duty Officer and staff within the custody suite were adhering to legal requirements, in order that your rights as a detained person, be met.*

*I must advise you that the provision of information by a detained person to the Duty Officer is a requirement not a request and for that reason I am unable to uphold any allegation you make in relation to this.”*

### Consideration of Complaint 3

In her application to the PIRC, the applicant states that she did not provide her details when asked as she did not know at the time that this was the procedure to be followed. However, in her statement given to Sergeant F, the applicant acknowledges that Sergeant E told her that if she did not provide her details when asked then she could be arrested.

The CCTV obtained from the applicant's time at the charge bar clearly shows Sergeant E and other custody staff explaining to the applicant that she is required to answer the questions put to her, and further shows the applicant refusing to answer these questions a number of times, stating that she wishes for someone to listen to her “*version of events*”. It is explained to her that once she has answered the questions put to her she will be taken for interview and given the opportunity to provide her version of events, however the applicant continues to refuse, stating that she has already given her details to Constable C. The applicant's personal information is subsequently supplied by Constable C.

The material information clearly supports the explanation given to the applicant by Chief Inspector G. As the substance of the applicant's complaint is that she was asked the same questions again, and Chief Inspector G has explained to her the reason for asking her these questions (e.g. that the relevant custody forms required to be completed), it is considered that a sufficient rationale reflecting the relevant procedures has been provided as to why the applicant's complaint has not been upheld.

For these reasons, it is concluded that this complaint was dealt with to a reasonable standard. No further action is required of Police Scotland in this connection.

Notwithstanding this conclusion, Chief Inspector G's response to the applicant suggests a potential misapplication of provisions of the Criminal Procedure (Scotland) Act 1995 (the “1995 Act”). This is because Section 13 of the 1995 Act – the legislation under which the applicant was ultimately charged for refusing to provide her details to Sergeant E – specifically provides that where an officer has reasonable grounds for suspecting that a person has committed an offence, the officer may ask that person for their personal details and it is an offence not to provide these details to an officer when asked. The purpose of this section of the legislation is to enable police officers to establish the identity

of potential suspects. Accordingly, once this request has been complied with and identity has been established, there are no further legislative provisions to deal with repeated requests.

In this case, the applicant had already provided the relevant details to Constable C within her home: this is recorded in Constable C's notebook. As the applicant was already detained by the time she was presented at the charge bar by Constable C and the requirement for her details to be inserted into the relevant forms was procedural rather than legislative, it does not necessarily follow that when the applicant refused to confirm these details to the Custody Sergeant that she committed an offence under the provisions of Section 13 of the 1995 Act. This is a learning point for Sergeant E and Chief Inspector G.

#### Complaint 4: Clothes thrown on floor

In her statement dated 20 March 2016, the applicant complained that she felt “*embarrassed and degraded*” as she was not allowed to remove her clothing herself, rather this was done for her by two female Police Custody and Security Officers (PCSOs). The applicant further complained that her clothes were thrown and “*scattered*” on the floor just outside the cell, where “*they would get dirty and could get marked*”.

#### Police Handling of Complaint 4

In his letter to the applicant dated 28 November 2016 Chief Inspector G wrote:

*“I am informed, following your refusal to provide details to the Duty Officer when so required, you then refused to answer questions asked of you as part of the care plan, which is designed to ensure welfare needs of all persons in custody are met. Failure to provide information in respect of the Police Scotland care plan results in staff having limited or no information about the person in custody and consequently, risk cannot be assessed.*

*Every person brought into custody at a police office across Scotland is asked a series of questions, to assess whether they have any injuries, medical ailments or conditions, medication requirements or any other issues which may affect their time in custody. Custody staff have a duty of care to prisoners, therefore it is essential this information is recorded, in order needs [sic] are met. I am aware that due to your demeanour and refusal to provide information the decision was taken by the Duty Officer to place you on constant observations, as it could not be assessed whether you posed any risk to yourself. In circumstances such as these, it is often practice for prisoners whose risk is unknown to be strip searched and have items of clothing removed for safety reasons, prior to being placed in a lock fast cell.*

*An assessment of your needs could not be undertaken therefore measures were taken to prevent risk to you or any member of staff coming into contact with you and I am advised your clothes were removed from you. I accept you are unhappy the custody staff dropped your clothing on the floor whilst you were searched and provided alternative clothing. I must advise you the staff attempted to process your detention as quickly as possible as*

*they had numerous other prisoners' whose welfare they were responsible for and your lack of co-operation made the situation difficult, as the cell passageway is void of any place to place items. The only alternative was for your clothing to be placed temporarily on the floor until you had been searched...*

*I must advise you that for the reasons detailed, I am satisfied the police officers and members of police staff with whom you came into contact during your detention period and subsequent arrest followed standard procedures in place by Police Scotland and acted appropriately and as such I am unable to uphold your allegation."*

#### **Consideration of Complaint 4**

It is considered that there are two elements to the applicant's complaint: that she was not permitted to remove her clothing by herself, and that having been removed her clothes were subsequently thrown on the floor.

Chief Inspector G's letter of response provides an explanation to the applicant of the reasons why her clothing was removed, and this explanation is consistent with the provisions of paragraphs 9.2.4 and 13.13.1-13.13.2 of the Custody SOP.

Statements from the PCSOs Ms H and Ms J addressing the applicant's complaints have also been provided to the PIRC. It is unclear from the file whether a decision was taken to strip search the applicant, or to simply remove her clothing. Ms H and Ms J both state that the applicant's clothes were removed as she had not engaged with Sergeant E during the booking in process and had not responded to the Risk Assessment questions in the Custody Care Plan, therefore they could not be sure of the risk the applicant posed to herself or custody staff. Ms J further states that in the applicant's case, her clothes were thrown into the corridor as custody staff "*don't have time to fold the clothes up... when prisoners are being obstructive or difficult*".

Although these accounts support the explanation provided to the applicant by Chief Inspector G, it is evident from the content of these statements that they were not obtained by Sergeant F during the complaint investigation and were instead obtained in response to a request from the PIRC during the review process. Therefore although these additional enquiries have provided useful additional information in relation to the applicant's complaint, it demonstrates that Sergeant F's initial enquiry was insufficient.

Additionally, although Chief Inspector G explained to the applicant why it was considered necessary for her clothing to be removed and temporarily put on the floor, he has not directly explained why she was not permitted to remove her clothing by herself. He has therefore not addressed the applicant's complaint that the process of having her clothing removed by the PCSOs made her feel "*embarrassed and degraded*".

For these reasons, it is concluded that this complaint was not dealt with to a reasonable standard. It is recommended that a further response be sent to the applicant explaining – with reference to the evidence now available i.e. the accounts of Ms H and Ms J, as well as the Custody SOP – why the

applicant was not permitted to remove her clothing by herself and as a result was made to feel “degraded”.

## Complaint 5: Lack of action

In her statement dated 20 March 2016, the applicant said that several hours after being placed in the cell, she had a panic attack and could not breathe properly. The applicant complained that she informed one of the PCSOs – Ms H – that she believed she was having a panic attack, however Ms H “scoffed” at her, closed the cell hatch and walked away.

## Police Handling of Complaint 5

In his letter to the applicant dated 28 November 2016 Chief Inspector G wrote:

*“You confirm that throughout the night you were crying extremely loud, you were banging on the latch of the cell door all night, as you were upset about the false allegations and you wanted someone to talk to about it to put your side of the story forward. You state you think you were having a panic attack because you felt you could not breathe properly because you were crying all night, I have been informed due to your erratic behaviour, a Force Medical Examiner was summoned and prior to your release from custody you were assessed, at which point you were deemed fit.”*

## Consideration of Complaint 5

Enquiries made by the PIRC with the Professional Standards Department have established that there is no audio recording to accompany the CCTV footage of this incident. In an email dated 29 June 2017, Inspector K clarified that she obtained the CCTV footage when making enquiries into the applicant’s complaints, however was advised that due to a systems failure, only part of the audio had been captured and the remainder had failed.

As detailed in the consideration of Complaint 4 above, statements from the PCSOs Ms H and Ms J addressing the applicant’s complaints have also been provided to the PIRC however were not obtained by Sergeant F during her enquiry. Chief Inspector G’s conclusion therefore cannot be said to be based on the material information available.

Furthermore, Chief Inspector G’s letter of response does not actually address the applicant’s complaint that Ms H “scoffed” at her when she told Ms H that she believed she was having a panic attack. The Complaint Record relevant to this case indeed confirms that this particular complaint had been subsumed within Complaint 4, which is possibly why the matter has not been directly addressed by Chief Inspector G.

For these reasons, it is concluded that this complaint was not dealt with to a reasonable standard. It is recommended that this complaint be recorded as a separate allegation from that of Complaint 4. A further response should thereafter be sent to the applicant – with reference to the evidence now available i.e. the accounts of Ms H and Ms J, as well as the Custody SOP – addressing her complaint

that Ms H scoffed at the applicant when the applicant informed Ms H that she believed she was having a panic attack.

## Complaint 6: Uncivil comment

In her statement dated 20 March 2016, the applicant complained that at some point during the night, Sergeant E opened the hatch of her cell and told her to “*stop whinging*”. The applicant stated that she had been “*banging the catch on the cell door continuously all night*” as she wished to explain her “*version of events*” however Sergeant E was not interested.

## Police Handling of Complaint 6

In his letter to the applicant dated 28 November 2016 Chief Inspector G wrote:

*“I am advised throughout your time in custody and by your own admission, you continually banged on the cell door, shouted and cried hysterically...”*

*The Sergeant to whom you refer has been spoken to and provides that during your time in custody, you refused to answer questions asked of you, you were wailing and shouting, you refused to listen to any information being provided and what was being said to you. I am informed due to your conduct a prisoner in another cell made a complaint to him about it. The Sergeant completely refutes any suggestion made by you that he told you to stop whinging.*

*I have considered the information available to me and am faced with two competing versions of events. In the absence of supporting evidence of incivility, I am unable to ascertain with any degree of certainty where the truth of the matter lies. I am therefore unable to uphold your allegation in this instance.”*

## Consideration of Complaint 6

In his account directly addressing the applicant’s complaints, Sergeant E states that he recalls the applicant’s “*constant wailing and refusal to listen to what was being said to her*” however explicitly denies that he told her to “*stop whinging*” at any point.

As detailed above, there is no audio recording to accompany the CCTV footage of this incident, therefore the CCTV cannot be used to substantiate this complaint.

As detailed in the considerations of Complaints 4 and 5 above, statements from the PCSOs Ms H and Ms J addressing the applicant’s complaints have also been provided to the PIRC, however were not obtained by Sergeant F during her enquiry. Although this additional information supports Chief Inspector G’s conclusion since Ms J confirms that she did not hear any other member of staff tell the applicant to “*stop whinging*”, it demonstrates that Sergeant F’s initial enquiry was insufficient. As a result, Chief Inspector G’s conclusion – albeit now shown to be justified – was not based on the sum of the evidence available at that time.

For these reasons, it is concluded that this complaint was not dealt with to a reasonable standard. However as sufficient evidence exists to support Chief Inspector G's conclusions to the applicant's complaint, and that evidence has been explained in this report, it is not considered necessary to make any further recommendation in this connection.

## Complaint 7: Refusal to listen to applicant's "version of events"

In her statement dated 15 July 2016, the applicant complained that *"the police... wouldn't listen to me on the night I was arrested. They are listening to false allegations from my sister."*

The applicant clarified that she believed her older sister had fabricated the allegation ultimately made against her by her twin, and that although she had attempted to inform officers of this, they would not listen to her version of events.

### Police Handling of Complaint 7

In his letter to the applicant dated 28 November 2016 Chief Inspector G wrote:

*"I can confirm that when any crime is reported to Police Scotland, a report is raised and investigation conducted and when a suspect is identified, they require to be interviewed. These procedures are followed by officers on a daily basis and are necessary to ensure that action taken by officers during each incident is fair and impartial and that incidents were dealt with appropriately.*

*I must advise you that the officers dealt with you in the way they would any other person who has been identified as being responsible for a crime. In these circumstances the officers would have considered the evidence available to them and any further evidence gained during interview with a suspect...*

*I am advised during your detention you were interviewed about the crime under investigation. I can confirm this is the time when you have the opportunity to speak about the allegation and make any comment in response to questions posed by the investigating officers. I am aware you were charged at the conclusion of that interview. Thereafter, the officers would not question you further in respect of that crime, as to do so would not be in fairness to you and any information would be obtained unfairly and be inadmissible in evidence. I must also inform you the members of staff within custody division who had responsibility for you whilst you were in custody are not police officers, therefore they would not discuss or enter into conversation with you about the crime you were investigated for and subsequently arrested....*

*The matter is now in the hands of the Crown Office and Procurator Fiscals Service. As such, I am unable to make any further comment as this would be inappropriate and potentially sub-judicial. With the information available, I am satisfied that officers acted appropriately and I am therefore unable to uphold your allegation."*

## Consideration of Complaint 7

In an email to the PIRC dated 15 May 2017, Inspector K confirmed that the applicant contacted her after having made her initial complaint, intimating that she had further concerns about her arrest. As a result, Inspector K met with the applicant on 15 July 2016, obtained a further statement from her and arranged for a second Heads of Complaint form, detailing her new complaints, to be signed.

Inspector K states that during her meeting with the applicant, she explained that the applicant “*fell into the 'suspect' category for a crime*” as she had been named by witnesses as being responsible for actions which constituted a criminal offence. As such a statement would not have been taken from her but she would instead be afforded her rights as a suspect, with solicitor access granted prior to interview, where she would be given the opportunity to answer questions posed by the officers who detained her. Inspector K further states that the applicant was advised by Constables C and D that any further information she could provide should be utilised as support in her defence of her actions at court, and should be communicated to her solicitor.

A transcript of the applicant’s interview under caution, which was included in the information supplied to the Procurator Fiscal, has also been provided to the PIRC. The applicant is asked to clarify what happened on the evening she is alleged to have threatened her twin sister, and she provides a response. It is pointed to the applicant that when told she was being detained by Constables C and D, she replied “*There was no witnesses. You don’t understand my other sister is controlling, you have no idea*” and the applicant is asked which sister she is referring to. The applicant further states that her sister “*always falsely accuses*” her.

From the paperwork provided, it is evident that Constables C and D were in possession of a sufficiency of evidence from apparently credible witnesses to detain the applicant for questioning, and she was thereafter afforded her rights as a suspect and provided the opportunity to address the allegations made. There is no indication from the paperwork provided that the applicant raised clear objections during the interview as to the credibility of the information provided to officers by her sister and her mother. A sufficient explanation of the procedures followed has been provided to the applicant by Chief Inspector G, and his conclusion that the applicant’s complaint not be upheld – on the basis that she was provided an opportunity to give her “*version of events*” is supported by the available information.

For these reasons, it is concluded that this complaint was dealt with to a reasonable standard. No further action is required of Police Scotland in this connection.

## 5. Conclusions

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### Complaints 1, 3 and 7:

It is concluded that these complaints were dealt with to a reasonable standard. No further action is required of Police Scotland in this connection.

### Complaint 2: Handcuffed “*roughly*”

It is concluded that this complaint was not dealt with to a reasonable standard. It is recommended that a further account be obtained from Constable C addressing specifically why he found it necessary to handcuff the applicant during her detention. A further response should thereafter be sent to the applicant detailing the justification given by Constable C, and explaining – with reference to the Use of Force SOP and the Officer Safety Training Manual – whether or not it is considered that the justification provided by Constable C is sufficient, and therefore whether or not the applicant’s complaint that she was handcuffed unnecessarily, is upheld.

### Complaint 4: Clothes thrown on floor

It is concluded that this complaint was not dealt with to a reasonable standard. It is recommended that a further response be sent to the applicant explaining – with reference to the evidence now available i.e. the accounts of Ms H and Ms J, as well as the Custody SOP – why the applicant was not permitted to remove her clothing by herself and as a result was made to feel “*degraded*”.

### Complaint 5: Lack of action

It is concluded that this complaint was not dealt with to a reasonable standard. It is recommended that this complaint be recorded as a separate allegation from that of Complaint 4. A further response should thereafter be sent to the applicant – with reference to the evidence now available i.e. the accounts of Ms H and Ms J, as well as the Custody SOP – addressing her complaint that Ms H scoffed at the applicant when the applicant informed Ms H that she believed she was having a panic attack.

### Complaint 6: Uncivil comment

It is concluded that this complaint was not dealt with to a reasonable standard. However for the reasons given in the report, it is not considered necessary to make any further recommendation in this connection.

### Learning Point

With respect to Complaint 3, Chief Inspector G’s response to the applicant suggests a potential misapplication of provisions of the Criminal Procedure (Scotland) Act 1995 (the “1995 Act”). This is because Section 13 of the 1995 Act – the legislation under which the applicant was ultimately charged for refusing to provide her details to Sergeant E – specifically provides that where an officer has

reasonable grounds for suspecting that a person has committed an offence, the officer may ask that person for their personal details and it is an offence not to provide these details to an officer when asked. The purpose of this section of the legislation is to enable police officers to establish the identity of potential suspects. Accordingly, once this request has been complied with and identity has been established, there are no further legislative provisions to deal with repeated requests.

In this case, the applicant had already provided the relevant details to Constable C within her home: this is recorded in Constable C's notebook. As the applicant was already detained by the time she was presented at the charge bar by Constable C and the requirement for her details to be inserted into the relevant forms was procedural rather than legislative, it does not necessarily follow that when the applicant refused to confirm these details to the Custody Sergeant that she committed an offence under the provisions of Section 13 of the 1995 Act. This is a learning point for Sergeant E and Chief Inspector G.

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