



# **nationale ombudsman**

Report

## **Complaint handling by the Dutch Caribbean Police Force on the right track but with room for improvement**

An investigation into the handling of complaints by the Dutch Caribbean Police Force (KPCN)

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## Summary

The main tasks of the Dutch Caribbean Police Force (*Korps Politie Caribisch Nederland*, KPCN) are maintaining public order and investigating criminal offences. Because police officers have a lot of personal contact with members of the public in their work, complaints about the actions of members of the KPCN are not uncommon. To deal with these in a professional manner, the force should recognise that handling complaints is a task which requires specialist knowledge and skills. It is also important that everyone in the organisation have an open attitude towards complaints.

The National Ombudsman has investigated the KPCN's handling of complaints. Our aim was to answer the following

question: how does the force deal with public complaints and how well does that procedure reflect our view of professional complaint handling? We therefore tested the procedure against the five rules of thumb defined as part of that view.

As a result of this exercise, we have identified a number of opportunities for improvement. For example, we note that the current complaints manual dates from 2011 but has still not been adopted officially. On Bonaire it is already being used in the handling of complaints, but not on Saba and St. Eustatius (the Dutch Leeward Islands). As a result, complaints made on the latter islands are treated differently. Other potential improvements can be found in the registration of informal complaints and in the compilation of an annual complaints analysis, so that the KPCN can learn better from complaints.

The National Ombudsman makes the following recommendations to the KPCN:

1. *Finalise the complaints manual and make it public.*
2. *Upgrade the online complaints form and ensure that it can be found on the website.*
3. *Provide drop boxes for complaints on the Leeward Islands.*
4. *Register complaints which are resolved informally.*
5. *Conduct an annual complaints analysis.*
6. *Notify the complainant when a disciplinary investigation is initiated as a result of their complaint.*
7. *Forward copies of complaints to the island governor and the Public Prosecution Service.*
8. *Be transparent, always involving both the complainant and the respondent in the investigation.*
9. *Check with the complainant that the matter has been concluded to their satisfaction.*
10. *Justify the outcome in a concluding letter.*

# 1 Introduction

## 1.1 Background

Since 10 October 2010, the National Ombudsman has been authorised to deal with complaints about public agencies in the Dutch Caribbean, including the KPCN. Whereas previously investigations there were conducted only into specific complaints received, in 2016 a first step was taken towards initiating them autonomously, as was already done in the European Netherlands. In conjunction with the Council for Law Enforcement, in that year an investigation was undertaken into the handling of complaints within the criminal justice chain.<sup>1</sup> We have since conducted more such exercises in order to gain a better picture of the way government bodies in the Dutch Caribbean deal with complaints. Organisations scrutinised so far include the Health Insurance Office and the Immigration and Naturalisation Service. The primary aim of these investigations is to contribute towards good governance in the Dutch Caribbean. In recent years we have regularly received signals from members of the public about the handling of complaints by the KPCN, giving us sufficient reason to look into its performance in this respect and how that might be improved.

The scope of the 2016 investigation into the criminal justice chain included the KPCN.<sup>2</sup> Its report therefore included a number of analyses and recommendations for the force. For example, the analyses revealed that it uses a complaints manual which refers to a special complaints procedure for the police on Bonaire, St. Eustatius and Saba (the “BES islands”), but that such a procedure in fact does not appear to exist. Moreover, copies of complaints are not submitted to the relevant island governor or the chief public prosecutor as required under the BES Public Safety Act (*Veiligheidswet BES*) and provided for in the manual. The investigation also showed that not all case files are complete and that complaints are not always dealt with within the legal deadline. It also identified the local Internal Affairs Bureau (*Bureau Interne Zaken*, BIZ), being literally a “one-man operation”, as highly vulnerable. Finally, the report noted that there is no analysis of complaints.

Considering these points, the 2016 report made two specific recommendations for the KPCN: that it ensure that case files are complete and that it organise adequate substitution capacity for the BIZ officer. As part of the present investigation, we have examined what the force has done with the analyses and recommendations from that previous report.

This report contains the results of the follow-up investigation into the handling of complaints within the KPCN.

## 1.2 The KPCN organisation

The KPCN is the police force of the Dutch Caribbean. Its duties include maintaining public order, in which capacity it falls under the authority of the governor of the island in question,<sup>3</sup> and investigating criminal offences under the authority of the Procurator-General.<sup>4</sup> The force is led by a chief constable based at its headquarters in Kralendijk on Bonaire; the sections on St. Eustatius and Saba each have their own superintendent. Organisationally, the KPCN is part of the Directorate-General of Police at the Netherlands Ministry of Justice and Security.

## 1.3 Purpose

The purpose of this investigation is to sketch a picture of the way in which the KPCN deals with complaints and with signals of shortcomings from members of the public. In addition, we examine the extent to which the force learns from complaints, as well as identifying possible bottlenecks and reviewing its adoption of the recommendations from our 2016 report. Finally, we make new recommendations to improve the handling of complaints.

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<sup>1</sup> *Klachtbehandeling justitiële keten* (“Complaint handling in the criminal justice chain”), Law Enforcement Council report in collaboration with the National Ombudsman, dd. 26 September 2016.

<sup>2</sup> The KPCN is part of the criminal justice chain in the Dutch Caribbean.

<sup>3</sup> Sections 4 and 17 of the Police Act of Curaçao, St Maarten and Bonaire, St. Eustatius and Saba.

<sup>4</sup> Sections 4 and 16 of the Police Act of Curaçao, St Maarten and Bonaire, St. Eustatius and Saba.

#### **1.4 Research question**

In order to achieve its purpose, our investigation seeks to answer the following core question: *how does the KPCN deal with public complaints and how well does that procedure reflect the National Ombudsman's view of professional complaint handling?*

#### **1.5 Report structure**

Chapter 2 presents the National Ombudsman's view of professional complaint handling. Chapter 3 describes how the KPCN currently deals with complaints. The report concludes with our assessment of complaint handling by the KPCN in the light of our own view of the subject, plus a number of recommendations for improvement.

In order to gain a comprehensive picture of how complaints are dealt with by the KPCN, we studied a number of case files from 2017, 2018 and 2019. We also interviewed the force's chief constable, the superintendents on Saba and St. Eustatius and the BIZ officer. In addition, we looked at information on the KPCN website and in documents provided by the force: the complaints manual and diagrammatic overviews of the complaints received in 2017, 2018 and 2019. Finally, we took into consideration the signals and complaints received about the KPCN by the National Ombudsman from members of the public in the years 2017-2020.

## 2 Handling complaints: the National Ombudsman's view

### 2.1 General Administrative Law Act (AWB)

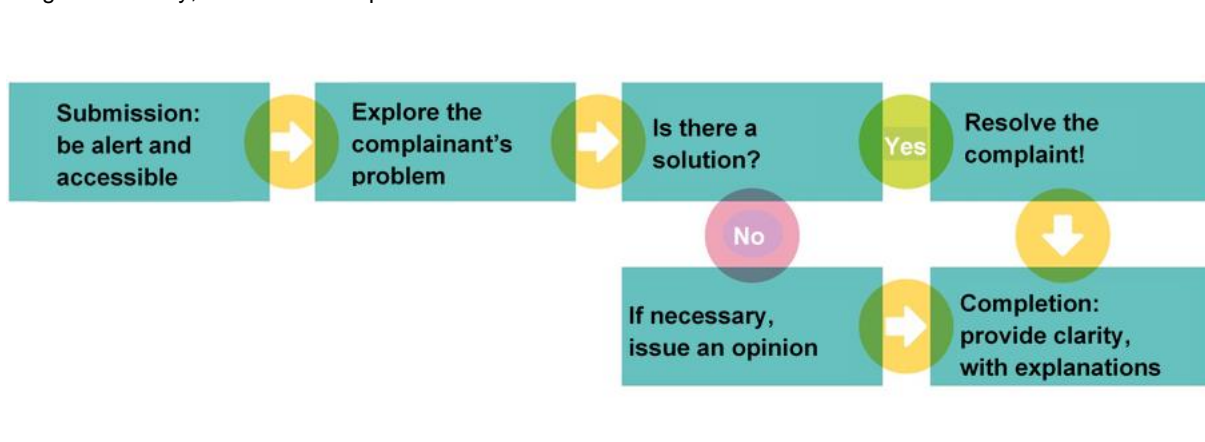
Government organisations are expected to take the public seriously. Amongst other things, this means that they must pay proper attention to expressions of dissatisfaction with their services from the community. In the case of the KPCN, the legal framework for this response is described in Part 9 of the General Administrative Law Act (*Algemene Wet Bestuursrecht*, AWB) and in the BES Public Safety Act.

According to Part 9 of the AWB, everyone has the right to lodge a complaint with an "administrative authority" (a government organisation or other public body) and it must handle such complaints properly. If the organisation itself fails to resolve the matter satisfactorily, the complainant can seek redress through the National Ombudsman or another ombudsperson or ombudscommittee.

### 2.2 Professional complaint handling

To help public bodies deal properly with complaints, the National Ombudsman has developed its own view of this activity. This is in part an elaboration of the formal requirements as set out in the AWB, but above all it provides guidance for handling complaints informally. In pursuit of the two primary objectives of complaint handling, helping members of the public and learning from complaints, it suggests both practical tools for professionals keen to further improve their skills in this area and a framework for complaint handling by public bodies.

In order to achieve the objectives in practice, the National Ombudsman has formulated five rules of thumb (steps). Diagrammatically, these can be represented as follows.



Based upon these five steps, this report describes and assesses the process of complaint handling by the KPCN.

### 2.3 What is a complaint?

Before it can be dealt with, it is important to know what a complaint is. The National Ombudsman's view is that any expression of dissatisfaction should be regarded as a complaint. This makes it a broad concept. In fact, any situation in which a public body's interests, perspective or point of view trigger a negative response from a member of the community should be considered a complaint against it.



## **Step 1. Submission of a complaint**

### *Open attitude and recognition*

Before a complaint can be dealt with, it has to be made. Anyone with a complaint should therefore have the opportunity to make it known. This means that all personnel must have an open attitude towards complaints. It is also important that they are actually able to recognise a complaint and that they can ensure that it ends up in the right place. Recognition of complaints is essential to their proper handling.

### *Clear procedure*

From the outset, a complainant should be given clear information about the applicable procedure. People want to see their complaint dealt with according to a set procedure incorporating certain safeguards. This gives them greater confidence about the way it will be handled. It should therefore be easy to find information about the complaints procedure on the public body's website or in leaflets.

### *No barriers*

There should be no barriers to making a complaint, and in particular complainants should not be "passed from pillar to post". For example, it should be equally possible to lodge a complaint in person or by telephone.

### *Registration*

Learning from complaints should be one of the primary goals of their handling. Only in that way do public services improve and are similar issues prevented in the future. To achieve this, it is important that incoming complaints be registered in a way that makes it possible to learn from them. And not just those as defined in the AWB, but any expressions of dissatisfaction. It is also essential that organisations regularly analyse all complaints received and that they act upon the outcomes of those analyses.



## **Step 2. What is the complaint about?**

### *Personal contact*

Exploring the problem is best done in person. A telephone call or face-to-face conversation with the complainant is the most appropriate way to do this. In complex cases or ones where emotions are running high, it is a good idea to invite them to a personal meeting. Their non-verbal communication may then help to determine the exact nature of the complaint. By engaging in conversation and exploring the issue together, the person concerned gains a voice in the way their complaint is handled.

### *Find the core of the complaint*

Only if the organisation finds the core of the complaint can an appropriate solution be found. If a complainant gains the impression that they are not being taken seriously, that feeling can "hide" behind a complaint which initially seems to be about something else. For this reason, the organisation should explore all aspects of their grievance from the outset.

### *Impartiality*

It is a basic principle that the person dealing with a complaint should in no way have been involved in the actions being complained about. Since the matter is handled in the first instance by the public body concerned, this guarantee is essential in order to safeguard the quality of the process.



## **Step 3. Is a solution possible?**

Once the nature of the problem is clear, seek a solution together with the complainant and any other interested parties. This approach takes precedence over looking at formalities such as questions of competence. A solution is always tailor-made. The organisation prevents arbitrary outcomes by properly recording what is being done and why. It can also help to enter into internal discussion with colleagues.

#### *Give the handler space*

It is important not only that public bodies take complainants seriously, but also that they trust in the professionalism of their own staff. So they should give the person handling a complaint the space and the opportunities needed to find a solution on behalf of the complainant. Out-of-the-box thinking is an essential skill in this respect. Organisations support their staff by putting the solution first, not the rules.

#### *What is a solution?*

Resolving an issue does not always mean taking it up yourself. Sometimes it is about considering who else a complainant can turn to. That may ensure that a satisfactory outcome is achieved more quickly.

Rather than a rapid practical response, on occasions the best solution lies in a good conversation so that the complainant feels that their grievance has been heard. That also provides an opportunity to explain exactly what the organisation does and is allowed to do, and in that light what a member of the public can reasonably expect of it.



#### **Step 4. Give an opinion**

##### *Formal complaint handling*

The National Ombudsman believes strongly that those concerned should first explore whether a complaint can be resolved informally. Only if that proves impossible does a formal procedure become necessary. In that eventuality, the complaint should be dealt with in accordance with Part 9 of the AWB and, in the case of the KPCN, the BES Public Safety Act.

##### *Formal investigation*

The formal handling of a complaint means opening an investigation. This sounds like a major task, but it does not always have to be. Investigations can be carried out in many different ways, depending upon the type of complaint being addressed.

Part 9 of the AWB does not lay down how a public body should investigate a complaint. In fact, it prescribes only two things. First, that both the complainant and the respondent must be heard. And second, certain specific items to include in the organisation's written notification to the complainant upon completion of the investigation. For example, they must be informed of its findings and the resulting opinion concerning the complaint.

##### *What is the purpose of the investigation?*

The purpose of the investigation is to establish the relevant facts needed to form an opinion concerning the complaint. In order to do this, it is necessary to establish what has actually happened, what the organisation's policy is in that respect and what legislation applies. It is also important to keep the complainant properly updated about the progress of the investigation, as this helps to ensure their acceptance of its final outcome.

##### *Who conducts the investigation?*

The investigation may be carried out by the organisation itself or by an independent police complaints panel. Either way, no one involved should be implicated in any manner in the matter being complained about.

##### *Procedural fairness*

It is important that the investigation be conducted thoroughly, that both the complainant and the respondent be involved, that the procedure be explained clearly to them and that both have a voice in it. This helps to ensure that they consider it fair and thus increases the chance that they will accept the opinion finally reached. Both should be informed in advance about the steps to be taken and, once it is under way, kept up to date with its progress. Be transparent and demonstrate that all submissions have been heard and will be taken into account in the investigation and its outcome. Finally, make firm agreements about contact moments.





## **Step 5. Completion**

### *Formal completion after informal handling*

Before a case handled informally can be closed, it is important to check with the complainant that the matter has been resolved to their satisfaction. They should also be informed that can make contact again if they have any further questions. If they remain dissatisfied with the way their complaint is being handled even after extended efforts to find a resolution informally, it may become necessary to examine it in more detail and initiate a formal investigation anyway.

If a complaint can be resolved informally, this does not need to be confirmed in writing. If the complainant is satisfied with the outcome, the formal requirements set out in the AWB do not apply; the matter can also be closed informally.

However, it may be that a complainant considers it important or courteous to receive written notification that their case has been resolved, even if that outcome was achieved informally. The National Ombudsman strongly believes that this should be provided if desired.

### *Completion after formal investigation*

Following a formal investigation, written notification of the outcome should be provided. Further explanation can also be provided in person. A properly substantiated opinion helps the complainant to understand and accept the findings of the investigation. When providing this information, make it clear what can and cannot be done and explain why.

### *Apologies*

If something has gone wrong, that can have unpleasant consequences for the person or persons affected. Apologies and an explanation may then be the appropriate response. It is not always easy for employees of public bodies to apologise, either because they find it hard to admit that mistakes have been made or simply because they do not know how to. They may also be worried about how the “victim” will respond. It is important to realise that making an apology is not necessarily an admission of liability. Apologies are much more about acknowledging the fact that something has gone wrong and seeking to rectify it.

### *Referral to an ombudsman*

The National Ombudsman considers it important that a complainant be notified clearly once the complaints procedure has been completed. Furthermore, they should always have the option to refer the matter to an independent complaints body. For this reason, that final notification should always mention the National Ombudsman and state how to contact him.

### 3 How does the KPCN handle complaints?

This chapter reports the findings of the National Ombudsman's investigation into the handling of complaints by the KPCN, presented in line with the steps described in chapter 2.

#### Figures

The KPCN on Bonaire received twenty complaints in 2017. Of these, fifteen were dealt with formally and four informally. One was not in fact against the KPCN, but against another public body; it was forwarded to the organisation concerned. All fifteen complaints investigated formally were upheld. All four handled informally were rejected. In 2018, seven complaints were lodged on Bonaire. Four of these were dealt with, two of them being investigated formally and upheld and the other two being handled informally and rejected. In 2019, the KPCN on Bonaire received thirty-five complaints. Of these, eight were resolved informally. Twenty-seven were eventually dealt with formally, with ten being upheld and seventeen rejected. In all three years, the majority of complaints concerned treatment of members of the public by police officers.

There are no records of the complaints received and resolved on Saba and St. Eustatius in the years 2017-2019.



#### Step 1. Submission of a complaint

##### *KPCN complaints manual*

Since January 2019, most complaints about the KPCN have been handled by the Internal Affairs officer (BIZ officer) on Bonaire. In 2011 the force compiled a complaints manual, which has since been used as guide to handling complaints even though it is still officially only a draft version. Because of this, not all police officers are aware of its existence. Moreover, our interviews with the superintendents of police revealed that it is not yet in use on Saba and St. Eustatius. In his conversation with the National Ombudsman investigators, the chief constable agreed to ensure that the manual is finalised and adopted. According to the KPCN, the delay has been largely due to lengthy consideration of the document by the Ministry of Justice and Security in The Hague. At the end of our investigation, the force informed us that a new version has now been received from the ministry.

In 2016, the Law Enforcement Council and the National Ombudsman found that the contents of the manual are compliant with the provisions concerning the handling of complaints in the General Administrative Law Act (AWB) and the BES Public Safety Act.<sup>5</sup> It was also noted, however, that the manual refers to a "BES Police Complaints Procedure" which did not exist. The current investigation found that it is still the case.

##### *No barriers?*

The manual states that a complaint can be submitted to the KPCN in various ways: verbally, in writing or online. The notice of complaint must meet the requirements of Section 9.4(2) of the AWB. In other words, it has to include the name and address of the person lodging the complaint, the date and a description of the conduct against which the complaint is directed. It also needs to be signed. The KPCN has developed a form for submitting a complaint; according to the manual, this is intended to help ensure that it is dealt with faster and in a complainant-friendly manner and its use is compulsory. The form is available in Dutch, English, Spanish and Papiamentu at the police stations on Saba, St. Eustatius and Bonaire. The front-desk staff there will issue it on request, and it can either be taken away and returned later or filled in on the spot. If a complaint is lodged verbally, the form is completed by the receiving police officer.

All complaint forms are forwarded to the BIZ officer. If a police officer receives a written complaint not on the form, they send that to the BIZ officer and he completes it. There is a drop box at the main police station on Bonaire where members of the public can leave their complaints. This is emptied daily by the BIZ officer.

<sup>5</sup> *Klachtbehandeling justitiële keten* ("Complaint handling in the criminal justice chain"), Law Enforcement Council report in collaboration with the National Ombudsman, dd. 26 September 2016.

The police superintendents on Saba and St. Eustatius say that although complaint forms are available there, in practice little use is made of them. Complaints on their islands are usually lodged verbally.

Members of the public can also e-mail their complaint directly to the chief constable or to BIZ, which has a dedicated e-mail address for this purpose: BIZ@politiecn.com. This is publicised both within the KPCN and in the community. An online version of the complaints form is available on the force's website, but is difficult to find there; the search function does not reveal it.

Our case research shows that members of the public make use of all the various possibilities to lodge a complaint.

*"It sometimes happens that I receive a complaint via WhatsApp. I then explain the procedure and refer that person to the BIZ officer."*

To make the KPCN more approachable, from time to time the chief constable appears on local radio to answer calls from listeners. He has also used this opportunity to invite islanders to submit any complaints they may have about the force.

The chief constable admitted to us that some of his officers believe that accepting complaints is "letting in the enemy". Personally, though, he sees this differently and has let it be known that that a complaint can also reveal that something has gone wrong and provide a valuable lesson for the future. That is also one of the reasons why he uses his radio appearances to actively solicit complaints from the residents of Bonaire, Saba and St. Eustatius.

#### *Signals from the public*

During the course of our investigation, we received a number of communications from people who say that they do not dare complain to the KPCN. They are afraid of the consequences of lodging a complaint against a police officer. Certainly in view of the small scale of the islands, this is a very sensitive issue.

*"People I know work for the police, so I'm really not going to complain. I'll solve my problems myself."*

Our interviews with the superintendents on the Leeward Islands show that they are aware of this problem. They stress that the situation on Saba and St. Eustatius is quite unlike that on Bonaire. The culture on a small island is different. The police officer you complain about today could be the person who pulls you out of your burning car tomorrow. Moreover, there is a high degree of social control in which family members correct each other's behaviour.

#### *Recognition*

Because every form of complaint is valid, it is important that it be clear to KPCN personnel when a member of the public has one. The complaints manual states that police officers can contact the BIZ officer if they are in any doubt as to whether a particular issue constitutes a complaint. It is also important that officers know what people can complain about, so that the public are given the correct information. Our discussions with BES islanders revealed that police officers sometimes have difficulty recognising complaints, as shown by the example below.

*"At the front desk I was told that there was no point in making a case out of this. But I have a valid complaint and I would like a proper response to it."*

The superintendents on Saba and St. Eustatius told us that they are contacted whenever an officer believes someone on their island has a complaint. They then approach that person directly to discuss the matter.

*"If you talk to them straight away, sometimes it doesn't become a complaint at all."*

### *Registration*

The complaints manual states that the BIZ officer registers all complaints, whether lodged verbally, in writing or online. On Bonaire this is done upon their receipt by the BIZ officer. But complaints received on the Leeward Islands are not registered in the same way. They are only recorded in the computer system; the BIZ officer is not actively notified.

The 2016 investigation found that the KPCN did not analyse complaints once they had been dealt with and described this as a missed opportunity. The BIZ officer does now maintain a schematic overview of complaints received and their outcome. The KPCN has also informed us that the nature of incoming complaints is monitored so that they can be brought to the attention of police officers. Its 2017, 2018 and 2019 annual reports, however, mention only the BIZ officer's overview; there is no information about the nature of complaints or any further analysis of them.



## **Step 2. What is the complaint about?**

### *Personal contact*

The KPCN strives to contact every complainant personally. According to the chief constable, most complaints on Bonaire are lodged in writing. If a telephone number is included, the BIZ officer first calls the person concerned. This approach is confirmed by the case files we inspected. The complaints manual also recommends this course of action.

*“Contacting the complainant by telephone at the earliest possible opportunity enables proper diagnosis of the conflict which has given rise to the complaint.”*

If someone visits the police station on Bonaire and wants to discuss their complaint immediately, that is possible if the BIZ officer is present and has time. Otherwise, an appointment is made. The BIZ officer speaks four languages: Dutch, Papiamentu, Spanish and English. The chief constable is also willing to meet complainants, but in the first instance refers them to the BIZ officer. On Saba and St. Eustatius, the island's police superintendent often talks directly with complainants.

### *Finding the core of the complaint*

The BIZ officer always tries to make telephone contact in order to discuss any ambiguities in the complaint, and complainants are always invited for a personal meeting. On occasions it turns out that they should actually be complaining to a different body, in which case they are put in touch with the relevant organisation.

When he first makes contact, the BIZ officer also assesses what type of complaint is being made. For example, one about treatment by a police officer or one requiring a disciplinary investigation.

### *Example:*

*During one of the working visits by National Ombudsman staff, a complaint was made to them which had not yet been dealt with by the KPCN. The complainant felt that the force was not responding adequately to her attempts at contact. Our staff referred the matter to the BIZ officer, who then telephoned the complainant. In the end this proved not to be an issue related to policing and the person concerned was put in touch with a healthcare institution for further assistance.*

### *Impartiality: who deals with the complaint?*

As previously described, complaints on Bonaire are handled by the BIZ officer. If a disciplinary investigation possibly leading to sanctions is initiated, the chief constable, the KPCN's lawyer, the deputy chief constable and the head of operations are involved as well. Complaints about the BIZ officer are dealt with by the chief constable. The complaints manual states that a copy of any complaint received is sent to the governor of the island in question and the Public Prosecution Service; indeed, this is a legal requirement.<sup>6</sup> However, our investigation has shown that this does not always happen. In practice, it is done only in the event of a criminal investigation into a police officer. This was also one of the findings of the 2016 investigation.

<sup>6</sup> Section 19.5 of the BES Public Safety Act.

That investigation also revealed that the BIZ officer is in a vulnerable situation because his bureau is literally a “one-man operation”. A recommendation was therefore made that the KPCN organise adequate substitution capacity for this position. In response, the force said that it would endeavour to find a solution.<sup>7</sup> At present, it is awaiting the results of the security screening of a prospective second BIZ employee.

Because complaints on Saba and St. Eustatius are often submitted verbally, in practice they are dealt with by the island’s police superintendent. If he has time, he talks to the complainant immediately. Otherwise, an appointment is arranged. If the chief constable receives a complaint from one of the Leeward Islands, he first contacts its superintendent to see if the matter can be resolved informally.

The complaints manual states that the chief constable bears operational responsibility for the handling of complaints and that final executive responsibility rests with the police commissioner for the Dutch Caribbean (the Minister of Justice and Security in The Hague). From our conversations, however, it is apparent that in practice the chief constable has executive responsibility for complaints and their resolution on both Bonaire and the Leeward Islands. Once a year he notifies the police commissioner in writing of all complaints received. In the event of a disciplinary investigation, the commissioner is always informed separately.



### Step 3. Solution

#### *Seeking resolution together*

The complaints manual states that the KPCN strives in the first instance to resolve complaints informally. In this respect it draws a distinction between those lodged verbally and in writing. The former can be dealt with by speaking with the person concerned, listening carefully to their grievance, showing understanding, providing clarification and, if necessary, making an apology, whereas the latter may only be dealt with informally if that is acceptable to the complainant.

*“I want the police to take me seriously.”*

#### *What is a solution?*

From our conversations and from the case files we examined, it is evident that the KPCN is strongly committed to resolving complaints informally. If possible, for instance, the BIZ officer always calls the complainant to discuss the matter directly. Our investigation makes it apparent that these discussions often result in a solution at an early stage.

*“I was listened to with my complaint – that alone was good. For me it was enough to put the matter to rest.”*

The police superintendents on Saba and St. Eustatius state that many complaints there are dealt with verbally. They speak directly with the person concerned and then decide whether they can settle the matter themselves or need to forward it to the BIZ officer on Bonaire. In the vast majority of cases, the issue is resolved at this initial meeting. The superintendents are aware of the often positive effect of a personal conversation to clarify a particular choice or approach. If settled at this stage, the matter is not formally registered as a complaint.

From time to time, complaints are also resolved informally at the front desk of the police station on Bonaire, but neither the chief constable nor the BIZ officer has any insight into these situations. We spoke with a police officer whose duties include work at the front desk, who told us that people sometimes come into the police station angry or unhappy. She tries to put their mind at rest by helping them or explaining what is going on, which generally calms any talk about lodging a complaint or a submitting a form. These situations are not registered.

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<sup>7</sup> *Klachtbehandeling justitiële keten* (“Complaint handling in the criminal justice chain”), Law Enforcement Council report in collaboration with the National Ombudsman, dd. 26 September 2016.

### *Give the handler space*

The KPCN's approach to complaints differs between Bonaire and the Leeward Islands. On smaller Saba and St. Eustatius, for example, they are almost always resolved informally by means of a conversation with the island's police superintendent. From our discussions, it is apparent that the KPCN allows these officers sufficient scope to do this, so that the issue does not immediately escalate to the point where the formal rules have to be applied.



## **Step 4. Give an opinion**

### *Formal complaint handling*

If a complaint cannot be resolved informally, the formal procedure is initiated. This is always conducted on Bonaire. The KPCN's complaints manual describes the process<sup>8</sup> and who is responsible for each aspect of it. For example, it states that a lawyer from the National Office for the Caribbean Netherlands (*Rijksdienst Caribisch Nederland*, RCN) first checks that the complaint complies with Section 9.4 of the AWB, in that it includes the name and address of the complainant, the date, a description of the conduct being objected to and so on. Next, the BIZ officer passes the complaint on to the chief constable. In certain situations, as set out in Section 9.8 of the AWB, the KPCN is not required to deal with a complaint; for example, if the matter is the subject of ongoing legal proceedings or if another form of objection or appeal is still possible. In such cases, the lawyer notifies the complainant in writing that their complaint is inadmissible, explaining why.

Our discussions with the chief constable have revealed that, in practice, he and the BIZ officer discuss complaints received on a weekly basis and that only then does the lawyer conduct the check described above. Also, it is the BIZ officer rather than the lawyer who then notifies the complainant.

### *Formal investigation*

The complaints manual states that the chief constable conducts the investigation and gives both the complainant and the respondent the opportunity to be heard. From our interviews with him and the BIZ officer, however, it is apparent that in practice it is the latter who does this. As a rule, he also draws up a report of the investigation.

According to the manual, the complainant is notified of findings of the investigation and the chief constable's opinion on the matter. The relevant island governor and the Public Prosecution Service should also be informed, but from our enquiries it is evident that this does not currently happen; in practice, it seems that the chief constable involves the public prosecutor only when a case looks likely to give rise to a criminal investigation into a police officer.

### *Who conducts the investigation?*

The manual further states that the chief constable may determine that, if it might have serious consequences, a complaint is to be dealt with by means of a special complaints advisory procedure.<sup>9</sup> In practice, this means that he refers the matter to an independent panel which then conducts the investigation, including hearing the complainant and the respondent, and advises him of its findings. The National Ombudsman has found that this special procedure has never actually been invoked, although our staff have been informed that the independent panel does now exist.

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<sup>8</sup> Section 2.4, "Formal procedure".

<sup>9</sup> Section 2.5, "Serious complaints".

### *Monitoring deadlines*

According to the manual, the BIZ officer is responsible for monitoring the deadline for dealing with a formal complaint. But he indicated to us that, in practice, a complainant is not informed if their case cannot be handled within that time limit; if they do express concern about the how long the process is taking, they are e-mailed as soon as possible with an update on its progress. Such situations are rare, however.

### *Procedural fairness*

The manual states that the chief constable informs the complainant in writing of the findings of his investigation, with an explanation. In practice, though, this does not always happen. In fact, the complainant is notified only once the entire investigative procedure has been completed.



## **Step 5. Completion**

### *Formal completion after informal handling*

If a complainant is dissatisfied with the informal handling of their case, according to the complaints manual the formal procedure is then initiated. But from our examination of specific case files, it is not apparent that the KPCN always checks with the complainant that they are indeed satisfied with the way their case has been dealt with informally. The force did inform us, however, that this is done verbally at the end of the informal procedure. Moreover, complaint handling is completed in different ways on Bonaire and the Leeward Islands. The chief constable on Bonaire works on the principle that completion is always confirmed in writing, even when the complaint has been resolved in an informal manner; for example, in an face-to-face conversation. This, he says, ensures that the person concerned cannot later protest that they have heard nothing more about the matter. Nevertheless, our examination of the case files could not confirm that such a concluding letter is always sent. And when it is, it does not always clearly state the reasons for the conclusion reached.

On Saba and St. Eustatius, most complaints are resolved in person. This concludes their handling. At present, no written confirmation of the outcome is sent. From our discussions with the islands' police superintendents, it seems that they intend to rectify that omission in the future. Currently, the conversations they have with a view to resolving and concluding the matter are recorded in the computer system, but not as referring to a complaint. As indicated earlier, complaints which cannot be settled in this way are forwarded to the BIZ officer on Bonaire to be dealt with formally.

### *Completion after formal investigation*

We were told that when a case is handled formally, a letter is always sent to those involved to inform them of the outcome. The complaints manual states that the chief constable notifies the person concerned in writing, giving reasons, of his opinion regarding the complaint and the consequences that this might have. From our examination of the case files, however, it is not apparent that such a concluding letter is always sent.

### *Apologies*

The manual states that, if necessary, an apology must be made. It is clear from our investigation that this is indeed done.

### *Referral to an ombudsman*

Finally, according to the manual the chief constable should always advise the complainant upon completion of a formal procedure that they can still refer the matter to the National Ombudsman, also giving the time limit within which this is possible. Our investigation has shown that this is indeed done.

A complaint about the police? This is how the procedure works.



**✗**  
 1. The complaint is ruled inadmissible.

**🔍**  
 2. The complaint will be investigated further.

**👥**  
 3. An independent panel will consider the complaint and advise how to deal with it.

**📄**  
 Written confirmation



**National Ombudsman**  
 If the complainant is not happy with the way their case has been dealt with, they can contact the National Ombudsman. To do this, they should call +31 70 356 3563 or send a message via WhatsApp (06 214 621 88), [www.nationaleombudsman.nl](http://www.nationaleombudsman.nl) or Facebook (Nationale ombudsman Caribisch Nederland).



## 4 Conclusions and recommendations

### 4.1 General

The KPCN is well on its way to professionalising its handling of complaints. For example, it has a BIZ officer who specialises in this task. The National Ombudsman has observed that the force takes complaints from members of the public seriously and considers their proper resolution important. Nevertheless, there is still room for improvement on a number of points. At the moment, for instance, not all complaints are registered and nor are they analysed substantively. We therefore have a number of recommendations in this regard, and are available to the KPCN to help it consider how these can be put into practice.

#### Step 1. Submission of a complaint

##### *Complaints manual*

We note that the complaints manual currently in use is still the draft version from 2011. We consider it a positive development that the KPCN now has a new version at its disposal, and believe that finalising this and publicising it within the force will contribute towards the recognition of complaints. If officers are familiar with the manual, they are more likely to inform members of the public about the possibility of lodging a complaint. A definitive version should also provide better guidance for the police superintendents on the Leeward Islands in dealing with complaints. It is also important that residents be aware of the procedure, so that they know what they can expect from the KPCN if they have a complaint.

##### *Recommendation 1: Finalise the complaints manual and make it public*

*The National Ombudsman recommends that the complaints manual be adopted definitively as soon as possible and publicised amongst the police officers and residents of Bonaire, Saba and St. Eustatius.*

##### *No barriers?*

We are pleased to note that there are several ways to lodge a complaint with the KPCN. Various initiatives have been taken to facilitate this, such as installing a drop box on Bonaire and announcing on local radio that it is possible to make complaints against the police. We also welcome the fact that the force has designed a complaints form, available in four languages. But this is difficult to find on the KPCN website; moreover, the online version is far less extensive than the paper one.

##### *Recommendation 2: Upgrade the online complaints form and ensure that it can be found on the website*

*The National Ombudsman recommends that the online form be expanded (in all four languages) so that it is identical to the paper version. We also recommend making the online form a prominent feature of the KPCN website, so that it is easy to find.*

##### *Recommendation 3: Provide drop boxes for complaints on the Leeward Islands*

*The National Ombudsman recommends that, as on Bonaire, drop boxes for complaints be provided on both St. Eustatius and Saba.*

##### *Registration*

Our investigation has shown that some complaints are resolved informally by officers on duty at the front desk of the police station, but that these are not registered. Those dealt with in person by the police superintendents on Saba and St. Eustatius are also not recorded in the computer system. Because this means that there is no insight into the nature of these complaints and how they have been handled, the KPCN is missing an opportunity to analyse and learn from them. In addition, when a complaint is settled informally there is a risk of its outcome being arbitrary since the factors taken into consideration and the conclusion reached are not recorded, never mind substantiated, in writing. This shortcoming can be prevented by compiling, sending and filing a written final notification that the matter has been settled, even if that has been done informally. This same issue was also raised in the earlier joint report by the National Ombudsman and the Council for Law Enforcement, in 2016.

We further note that the most recent KPCN annual reports do not contain any substantive analyses of complaints received. The National Ombudsman considers transparency in this respect important, on all three islands. If all complaints are registered, whether dealt with formally or informally, the force can conduct annual analyses in order to learn from them. It is also essential that the outcomes be shared, with explanatory notes, with all KPCN personnel.

*Recommendation 4: Register complaints which are resolved informally*

*The National Ombudsman recommends that a method be developed for the registration, preferably in digital form, of complaints resolved informally.*

*Recommendation 5: Conduct an annual complaints analysis*

*The National Ombudsman recommends that a substantive analysis of complaints received be conducted each year and included in the annual report.*

**Step 2. What is the complaint about?**

*Personal contact and the core of the complaint*

We have observed that the KPCN considers personal contact with members of the public to be an important part of its handling of complaints.

The force allows plenty of scope for such contacts. For example, if possible the BIZ officer or the police superintendent on the relevant Leeward Island meets or calls the complainant personally in order to ascertain what is at the core of the matter. These officers seem well aware that behind one grievance there sometimes lurks another issue. Their approach is thus in line with the National Ombudsman's view of professional complaint handling.

If a complaint about a police officer gives rise to an internal disciplinary investigation, the KPCN should notify the complainant about this. To protect the privacy of the officer concerned, however, the force cannot share information about the substance and outcome of that procedure. Nevertheless, the National Ombudsman considers it desirable that the force inform the complainant in general terms about what a disciplinary investigation entails, and also that it means that their own case cannot be taken any further.

*Recommendation 6: Notify the complainant when a disciplinary investigation is initiated as a result of their complaint*

*The National Ombudsman recommends that the complainant be notified of any disciplinary investigation arising out of their complaint, and also informed that their case cannot be pursued because of this.*

*Who deals with the complaint?*

We have found that the KPCN does not forward copies of the complaints it receives to the relevant island governor or the Public Prosecution Service. This was also noted in the 2016 report referred to above. In our opinion, this omission constitutes a breach of the law and also deprives those parties of the opportunity to issue advice concerning complaints. It has not become clear to us why this legal requirement is not being met.

*Recommendation 7: Forward copies of complaints to the island governor and the Public Prosecution Service*

*The National Ombudsman recommends that the relevant island governor and the public prosecutor be notified of all complaints received.*

Complaints on Bonaire are dealt with by the BIZ officer. Because he is the only person working in the Internal Affairs Bureau, his is a vulnerable position. We are therefore pleased to hear that steps are being taken to expand the bureau.

**Step 3. Solution**

During our investigation, we found that the KPCN is solution-minded when it comes to its handling of complaints. If possible, they are resolved informally. In many cases this is achieved by means of an explanation at the front desk of the police station or a conversation with the BIZ officer. On Saba and St. Eustatius, the matter is often settled by the island's police superintendent talking with the complainant. Resolving such issues informally whenever possible ties in well with our view of professional complaint handling.

#### **Step 4. Give an opinion**

We have concluded that the KPCN performs well in undertaking the various steps involved in investigating a complaint, such as establishing personal contact and hearing the complainant's grievance.

##### *Procedural fairness*

A good investigation looks at both sides of the story. This means that both the complainant and the respondent are allowed sight of all relevant documents. It is also important that each has the opportunity to respond to the other's view of the matter. We have found, however, that complainants are not informed about the rebuttals provided by police officers against whom they lodge complaints, which makes it impossible for them to respond.

Revealing opposing standpoints in order to enable responses to them contributes towards procedural fairness in the handling of complaints. We consider it very important that complainants know that their grievances have been heard and taken into account in arriving at a final opinion. Moreover, this encourages acceptance of that opinion.

*Recommendation 8: Be transparent, always involving both the complainant and the respondent in the investigation*  
*The National Ombudsman recommends that complainants and respondents be made aware of each other's views and be given the opportunity to respond to them.*

Certain complaints merit investigation by an independent panel. We have established that this has now been formed, which we regard as a positive development since it means that relevant cases can be considered by a body external to the KPCN. That will facilitate independent complaint handling.

#### **Step 5. Completion**

It has come to our attention that complainants on the Leeward Islands are not notified in writing when informal handling of their case has been completed. According to the KPCN, it intends to do this in future if asked by the person concerned. We consider this a positive development. It is also important that the KPCN check with the complainant that a case settled informally has been resolved to their satisfaction. This can be either done verbally or in writing and helps provide the person concerned with clarity in respect of the procedure's conclusion.

*Recommendation 9: Check with the complainant that the matter has been concluded to their satisfaction*  
*The National Ombudsman recommends that, when a case has been dealt with informally, the KPCN check to ensure that the complainant is satisfied with the outcome.*

We note that the KPCN always sends a concluding letter to the complainant when their case has been dealt with formally, but that this sometimes does not provide sufficient substantiation of the final opinion reached. For instance, it omits to mention what factors have been considered. As a result, the recipient cannot be sure of the extent to which their perspective has been taken into account. This, however, is very important for clarity regarding the outcome and for acceptance of it.

*Recommendation 10: Justify the outcome in a concluding letter*  
*The National Ombudsman recommends that the opinion reached be properly substantiated in writing.*

We also note that the KPCN apologises to complainants where necessary. As a rule, moreover, its concluding letter advises them that they can refer the matter to the National Ombudsman if they are not satisfied with the outcome. This is in line with our view of professional complaint handling.

#### **4.2 In conclusion**

As stated earlier, the KPCN is already taking steps in the right direction when it comes to professionalising its handling of complaints. It is now essential that the recommendations contained in this report also be acted upon with some urgency. In this respect, finalising the complaints manual is paramount. Prompt implementation of our recommendations will help not only the people of Bonaire, St. Eustatius and Saba, but also the force itself. The National Ombudsman and his staff stand ready to assist the chief constable, the BIZ officer and other KPCN personnel in putting our recommendations into practice in 2021.