

independent and effective investigations and reviews

pirc

Police Investigations &
Review Commissioner

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Report of a Complaint Handling Review in relation to Police Scotland

What we do

We obtain all the material information from Police Scotland and the applicant. We then use this to review how the complaint was dealt with and conclude whether the complaint was handled to a reasonable standard*. In doing so, we consider factors such as:

- whether sufficient enquiries into the complaint were carried out by Police Scotland;
- whether Police Scotland's response to the complaint was supported by the material information available;
- whether Police Scotland adhered to the relevant policies, procedures and legal provisions in dealing with the complaint;
- whether Police Scotland's response was adequately reasoned; and
- where the complaint resulted in Police Scotland identifying measures necessary to improve its service, that these measures were adequate and have been implemented.

Finally, where we deem appropriate, we give reconsideration directions, make recommendations and identify learning points for Police Scotland.

*Sections 34 and 35 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 as amended ("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.

Executive Summary

The Complaints

The complaints in this case arose following the applicant's detention and subsequent arrest in connection with an alleged domestic related incident. We have reviewed five complaints, namely:

1. that he was arrested before statements were taken from all of the prosecution witnesses, and he was unhappy at how these statements were obtained;
 2. that no defence statements were noted from his family;
 3. that a statement was not obtained from his sister-in-law;
 4. that no photographs were taken of his hands; and
 5. that he should not have been held in custody, but should have been released on an undertaking.
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Police Scotland's Decision

Police Scotland did not uphold any of the applicant's complaints.

Our Findings

We have found that Police Scotland handled complaints 1, 2, 4 and 5 to a reasonable standard; but not complaint 3.

Consequently, we have made a recommendation to address the shortcoming we have identified in relation to complaint 3. In summary, we recommend that Police Scotland reassess the complaint and provide the applicant with a further response.

We have also made an additional recommendation to rectify a further shortcoming that we have identified. In this regard, we have recommended that Police Scotland record complaints 1, 2, 3 and 4 of our report separately.

In addition, we have issued a learning point in connection with a shortcoming that we have identified in relation to Police Scotland's overall complaint handling.

We expect our recommendations to be implemented by Police Scotland within two months of the date of this report.

Background

On the evening of 23 September 2017, Police Scotland received reports via telephone that there was a disturbance at the applicant's address. Constables B, C, D and E attended the applicant's address, and were later joined by Sergeant F.

At around 11.45 pm, Constables B and C detained the applicant under section 14 of the Criminal Procedure Scotland Act 1995 ("the 1995 Act) on suspicion of assaulting his wife (Mrs A). The officers conveyed the applicant to a police office, where he was interviewed under caution. At around 2.33 am on 24 September 2017, the applicant was cautioned and charged. His status was changed to that of an arrested person, and he was held in police custody to appear in court.

On 26 September 2017, the applicant appeared in court and pled not guilty. A trial date was scheduled for 15 January 2018, at which time the applicant was found not guilty.

On 16 January 2018, the applicant phoned Police Scotland to complain. Inspector G was appointed to investigate the applicant's complaints. Inspector G obtained a statement from the applicant on 30 January 2018. The applicant also agreed and signed a Police Scotland Heads of Complaint form at that time. Police Scotland responded to the applicant's complaints by way of a letter from Chief Inspector H dated 26 February 2018.

Complaint 1

The applicant complained that he was arrested before all prosecution witness statements were taken. In his statement, the applicant said that, as far as he was concerned, there was only one witness at the time he was arrested. The applicant also complained that he was unhappy about how the statements were obtained and the timeframe in which they were obtained.

Police Scotland's Handling of Complaint 1 (not upheld by the police)

Chief Inspector H explained that the applicant was detained under Section 14 Criminal Procedure (Scotland) Act 1995 as there was a reasonable suspicion that he had committed a crime punishable by imprisonment. Chief Inspector H said that the suspicion was based on accounts provided by more than one independent witness.

Chief Inspector H advised that one of the witnesses had flagged down the police vehicle that was on route to the incident and said that he had seen a female, who resided at the applicant's address, being assaulted by a male fitting the applicant's description. Chief Inspector H explained that the witness had said that others within his household had witnessed the assault and would be willing to provide statements. Chief Inspector H said that, on this basis, another officer was directed to attend the address of the witnesses and note their statements.

Chief Inspector H then advised that, when officers were within the applicant's address, other officers were dealing with his partner (Mrs A) who was on a grassed area nearby. Chief Inspector H explained that Mrs A was heavily intoxicated, disruptive, continually shouting and bawling at the top of her voice, and was refusing all attempts from both the police and family members to calm down. Chief Inspector H said that, as a result of this, the officer assigned to note full statements from the witnesses was required to re-attend outside the applicant's home address to assist. Chief Inspector H explained that, before the officer left the witnesses address, he had been able to note a full written statement from one witness and obtained verbal accounts from two other witness. Chief Inspector H explained that the full statement and verbal accounts provided corroborative evidence for the applicant's detention and subsequent arrest.

Chief Inspector H then advised that, upon the applicant providing a no comment interview, there was corroborative evidence to charge him with domestic assault. Chief Inspector H explained that, even if the officers had returned the day after the applicant's arrest and the witnesses who had provided verbal accounts refused to provide written statements, the one written statement, two verbal accounts and the disclosure by one of these latter witnesses to police officers on route to the incident would have provided sufficient corroborative evidence. Chief Inspector H went onto confirm that officers did indeed return and note written statements from both of these witnesses, which corroborated their earlier verbal accounts.

Chief Inspector H stressed that, if officers had not been required to deal with the disorderly conduct of Mrs A, they would have been able to remain at the address of the witnesses and note full written statements. Chief Inspector H said that, due to the conduct of Mrs A and the necessity to arrest her, the officers was unable to note full statements from the two witnesses. He again said that it was competent to charge the applicant with the offences libelled and arrest him on the basis of the evidence at hand at that time.

Chief Inspector H assessed that the evidence provided compelling support for the officers decision to detain and subsequently arrest the applicant. Chief Inspector H found that the complaint was not upheld.

Our Review of Complaint 1

Section 14(1) of the Criminal Procedure (Scotland) Act 1995 ("the 1995 Act")¹ provided that, where a constable has "reasonable grounds" for suspecting that a person has committed an offence punishable by imprisonment, the constable may detain that person to facilitate the carrying out of investigations into the offence and whether criminal proceedings should be instigated. However, in order to arrest and charge a person, there needs to be more than merely reasonable grounds for suspecting that he/she has committed the offence. Arrest can only take place where there is sufficient corroborated evidence to do so, i.e. evidence from two or more sources that a) an offence has been committed and b) that the suspect is the person responsible for committing the offence.

We have been given a copy of the Standard Prosecution Report ("SPR"). The SPR supports that the applicant was detained under section 14 of the 1995 Act at around 11.45 pm on 23 September 2017 by Constables B and C. The SPR also supports that at around 2.15 am on 24 September 2017 the applicant was interviewed under caution by Constables B and C, that the applicant gave a "no comment" interview, and that he was cautioned and charged at around 2.33 am the same morning. The applicant's status was changed to that of an arrested person and he was held in custody to appear in court.

¹ Section 14 of the Criminal Procedure (Scotland) Act 1995 was in force when the applicant was detained, but has now been repealed by the Criminal Justice (Scotland) Act 2016

We have also been given Constable D's statement. Constable D said that, at around 11.25 pm on 23 September 2017, he attended the home address of the applicant's neighbours (Mr J, Mrs K and Ms L). Constable D said that he noted a signed statement from Mrs K, who said that she heard loud screaming and smashing; that she looked out her bedroom window into a nearby house and saw a male assaulting a female, by repeatedly punching her; that she told her husband (Mr J) to contact the police; and that Mr J and their daughter (Ms L) joined her in the bedroom and they all witnessed the male push and punch the female again, which resulted in her falling into the garden. Constable D said that he thereafter spoke with Mr J and Ms L, who both provided versions of events that supported what Mrs K had said. Constable D explained that he then contacted Sergeant F with this information; that he told Sergeant F that he would obtain statements from Mr J and Ms L; that Sergeant F told him to return to the applicant's address, as Mrs A was being arrested; and that he spoke to Mr J and Ms L, who both agreed to provide statements at a later time. Constable D further stated that, on 24 September 2017, he and another officer (Constable M) re-attended the address of the applicant's neighbours and obtained written statements from Mr J and Ms L. We have been given Constable M's statement, and his account supports that of Constable D in this connection.

We have also been given the statement that was obtained from Mrs K at 11.35 pm on 23 September 2017, as well as the statements were obtained from Mr J and Ms L at 10.35 pm on 24 September 2017. Mrs K said that she saw a male and female shouting and screaming; that the male repeatedly punched the female; that the female was screaming and ended up falling to the ground; that she then got her husband to phone the police; that her husband and daughter joined her upstairs; that the male attacked the female again, pushing her towards the back door; and that the female fell out into the garden. Mrs K's account is supported by Mr J, who said that he saw a male hitting a female several times to her face, that the male attacked her and made her fall to the ground and that the female was screaming as the male was hitting her. However, although Ms L's account supports those of Mrs K and Mr J, she did not actually state that she witnessed the applicant assaulting Mrs A. Rather, Ms L said that: from the view she had, she could see a male shouting at a female and the female cowering away from him; that the female fell, but she could not be sure what caused the fall due to the distance and it being dark; and that the female appeared distressed and in pain continually shouting. Nevertheless, although Ms L did not state that she saw the applicant assault Mrs A, her version of events provided support for Mrs K and Mr J's accounts. We consider however that, for the sake of completeness, Chief Inspector H's letter of response should have made this point clear.

In addition, we have been given a statement that was obtained from Sergeant F. Sergeant F has said that he attended the applicant's address shortly after 11 pm and was flagged down on route by Mr J. Sergeant F has said that Mr J told him that he had seen a female being assaulted by a male, and that his wife and daughter had also witnessed this and would be willing to provide statements.

In light of the above, we consider that Chief Inspector H's response is supported by the material information available. Furthermore, we also consider that the evidence available supports on balance that there was sufficient evidence to detain and thereafter charge the applicant. This is because the available evidence supports that, at the time of the applicant's detention and arrest, the police had evidence from two sources that an offence had been committed, i.e. a written statement from Mrs K and verbal accounts from Mr J and Ms L. As outlined above, after the applicant was charged, the police obtained formal witness statement from Mr J and Ms L.

Consequently, we are satisfied that this complaint was dealt with to a reasonable standard.

Notwithstanding the above, we note that Police Scotland recorded the allegations set out at complaints 1, 2, 3 and 4 of this report as a single complaint. The single allegation recorded was that the police conducted insufficient enquiry leading to the applicant's arrest. We consider that the aforementioned four allegations were capable of being upheld or not upheld independently of the other. This is also supported by the fact that Police Scotland themselves responded to each of the allegations separately.

As such, we consider that Police Scotland should have recorded complaints 1, 2, 3 and 4 of this report as separate standalone complaints in line with Police Scotland's Standard Operating Procedure regards Complaints About the Police ("the Complaints SOP").

Our Conclusion on Complaint 1

We conclude that Police Scotland handled this complaint to a reasonable standard.

However, we recommend that Police Scotland records the allegations set out at complaints 1, 2, 3 and 4 of this report as separate complaints and writes to the applicant to confirm that this has been done.

Complaint 2

The applicant complained that defence statements were not obtained from his family. In his statement, the applicant said that, if statements had been taken from his family in defence, there would have been no evidence to charge him.

Police Scotland's Handling of Complaint 2 (not upheld by the police)

In his response, Chief Inspector H said that he was satisfied that statements were noted from the applicant's family.

Chief Inspector H went on to advise that, although no witness statements were obtained prior to the applicant's detention and arrest, verbal accounts were provided by the applicant's mother-in-law, father-in-law and sister-in-law. Chief Inspector H said that these individuals had all provided similar versions of events. He explained that they had all said that there was a disturbance at the applicant's home, which had been caused by the applicant's partner who was heavily under the influence of alcohol. He further explained that they had all said that they did not witness any assault taking place.

Chief Inspector H also advised that officers returned to the applicant's address at around 2.30 am, at which time they noted written statements from the applicant's mother-in-law and father-in-law. Chief Inspector H said that their accounts were the same as the verbal accounts which they had previously given. Chief Inspector H said that the applicant's complaint about whether a statement was obtained from his sister-in-law was the subject of a separate complaint (see complaint 3 of this report).

Chief Inspector H also explained that, in the applicant's statement to Inspector G, he seemed to believe that the noting of these statements should have provided proof of his innocence and that he should not have been charged with domestic assault. Chief Inspector H advised that, as there was evidence from more than one independent witness that the applicant assaulted his partner, there was sufficient corroborative evidence to prefer the charge of domestic assault. Chief Inspector H further advised that all statements, including those of the applicant's family, were provided to the Crown Office and Procurator Fiscal Service ("the COPFS"). Chief Inspector H explained that the COPFS found that there was sufficient evidence to bring the charges to court.

Chief Inspector H assessed that the officers noted statements from the applicant's family and provided full disclosure to the COPFS. Chief Inspector H found that the complaint was not upheld.

Our Review of Complaint 2

The crux of the applicant's complaint was that the police did not obtain defence statements from his family, namely his mother-in-law (Ms N), his mother-in-law's partner (Mr P) and his sister-in-law (Ms Q). Chief Inspector H's response advised that the matter of whether a statement was obtained from Ms Q had been dealt with under a separate head of complaint. For this reason, we too have considered this matter under a separate head of complaint, i.e. complaint 3 of this report.

We have been given copies of the statements provided by Constables D and E. Constable D said that he attended the applicant's address with Constable E; that, on their arrival, a vehicle was driving away from the address; that Mrs A, Ms N and Ms Q were within the vehicle; that Ms N explained that Mrs A lived nearby; and that Ms N said that her and Mr P had been out for dinner and had received a call from Ms Q to say that Mrs A was very drunk. According to Constable D, Ms N and Ms Q both said that they were trying to get Mrs A to Ms Q's house for the evening. Constable D's account is supported by that of Constable E.

We have also been given a copy of Constable B's statement. Constable B said that he and Constable C attended the applicant's address; that, on their arrival, he saw a female outside on the grass; that he and Constable C were met by the applicant and Mr P; and that the applicant and Mr P both said that the female outside had had too much alcohol. Constable B's account is supported by that of Constable C in this connection. In addition, Constable B said that he noted a statement from Mr P. Police Scotland has provided us with a copy of Constable B's notebook entry from 11.23 pm on 23 September 2017, which supports that Constable B attempted to note a statement from Mr P at that time. Constable B's notebook recorded that Mr P said that he saw Mrs A lying outside on the grass but did not observe her to be injured in any way. However, the statement noted from Mr P was brief and incomplete.

Chief Inspector H's response advised that, although no witness statements were obtained prior to the applicant's detention and arrest, verbal accounts were obtained from Ms N, Mr P and Ms Q. Chief Inspector H said that these three individuals provided a similar version of events "saying they did not witness any assault taking place". We consider that Chief Inspector H's response is misleading in this connection. As outlined above, the accounts of Constables B, C, D and E all support that Ms N, Mr P and Ms Q were spoken to before the applicant's arrest and detention. However, while the officers stated that Ms N, Mr P and Ms Q all said that Mrs A had drunk too much alcohol, none of the officers addressed whether any of these individuals said that she had or had not been assaulted. As such, we asked Police Scotland to confirm the basis of Chief Inspector H's response in this connection. Inspector G advised us that, when Constables D and E spoke to Ms N and Ms Q, the officers were not aware of the assault allegation from the independent witnesses and so the question was never directly asked. Inspector G's reasoning would appear to be consistent with the available evidence. We therefore consider that it was misleading for Chief Inspector H's response to advise that Ms N, Mr P and Ms Q said that they did not witness any assault taking place.

Chief Inspector H's response also said that officers returned to the applicant's address at around 2.30 am and noted written statements from Ms N and Mr P. We have been provided with statements were obtained from Ms N and Mr P on 24 September 2017 at 2.30 am and 2.35 am respectively. Ms N and Mr P both said that they did not witness an assault taking place.

In light of the above, and notwithstanding the above-mentioned shortcoming in the response, we consider that Chief Inspector H's overall finding was supported by the material information available and was reasonable in the circumstances. This is because, while the available evidence supports that written statements were not obtained from Ms N and Mr P before the applicant was detained and

arrested, the available evidence also supports that their statements were obtained thereafter. In any case, and as outlined in Chief Inspector H's response, we consider that the evidence available supports on balance that there was sufficient evidence to detain and arrest the applicant regardless of whether statements were obtained from Ms N and Mr P. This is because the available evidence supports that, prior to the applicant's detention and subsequent arrest, the police had obtained evidence from two or more sources that a crime had been committed by the applicant, i.e. a written statement from Mrs K and verbal accounts from Mr J and Ms L. As such, even if statements had been obtained from Ms N and Mr P before the applicant was detained and arrested, the police would still have had sufficient evidence to carry out those procedures.

We are therefore satisfied that this complaint was dealt with to a reasonable standard.

Our Conclusion on Complaint 2

We conclude that Police Scotland handled this complaint to a reasonable standard.

No further action is required in this connection.

Complaint 3

The applicant complained that a statement was not obtained from Ms Q.

Police Scotland's Handling of Complaint 3 (not upheld by the police)

Chief Inspector H confirmed that a written statement was not obtained from Ms Q. Chief Inspector H explained that an officer did, however, note her details and that she indicated that the applicant had not assaulted his partner. Chief Inspector H said that officers were unable to note a full statement from Ms Q because they had been required to deal with a number of other matters, including the disorderly conduct of the applicant's partner, speaking with independent witnesses and dealing with the domestic incident that took place within the applicant's home address.

Chief Inspector H said that this information and the account of Ms Q was provided to the COPFS in her position as a potential defence witness. Chief Inspector H also said that an officer inserted a remark on the case to say that the police would re-attend and note a full statements from Ms Q if the COPFS felt it was necessary. Chief Inspector H said that no such request was made.

Chief Inspector H assessed that the actions of the officers did not have a detrimental impact upon the applicant's arrest and charge. Chief Inspector H found that the complaint was not upheld.

Our Review of Complaint 3

As outlined in the response, Constables D and E's accounts both support that a statement was not obtained from Ms Q. Constable E elaborated further and said that, due to the arrest of Mrs A, it was not

reasonably practicable to obtain a statement from Ms Q. As such, Chief Inspector H's response is supported by the available evidence in this connection.

Police Scotland also provided us with a copy of the SPR. We confirm that the SPR detailed that Ms Q gave a verbal version of events, which was consistent with the statements that were obtained from Ms N and Mr P. The SPR also detailed a statement was not obtained from Ms Q, but could be obtained if required. As such, Chief Inspector H's response is also supported by the available evidence in this connection.

However, we consider that there is a shortcoming in Chief Inspector H's response. Chief Inspector H advised that an officer noted Ms Q's details, and she said that the applicant had not assaulted Mrs A. As noted above at complaint 2, Constable D and E's accounts support that they spoke to Ms Q before the applicant's arrest and detention. However, while Constables D and E stated that Ms Q said that Mrs A had drunk too much alcohol, neither of them addressed whether she said that Mrs A had or had not been assaulted. As such, we asked Police Scotland to confirm this point. Inspector G advised us that, when Constables D and E spoke to Ms Q, there was no allegation that Mrs A had been assaulted and so the question was never directly asked. As such, Chief Inspector H's response would appear to be inconsistent with the information that we have since been given by Police Scotland.

Further to the above, the paperwork provided by Police Scotland included an entry from Constable E's notebook from 11.15 pm on 23 September 2017. This has detailed that Ms Q was spoken to and said that no assault had taken place. Again, the information recorded in Constable E's notebook would appear to be inconsistent with what we have been told by Inspector G during our review.

Accordingly, and for the reasons outlined above, we are not satisfied that this complaint was dealt with to a reasonable standard.

Our Conclusion on Complaint 3

We conclude that Police Scotland did not handle this complaint to a reasonable standard.

We recommend that Police Scotland reassess the complaint on the basis of the points outlined above. Police Scotland should then provide the applicant with a further response, which addresses the complaint in full and explain the reasoning for whatever decision is reached.

Complaint 4

The applicant complained that photographs were not taken of his hands.

Police Scotland's Handling of Complaint 4 (not upheld by the police)

Chief Inspector H confirmed that photographs were not taken of the applicant's hands. He explained that the officers who detained and arrested the applicant had stated that they did not observe any marks on the applicant's hands and believed that photographs would hold no evidential value. Chief Inspector H advised that photographs of non-injuries would not typically be taken and that, even if

photographs had been taken in the applicant's case, the weight of evidence would still have pointed to the officers being correct in arresting the applicant. Chief Inspector H said that the fact that photographs were not taken had no material bearing on the decision to charge the applicant.

Chief Inspector assessed that the officers acted correctly and found that the complaint was not upheld.

Our Review of Complaint 4

In their statements, Constables B and C both said that they did not observe any injuries/marks on the applicant's hands and that as such, there would have been no evidential value to obtaining photographs. Chief Inspector H's response is therefore supported by the available evidence in this connection.

We also consider that it was reasonable for Chief Inspector H to advise that photographs of non-injuries would not normally be taken.

We further consider that it was reasonable for Chief Inspector H to advise that, even if photographs had been taken in the applicant's case, the weight of evidence would still have pointed to the officers being correct in arresting the applicant. This is because, as outlined above at complaints 1 and 2, the available evidence supports on balance that there were sufficient evidence to detain and thereafter arrest the applicant.

Consequently, and in light of the above, we are satisfied that this complaint was dealt with to a reasonable standard.

Our Conclusion on Complaint 4

We conclude that Police Scotland handled this complaint to a reasonable standard.

No further action is required in this connection.

Complaint 5

The applicant complained that he should not have been held in custody and should have been released on an undertaking.

Police Scotland's Handling of Complaint 5 (not upheld by the police)

Chief Inspector H said that the applicant had referred to the joint protocol between Police Scotland and the COPFS, which was entitled "In partnership challenging domestic abuse" and had been effective from 24 March 2017.

Chief Inspector H explained that previous guidelines issued to the police had included a presumption that a person charged with a domestic related offence would be held in custody for attendance at a court on the new lawful date, unless exceptional circumstances were present. Chief Inspector H

advised that the revised guidelines allowed custody officers to consider the possibility of releasing offenders on an undertaking, subject to carrying out a full risk assessment. Chief Inspector H explained that whether an offender is held in custody or released on an Undertaking is for the custody officer to justify his/her decision, updating the custody record accordingly.

Chief Inspector H said that the Custody Sergeant on duty at the time of the applicant's detention and subsequent arrest had provided his reasons for detaining the applicant in custody, rather than releasing him on an undertaking. Chief Inspector H said that his decision was taken due to the level of violence used, and the statements obtained from independent witnesses which said that the applicant had repeatedly punched his partner about the head and body. Chief Inspector H advised that, in such cases of violence, offenders still appear at court from custody. Chief Inspector H also said that Custody Sergeant believed that there was a likelihood that the applicant would interfere with the witnesses if he was not held in custody.

Chief Inspector H further explained that the Custody Sergeant had stated that, as per the advised guidelines, he considers an undertaking on every occasions that a person comes into custody. Chief Inspector H said that, due to the factors outlined above, the Custody Sergeant decided that an undertaking was not appropriate in the applicant's case. Chief Inspector H said that the disposal decision was fully recorded on the police national custody system.

Chief Inspector H assessed that the officer did not act incorrectly or beyond his powers, and found that the complaint was not upheld.

Our Review of Complaint 5

As outlined in Chief Inspector H's response, the joint protocol between Police Scotland and the COPFS entitled "*In partnership challenging domestic abuse*" ("the Protocol") was effective at the time of the applicant's arrest. The Protocol provides that, where there is a sufficiency of evidence, the accused will either be released on an undertaking to appear at court at an early diet *or* be held in custody pending appearance at court. The Protocol says that police officers must take every precaution to ensure that a person is not unreasonably or unnecessarily held in police custody. However, the Protocol also acknowledges that, given the particular risks associated with domestic abuse cases, it can be reasonable and necessary to hold an accused in custody pending the submission of a report to the Procurator Fiscal. The Protocol lists a number of factors that police officers should consider when determining whether to release a person by way of an undertaking or hold them in police custody. These factors include the ongoing risk posed to the safety of the victim, the circumstances of the offence and the likelihood of reoffending. The Protocol makes it clear that, if there is a likelihood of any of these things happening, the accused should be detained in police custody pending court appearance.

We have been given the statement that was obtained from the custody sergeant, namely Sergeant R. Chief Inspector H's response has accurately summarised Sergeant R's account. As outlined in Chief Inspector H's response, Sergeant R said that he decided to keep the applicant in custody due to the level of violence used. He also said that he felt the applicant was likely to interfere with witnesses due to comments that he had made at the time of the offence.

We consider that Chief Inspector H's response has accurately summarised the guidance outlined in the Protocol, as well as Sergeant R's account. We also consider that Chief Inspector H's finding was in line with the guidance set out in the Protocol and was reasonable in the circumstances.

For the reasons outlined above, we are satisfied that this complaint was dealt with to a reasonable standard.

Our Conclusion on Complaint 5

We conclude that Police Scotland handled this complaint to a reasonable standard.

No further action is required in this connection.

Learning point

The paperwork provided by Police Scotland has indicated that the police considered Frontline Resolution (“FLR”) in the applicant’s case. This is apparent from Chief Inspector H’s final letter to the applicant, which said: “...you were phoned by a member of staff from [the professional standards department] on 19 January 2018, but unfortunately no resolution to your complaint could be found”. The Complaint About the Police record also stated the following:

“I discussed a number of aspects of this case with the complainer and although agreeing with some explanation it became apparent that he will not be amendable to FLR and is intent on taking this complaint further...”

Paragraphs 5.4.1, 6.5.2 and 6.5.4 of the Complaints SOP (see appendix II of this report for the relevant extract from the Complaints SOP) makes clear that FLR should only be attempted in non-serious complaints that appear to be “*minor or trivial in nature*”. In our view, it should have been clear from the outset that the applicant’s complaints were not suitable for FLR.

This should be borne in mind by the police when handling any further complaints.

What happens next

We have made two recommendations. We expect these to be implemented within two months of the date of this report. We will continue to liaise with Police Scotland until such time as we consider that the recommendations have been implemented to our satisfaction.

Amy Ferguson
Review Officer

Ilya Zharov
Head of Reviews & Policy