

PCCS



Police Complaints Commissioner
for Scotland

Request for complaint handling review of a complaint about

Strathclyde Police

**under the provisions of
the Police, Public Order and Criminal Justice (Scotland) Act 2006**

October 2008

Case reference: PCCS/0810/00184/PF-SP

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Introduction

The role of the Police Complaints Commissioner for Scotland was established by the Police, Public Order and Criminal Justice (Scotland) Act 2006 (“the Act”) to consider and review the way police authorities, police forces and policing agencies handle complaints from the public. I was appointed by the Scottish Ministers as the first Police Complaints Commissioner for Scotland, taking up my powers from 1 April 2007. My office provides a free and independent service, reviewing the handling of complaints fairly, looking at both sides of what has happened and looking at the facts.

I aim to review complaints in an independent, open and fair manner. In line with this aim I will publish the reports of my complaint handling reviews, whilst bearing in mind individuals’ rights to confidentiality. The following report therefore details my consideration, but does not include individual names of complainers, police officers or others affected by the events detailed therein.

1. Request for review

The complainer has requested that I review the handling of his complaints about Strathclyde Police. The complainer has raised a number of issues relating to a complaint that he made to the force on October 2003. The complainer has asked me to review four distinct issues:

Complaint 1 - That Strathclyde Police failed to investigate the complainer's complaints about the police properly which he initiated in 2003;

Complaint 2 - That Strathclyde Police failed to provide a satisfactory response about the complainer's complaints regarding individual officers, despite his repeated attempts to progress his complaints with the force;

Complaint 3 That a police officer contacted the complainer's lawyer looking for his telephone number and this was inappropriate as all communication or contact with him should have been channelled through his lawyer; and

Complaint 4 - That the length of time taken by Strathclyde Police to respond to the complainer's complaints was too long.

2. Power to conduct a complaint handling review

Section 35 of the Act provides me with the authority to examine the manner in which an appropriate authority has handled a complaint about a police officer, member of police staff or the service provided by a relevant authority.

In order to carry out such a complaint handling review I request the complaint case papers from the force in question. I examine the facts of the complaint case, looking at information provided to me by both the complainer and the police force. I consider whether the information available does, or does not, support the complaint, and whether or not the force has responded to the complaint in a reasonable manner. I also consider whether the force communicated with the complainer in a reasonable manner, including whether the police force handled the complaint within a reasonable timescale. I then come to a view whether the conclusions drawn by the force in handling the complaint were reasonable in all the circumstances.

Once I have reached my conclusions I prepare a report which details the findings of my case handling review. This is then forwarded to the relevant authority in accordance with section 35(3) of the Act. The complainer will be advised of the conclusions of this review and of what action, if any, I propose to take in consequence of those conclusions. Where the complaint is in respect of an act or omission by an individual police officer that person will also be informed of the conclusions of this review.

2.1 Relevant complaint

Section 34 of the Act provides that I may review the handling of a complaint where the complaint is “a relevant complaint”, defined as

(1) ... a complaint which is given or sent ... to the appropriate authority in relation to the complaint.

(2) “complaint” means a written statement expressing dissatisfaction about an act or omission...

(3) But “complaint” does not include

(a) any statement made by a person serving with, or who has served with, the police, about the terms and conditions of that person's service with the police; or

(b) a statement which consists of or includes an allegation of an act or omission which constitutes a crime.

The complainer has supplied a written statement expressing dissatisfaction about an act or omission by a force. The complaint is therefore a relevant complaint.

2.2 Relevant complainer

The Act further provides that I may review the handling of a complaint where the complainer falls within one of the following categories (section 34(6)):

(a) a member of the public who claims to be the person in relation to whom the act or omission took place;

(b) a member of the public not falling within paragraph (a) who claims to have been adversely affected by the act or omission;

(c) a member of the public who claims to have witnessed the act or omission;

(d) a person acting on behalf of a person falling within any of paragraphs (a) to (c)

The complainer is a member of the public who claims to have been adversely affected by an act or omission by the police. The complainer is therefore a relevant complainer under the terms of section 34(6)(a).

3. Background

The complainer visited his local police office on 22 October 2003 to make a complaint that an officer of the force, Constable A, had sent abusive and threatening text message/s to him via the mobile phone of his girlfriend (Mrs X) who is Constable A's ex-wife. The complainer also advised the force at this time that he was worried

about what might happen as a result of these threats of violence. He stated that following an argument between Mrs X and Constable A *'[Constable A's] texts became even more threatening and abusive, directed towards me, but always sent to [Mrs X's] mobile phone, never mine'*.

The complainer's statement shows that he explained to Sergeant B that:

"[Mrs X] got a text from [Constable A] directed to me. The text was something like 'stay and the police will be round to pay you a visit.' [Mrs X] told me that [Constable A] had used off duty police before to sort out an incident at one of her son's schools so she was very worried for me in case he sent police round to sort me out and when I heard this, became very worried for myself."

The complainer stated that he asked his girlfriend to contact Constable A to discuss what was going on and that the result was *'what was said earlier to me being threatened by a visit from the [police]'*. Later that day the complainer's car was vandalised and he believed that Constable A was involved. The complainer went on to assert that Mrs X told him:

"[Constable A] was threatening to put a hit on me involving him and a neighbour of his.....who is also a serving police officer."

The complainer stated that he had never met Constable A.

The complainer and Mrs X returned to police office X on 23 October 2003 and discussed their issues and complaints with Superintendent C. Mrs X then chose to return to the office on the evening of the 23 October 2003 and provided a statement to Inspector D which the force advised was corroborated by Sergeant B. Her statement confirmed that Constable A was sending abusive and threatening text messages.

She stated that Constable A also said to her:

"me and [a neighbour] are going to fit you up'. I said 'I'll tell [the complainer] you said that'. He denied that. He said that if I come to his house he would phone the police and say I broke in. We have had no contact since then. I told [the complainer] all this and he went to [police office X] to make a complaint. I have not kept the old phone where [Constable A] was sending me these messages as when I went to my lawyer she told me to change my phone number. I have since ripped up the old SIM card".

Superintendent C's statement, noted 4 years later on 23 October 2007, shows that on her return to duty on 24 October 2003 she was informed by Inspector D that Mrs X had attended at police office X and provided a statement. Inspector D provided a report to her which stated that:

"the nature of his complaint is an allegation that Constable [A] was making threats against him, by sending threatening and abusive mobile text messages to his girlfriend, [Mrs X]."

Superintendent C's statement shows that, upon viewing the statement taken by Inspector D, she formed the view that *'the [complainer and Mrs X] were not complaining about the police per se'* and that the basis of this view was a number of factors which included that *'whilst the messages may have been inappropriate and derogatory, they were not threatening or criminal'* and *'There was no complaint or allegations about any on duty conduct of [Constable A] at that time'*.

Thereafter, Superintendent C submitted a report dated 31 October 2003 to Superintendent E at the Division where Constable A was posted. This report included the report she had received from Inspector D. She requested that the issues which were raised by the complainer be dealt with and Constable A be appraised of the situation. Superintendent C's report stated that:

"Neither does either individual wish to raise a criminal complaint relative to the content of phone calls allegedly being made. They simply wish the negative situation that exists to be resolved."

The complainer was cautioned and charged on 16 July 2005 regarding an incident involving a relative of Mrs X. The complainer stated that he believed Constable A was involved in *"setting him up"* and continued to complain to the force about Constable A's previous actions. The complainer was convicted of an offence on 30 January 2006 and his sentence was deferred until 24 August 2006 when he was admonished.

From a statement provided by Inspector G it is noted that later on the evening of 16 July 2005, Inspector F was asked by him to visit the complainer at his home. Inspector G states that Constable A's girlfriend, also a serving police officer, discussed concerns that she had about the complainer with Inspector G as following his arrest, she had been advised that the complainer had threatened to damage her house.

Inspector G states:

"I obtained the personal details of the complainer..... I thereafter requested that [Inspector F] attend at [the complainer's] home address, make him aware that we had been informed of the alleged threats and that whilst we were not taking any further action to advise him that we would be monitoring the address of the officers concerned."

Inspector F attended the complainer's house to warn him to refrain from any course of criminal conduct. Inspector F's statement shows that during a conversation in his home, the complainer raised the complaints he had previously made in October 2003. Inspector F told the complainer he would enquire into the complaints against the police and get back to him as soon as possible.

Inspector F stated that he spoke with Chief Inspector D regarding the allegation that the complainer had not received feedback regarding the complaints he had made about Constable A. Chief Inspector D advised that it was not the complainer who had made a complaint, and that in fact it had been Mrs X.

Inspector F states that as a result of the incident on 16 July 2005, he brought the matter to the attention of Superintendent C as she had dealt with the complaint in 2003. Inspector F states that Superintendent C confirmed that:

“it was [Mrs X] who had complained and that she had interviewed the complainer, that it was not a complaint against the police and had been dealt with as a personal welfare issue. She told me she had written to the complainer informing her of her actions.”

Inspector F states that he advised Superintendent C that the complainer was expecting feedback regarding his complaints originating in 2003 and that Superintendent C responded:

“[the complainer] was not entitled to feedback as he had never been involved in the complaint process.”

Inspector F asserted that:

“I was told to tell him this if need be.”

Inspector F stated that he made attempts to contact the complainer without success as he was away on business, but that he did speak to Mrs X and asked that she pass on the information and inform the complainer that he should contact Inspector F should he have any queries.

The information provided to my office shows that the complainer’s solicitor wrote to Inspector F at police office X on the 10 November 2005 and again on 14 December 2005. His first letter requested a copy of the complainer’s original statement given to Sergeant B and a progress report into the complaints raised by the complainer at that time. The solicitor’s second letter referred to a conversation between him and a clerical assistant in CID based at police office X on the 17 November 2005. He confirmed that he had been advised by the clerical assistant that no-one under the name of Constable A was known in that division. The solicitor provided further information in this same letter clarifying where he believed Constable A to be based and awaited a response following provision of this information. The statement of the clerical assistant asserts that she forwarded the request to the relevant division to process as she did not have the requested statement.

Superintendent H, of force sub-division Y, responded to the solicitor on 21 December 2005 and requested that he provide contact details for the complainer in order that the force could make arrangements to speak to him regarding the issues he had raised. Superintendent H noted that the solicitor did not have the date and nature of the complaints and concluded his letter stating that, if the solicitor was unable to provide the telephone number, he should provide details of how and when the force could meet with the complainer in order to progress matters.

On 6 April 2006 Superintendent H wrote again to the solicitor. In this letter he confirmed that he was unable to begin any enquiry until he received further information from him or the complainer. He also referred to a previous telephone

conversation with a member of the solicitor's firm when he was advised that the complainer was not willing to provide further information or meet. Superintendent H once again confirmed that, if the solicitor was not in a position to provide the required information, in order to progress the enquiry he required a contact telephone number for the complainer. The letter concluded that if there was no response within fourteen days, the matter would be considered closed.

An incident log shows the complainer contacted the force on 29 July 2006 and stated that he wanted to make a complaint against the police. The complaint was passed to Inspector J to deal with who, following several attempts, contacted the complainer on 14 August 2006. Inspector J's statement shows that the complainer stated in the telephone call with him that:

"[the complainer] explained that he was concerned that he had made a complaint three years previously and that he had heard nothing from the police. I requested that he attend at police office Z later in the day where I would interview him"

Inspector J stated to the complainer that, in an effort to obtain specific information, he had contacted the Professional Standards Department at Strathclyde Police Headquarters where he was advised that there was no record of a Complaint about the Police being recorded. Inspector J also stated that he contacted the police office where the complainer originally made his complaint in October 2003. Inspector J's statement shows that:

"I duly contacted the Administration Department at [police office X] and staff at Police Headquarters.... in an effort to obtain specific information relative to [the complainer's] complaint against the police but was unable to trace any record of it".

Later that day the complainer met with Inspector J at police office Z. Inspector J stated that the complainer made allegations that he had been "fitted up" following the incident for which the complainer had been charged in 2005. Inspector J stated that he was of the view that the complainer was not making a complaint about the police, but instead was providing a version of events in relation to criminal allegations made against the complainer. He stated that:

"[the complainer] subsequently left [police office Z] with numerous thoughts concerning the [incident], his actions and advised to contact his lawyer. I informed him that should any further information come to light prior to his sentencing date I would contact him by telephone. I had no more contact with [the complainer]."

The complainer wrote on 24 November 2006 to Her Majesty's Inspectorate of Constabulary (HMIC) regarding his complaints about the police and requested that HMIC progress matters with the force on his behalf.

4. Force internal handling

HMIC wrote on 29 November 2006 to the Deputy Chief Constable at Strathclyde Police Headquarters and asked the force to clarify if the matters referred to it by the complainer had been registered as a complaint against the police in line with the Police (Conduct) (Scotland) Regulations 1996. HMIC also requested that the force confirm the status of any investigation which it had undertaken.

Chief Superintendent K of the Professional Standards Department at Strathclyde Police Headquarters responded to HMIC on 13 December 2006 stating that there was no record of a complaint being lodged, that she would carry out enquiry in an effort to trace the officers named in HMIC's letter, and would revert to them when further information was to hand. On the same date, Chief Superintendent K sent a memo to the Divisional Commander at the local Division asking that clarification be provided in identifying the officers named in the complainer's correspondence.

In pursuance of this request Superintendent N looked into the matter and reported back to the Deputy Divisional Commander on 10 January 2007 with his findings. His report confirmed that he had searched the records held at police office X and recovered the enquiry report dated 31 October 2003 authored by Superintendent C. Superintendent N stated that:

"There is no reference within the report to an Inspector [F] but I have no doubt that the report relates to the matters referred to in [the complainer's] letter to HMIC."

Superintendent N attached a copy of Superintendent C's enquiry report dated 31 October 2003 and acknowledged that the report was headed "*Complaint Against a Serving Officer*". He stated that from reading Superintendent C's report:

"comments at Paragraph 11 appear clear and unequivocal in that neither [Mrs X] nor [the complainer] wished to raise a Complaint Against the Police, there was no suggestion that any act occurred whilst the officer was on duty nor was their any desire to raise a criminal complaint. [The complainer] and [Mrs X] simply wished the "negative situation" that existed at that time to be resolved."

Superintendent M appended his comments to Superintendent N's report and submitted the findings to Chief Superintendent K. From this, it would appear that Constable A was interviewed by his divisional officer, Superintendent L, between 13 December 2006 and 10 January 2007. His comments state that Constable A had denied the allegations made by the complainer in his statement of 22 October 2003. Superintendent M also commented that no further action was taken regarding Constable A's conduct.

On 24 January 2007, Chief Superintendent K submitted a memo to the Divisional Commander at local division and requested that in order to clarify exactly what they might wish to complain about, the complainer and Mrs X should be contacted.

Inspector P contacted the complainer who provided a statement to him on 17 February 2007 at police office X. The complainer began his statement to Inspector P asserting that:

"I wish to make a complaint against Strathclyde Police in its organisational incompetence in the way that it dealt with my official complaint I made on 22 October 2003....I also wish to make a complaint against [Constable A] in that he instigated a complaint against me that I assaulted [Constable A's relative] and this led to me getting a criminal conviction.

I attended police office X on 22 October 2003 where I gave a statement relating to my concerns over the threats. The following night [Mrs X] also gave a statement....I am aware that Inspector [P] has copies of both statements.....Given that I had made a statement back in October 2003 raising concerns that I was going to be set up by [Constable A] I instructed my lawyer.....to get me a copy of my statement from the police. I had major difficulties in trying to get any paperwork..."

The complainer terminated the meeting at this point and refused to sign his statement. He then provided a brief follow on statement in which he asserted that:

"I was going to make a full statement but now only wish to say that the result of Strathclyde Police not acting upon my original complaint, namely that I believe I was going to be set up, was incompetent and this had led to a life of many difficulties for both myself and [Mrs X]. I do not wish to go into this any further..... I do not wish to give any further details as I now have a very unhealthy respect for the police force".

Inspector P submitted his internal enquiry report on 26 February 2007 to Superintendent N for comment and action. Superintendent N subsequently forwarded the report to Chief Superintendent K on 5 April 2007. The report confirmed that the complainer terminated the meeting after a period of approximately two hours and stated that:

"he wished no further action by the police...Upon leaving, he thanked the Reporting Officer for his time and for listening to him, but was determined to move on in life and not revisit this complaint."

Superintendent N's report also advised Chief Superintendent K that there was no record of the complainer's solicitor having made a request for the statement provided by his client in October 2003.

Superintendent N wrote to the complainer on 5 April 2007 and stated that he wished to provide clarification as to the force's response to his earlier concerns regarding Constable A. He explained that in light of the allegations made in his statement dated 22 October 2003 a report had been submitted to Superintendent C and that Superintendent C had contacted Mrs X regarding these matters. She stated that during subsequent meetings Mrs X made it clear that neither she nor the complainer

wanted to make a complaint against the police, rather she wanted the animosity between herself and her ex-husband to end. Superintendent N's letter stated:

"I also note within your statement you mentioned that Constable [A] via [Mrs X] had made threats towards yourself, but that there had been no physical contact or communication with yourself. Within your statement, this was followed by 'I just want all this stopped and get on with my life' which appears to indicate that you did not, at that time, wish to pursue the matter through investigation and probable courts process."

Superintendent N explained that Superintendent C's report was submitted to Senior Management at Constable A's division to make him aware of the concerns raised by the complainer. Superintendent N stated that:

"From the discussions you had with Inspector [P], there appeared to have been some difficulty experienced in obtaining a copy of your original statement of 2003 which you believed would have enabled a defence of the charge. I have had checks carried out but can find no trace of any such request having been made by your Solicitor to this Division."

Chief Superintendent K received Superintendent N's report and wrote to the Area Procurator Fiscal (APF) on 27 April 2007. The letter to the APF referred to the allegation the complainer had raised in his statement on 17 February 2007, that Constable A had coerced a relative to charge the complainer with assault. She enclosed 'a report and associated papers' and asked that the APF advise the force of her determination.

It is not clear from this letter if the original statement provided by the complainer on 22 October 2003 was included in the correspondence provided to the APF for consideration. The APF responded on 22 May 2007 stating that she had decided to take no proceedings in relation to the information provided by Chief Superintendent K.

HMIC wrote to the Acting Deputy Chief Constable on 18 May 2007 referring to a letter Chief Superintendent K had sent on 27 April 2007. In this letter Chief Superintendent K advised that although the force had dealt with the complaints raised by the complainer in his statement to the force on 17 February 2007, the complainer asserted that he wished no further action by the police. HMIC advised that on 18 April 2007 it had received a letter from the complainer in which he stated that he did wish to continue with his complaint and:

"that he believed that the interview ...on 17 February 2007 was "not getting anywhere" and that was why it was terminated."

HMIC then stated:

"the complainer was also keen to highlight that he was still in fear for his own personal safety as a result of his insistence that his allegations against [Constable A] be investigated. Independent of the ongoing complaint by [the

complainer], perhaps this current allegation should be further investigated by the force.”

On 5 June 2007, Chief Superintendent K responded to HMIC and advised that she had instructed an Investigating Officer from the Complaints & Discipline Department to undertake further enquiry and meet with the complainer.

The first complaint about the police form is dated 12 June 2007. Inspector Q was appointed to note a statement from the complainer on 4 July 2007 in which he reiterated that he wished to make a complaint about the police and stated that:

“My position is such that had the proper investigation been carried out in 2003, I would not have been fitted up and I believe Constable A was at the back of this.”

He continued:

“On the night I was charged Inspector [F] attended at my house to warn me not to carry out any acts of vandalism towards Constable [A]’s car, house or anything else. I explained to Inspector [F] that this was identical circumstances to the complaint I had made in 2003 when my car had been vandalised.”

“Inspector [F] left for the office to go and check out my points. I heard from Inspector [F] who called me the following Thursday, he said he was sorry it took so long for him to find the complaint and couldn’t understand why it was where it was or why it had been dealt with in the way it had. He said he’d look into it. I never heard another thing from him or anyone else despite phoning and asking for him and eventually being told that he had been promoted. I have no complaint against Inspector [F]”.

The complainer stated that he had instructed his solicitor to investigate his complaint and when the solicitor contacted police office X all knowledge of the complaint and the officer subject to the allegations was denied. Complaints 1 and 2 were raised and the complainer stated:

“I wanted him to use this in my defence, it was not made available.”

The complainer also referred to his previous meeting with Inspector P in February 2007 and stated that:

“I began to give a statement to Inspector [P] however terminated it because I was getting confused as to who was going to get in bother. I didn’t want to get the wrong person into trouble.”

Inspector Q visited Mrs X on 2 July 2007 where she provided a further statement. This statement contradicted her original allegations made on 23 October 2003 and she stated that she now had no complaint against Strathclyde Police or her ex-husband, Constable A.

Chief Superintendent K wrote to the complainer on 7 August 2007 referring to Superintendent N's letter of 5 April 2007 and his meeting with Inspector Q on 4 July 2007. She advised that the matters which the complainer discussed during this correspondence had been referred to the APF and that these matters had been marked "*no proceedings*". Chief Superintendent K advised she was unable to find any evidence which substantiated the complainer's position and that she considered the matters closed.

Chief Superintendent K wrote to HMIC and apprised them of the situation on 8 August 2007.

The papers supplied to me from HMIC show that the complainer telephoned them on 13 August 2007 expressing his dissatisfaction with Strathclyde Police as he had been interviewed 7/8 weeks previously regarding a complaint about the police and had heard nothing. HMIC had advised the complainer he should contact the officer investigating his complaint to request an update or write to the force requesting a timescale for the completion of its enquiries.

The complainer contacted HMIC by email on 9 October 2007 regarding other issues and complaints he had concerning personal matters linked to his complaint about the police. He reiterated that he had still not received a response from Strathclyde Police regarding the complaints that he had raised.

On 17 October 2007 HMIC wrote to the complainer regarding the email received from the complainer on 9 October 2007. HMIC advised the complainer that they had contacted Strathclyde Police who had informed them that its investigations into the complaint were not complete. HMIC also advised the complainer of the role of the PCCS and suggested that this would be the most appropriate authority to review "*any criticisms you may have of Strathclyde Police*". HMIC confirmed to the complainer that they had advised Strathclyde Police that the PCCS would be asked to review any issues that the complainer had.

From the files supplied to me by HMIC, the Assistant Inspector of Constabulary wrote to the Acting Deputy Chief Constable at Strathclyde Police on 18 October 2007 referring to Chief Superintendent K's letter of 5 June 2007. He explained that the complainer was disappointed and frustrated regarding the progress of the force's enquiry. The letter also detailed HMIC's belief that the force had commenced but not completed the investigation into the complainer's complaints and that the PCCS would be the appropriate review body, upon conclusion of any force investigation, into the complainer's complaints. There is no copy of this letter in the police files provided to my office.

Inspector R stated that in October 2007, he was allocated this case as a Miscellaneous Enquiry and appointed to interview the complainer regarding a historical complaint about the police from October 2003. He apprised himself of the contents of the file and arranged to interview the complainer.

Inspector R obtained a statement from Chief Inspector D on 8 October 2007, Sergeant B in October 2007 and noted a statement from Superintendent C on 23 October 2007.

Inspector R met with the complainer and noted a statement on 24 October 2007. Inspector R submitted a report to Chief Superintendent K on 7 November 2007 which stated:

"In essence, the issues of criminality are consistent and as previously intimated to the Procurator Fiscal. However, the only variation in the current criminal allegations is that [the complainer] alleges that when interviewed on 22 October 2003, he alleged that Constable [A] was going to "fit him up". The typed statements which the Investigating Officer has from that date, and which the Procurator Fiscal previously considered, states that Constable [A] was going to give him "a doing", whereas the statement of Mrs [X] states that Constable [A] threatened her with being "fitted up".

Chief Superintendent K wrote to the APF on 14 November 2007 outlining the force's investigation into the complainer's complaint to date. Chief Superintendent K attached a copy of the report compiled by Inspector R and the statements provided by the complainer on 4 July 2007 and 24 October 2007. She also provided Mrs X's statement dated 2 July 2007 and statements from Superintendent C, Chief Inspector D, Sergeant B and the two officers who dealt with the incident on 16 July 2005. It does not appear that the complainer's statement of 22 October 2003 was included. The APF responded on 31 December 2007 stating that having reconsidered matters she remained of the view that there was no basis for any criminal investigation.

Inspector R states that he was allocated the enquiry into the non-criminal aspects of the complainer's complaints. Inspector R, as the investigating officer, obtained statements from: Inspector J on 14 February 2008, Constable A on 18 February 2008 and Inspector F on 26 February 2008. He then submitted a provisional report on 5 April 2008, before completing and submitting the report on 30 April 2008 to Chief Superintendent K.

Chief Inspector S carried out further enquiry and a report was submitted to Chief Superintendent K on 18 June 2008 for consideration. As part of this report Chief Inspector S had visited the complainer on 12 June 2008 and noted a statement from him. Chief Inspector S confirmed to the complainer that the complaints which inferred criminality had already been referred to the Area Procurator Fiscal for consideration.

He noted in the report that:

"The available evidence shows that [Superintendent C] did investigate the complaint, however, she has failed to identify the complainer as a complainer in his own right and did fail to update him with the course of action taken to resolve the complaint, either verbally or in written correspondence in 2003. It is also clear that [Superintendent C] failed to take the opportunity to resolve the matter in July 2005 when the complainer's request for an update was brought to her attention by Inspector [F]. On either of these occasions in 2003 and 2005, an update by [Superintendent C] could have resolved the matter and brought it to a close."

Chief Inspector S obtained statements from Superintendent L on 13 June 2008, Superintendent E on 13 June 2008, Inspector Q on 16 June 2008, an additional statement from Superintendent C on 18 June 2008, Superintendent H (undated) June 2008 and Superintendent N (undated) June 2008. Inspector R signed off Chief Inspector S's report and forwarded it for consideration to Chief Superintendent K on 18 June 2008.

Chief Superintendent K, in a letter to the complainer dated 19 June 2008, provided the force's conclusions. She responded:

Complaint 1

"Having reviewed the content of your original statement provided on 22 October 2003, no evidence was adduced as to whether the alleged messages were being sent whilst the officer was on duty, which, according to the protocols in place at that time, would have required the matter to be formally recorded as a Complaint Against the Police. With hindsight, it would have been beneficial to have sought further clarification on this point, however, in my judgement, it was unlikely to have provided any additional evidence."

Chief Superintendent K continued:

"Having looked closely at the circumstances, revealed by the enquiry, I concur with the view taken by [Superintendent C] that the issues raised by you and your then partner were inseparable and were rightly dealt with as one. It was not therefore the case that one complaint was dealt with to the detriment of the other. As I have indicated above, the unfortunate result of the joint investigation was that we failed to inform you separately of the result."

Complaint 2

The letter of response sent to the complainer on 19 June 2008 confirmed that the complainer should have been updated regarding his complaints. Chief Superintendent K stated that:

"on receiving an update from Superintendent [C], the Inspector contacted your ex-partner as you were away on business and he provided her with an update with the caveat that you were free to call him at anytime should you wish to query anything from the update. Inspector [F] never received any further communication from you."

"Irrespective, the matter which you reported was enquired into. On the basis of the details I have in front of me, the available evidence was, by its nature, extremely limited and this precluded further progress. You state that you thereafter received no satisfactory response to your complaint. I concede that, regrettably, no verbal or written outcome was provided to you..."

"It would have been right and proper for you to have received a response relative to the initial complaint in 2003. That did not happen. I have reviewed the progress of the matter thereafter and there are gaps whereby the issue

had lain stale for periods of time. In this regard, I am sorry that we have failed to provide you with the standard of service that you would have expected to have received from us and in this regard I offer you my sincere apologies.”

Complaint 3

During the course of Chief Inspector S’s investigation, Superintendent H provided a statement. He asserted that:

“in order to either progress or ascertain details of [the complainer’s] complaints, I contacted his solicitors on the 20 December 2005, requesting either a telephone number for him or for other suitable arrangements to be made to interview him....As a result [the complainer’s] solicitor asked me to put this in writing which I did on the 21 December 2005. I also wrote to his solicitor on the 6 April 2006, as they had not responded to my earlier letter asking for [the complainer] to make himself available for interview or for further information to be provided so that any complaint he had could be investigated.”

Chief Superintendent K stated in her letter of response to the complainer dated 19 June 2008:

“Superintendent [H] states he received your solicitor’s correspondence in December 2005. Being aware that the matter had previously been referred to [a] police office and to prevent any further delay, he was of the opinion that the most efficient way to respond to the request for information was to speak to you directly.”

She concluded:

“I am satisfied that Superintendent [H] acted in good faith in an attempt to deal with your solicitor’s request in a professional and timeous manner and can find no evidence to substantiate your allegation.”

Complaint 4

Chief Superintendent K responded to the complainer on 19 June 2008 and provided a chronology of events. She stated that:

“It would have been right and proper for you to have received a response relative to the initial complaint in 2003. That did not happen..... I am sorry that we have failed to provide you with the standard of service that you would have expected to have received from us and in this regard I offer you my sincere apologies.”

5. PCCS review

A telephone call was received on 1 November 2007 where the complainer outlined his complaints about Strathclyde Police. The complainer was asked to complete and sign an application for review form which was received on 7 November 2007 together with other relevant information. The complainer advised that he had also contacted HMIC regarding his complaints about the police.

My office wrote to HMIC on 7 November 2007 in the first instance and asked it to provide the relevant complaint case papers which were received on 3 December 2007. From the information received from HMIC it was apparent that the force had advised it that the complaint had not been concluded.

My office then telephoned Strathclyde Police on 25 January 2008 and requested a progress report regarding the complainer's complaints. The force stated that matters were still under review and that the complainer would be informed of the conclusion of its investigations. The force also confirmed that it would update the complainer at the conclusion of the investigations.

Thereafter, my office contacted the force on a number of occasions to progress the complainer's complaints and were advised as follows:

- 5 March 2008 – Strathclyde Police advised that matters were nearing conclusion as the Procurator Fiscal had concluded that there would be no proceedings. Chief Inspector T stated that an enquiry report should be completed by the enquiry officer and added that the complainer may have been confused as to which party had concluded its enquiry.
- 19 March 2008 – My office telephoned Complaints & Discipline again and was asked to clarify the complaints processes followed by PCCS. Strathclyde Police confirmed on this date that HMIC had also progressed the complainer's complaints.
- 1 April 2008 – My office wrote to Chief Superintendent K requesting an update regarding the complainer's complaints.
- 2 April 2008 – Chief Inspector S telephoned my office and advised that the complaint was still active on his computer system, and he would call back to confirm the status. My office advised Chief Inspector S that we were previously advised on 5 March that matters were nearing conclusion and an outcome was expected shortly.

Chief Superintendent K wrote to my office on 8 April 2008 and advised that the force was:

“currently dealing with a complaint made by [the complainer] in respect of an historic situation that stemmed from a personal relationship he had with a female who had previously been married to a police officer.”

Chief Superintendent K advised that she hoped to be in a position to write to the complainer in the foreseeable future and would advise my office when the process was completed. These complaints included criminal allegations which had been referred to the Procurator Fiscal who had concluded that there would be “no proceedings”. Chief Superintendent K confirmed that the non-criminal matters were ongoing and she hoped to update the complainer on completing a review of the investigating officers report.

- 14 May 2008 – My office requested an update of the complainer’s complaints. Chief Inspector S confirmed that he was now dealing with the complaints, that he intended to contact the complainer, and advised that the department had recently had an unexpected increase in workload.

The complainer contacted my office on 28 May 2008 requesting an update and expressing his frustration at the delay by Strathclyde Police in handling his complaints. My office contacted the force and spoke with the department’s civilian officer who confirmed that Chief Inspector S had referred the complaints back to the investigating officer for further work to be carried out.

HMIC contacted my office on 4 June 2008 requesting an update regarding the complainer’s complaints, and was advised that the force had confirmed to my office that matters were still ongoing.

My office contacted Chief Superintendent K by telephone on 9 June 2008 and met with her on 10 June 2008 and requested an update. Chief Superintendent K advised that she would have to review matters before responding.

Chief Superintendent K wrote to my office on 12 June 2008 confirming that matters should be concluded and a written response provided to the complainer by 19 June 2008.

The complainer contacted my office on 23 June 2008 and confirmed that he had received a response from the force. However, he remained unhappy with the conclusion provided and asked that my office proceed with reviewing his complaints about Strathclyde Police.

My office then wrote to the force on 27 June 2008 requesting the papers relating to the complainer’s complaints. These papers were received on 3 July 2008. On further review of these papers, my office contacted the force again to request further information relating to the complaints. This information was received on 21 August 2008. My office requested additional information on 21 August 2008 and 18 September 2008 which was received on 25 August 2008 and 18 September 2008 respectively.

In his initial application form, the complainer detailed a number of areas of complaint to my office. On 29 August 2008 my office wrote to the complainer and confirmed the complaints about the police that would be contained in this review. During the course of this review the complainer was updated in accordance with our standards of service.

6. Consideration

Despite the complainer stating on several occasions that he wished to make a complaint about the police, beginning with his formal statement on 22 October 2003, the force did not record his complaints until June 2007 and did not provide its full and final written response until 19 June 2008, after the intervention of HMIC and my office. In summary, throughout the five years the complainer has tried to progress his complaints, he has provided five statements relating to his complaints about the police. Mrs X provided two statements and statements were obtained from 15 police officers including two Chief Superintendents, four Superintendents, one Chief Inspector, five Inspectors and three Police Constables, one of which was Constable A.

Complaint 1 - That Strathclyde Police failed to investigate the complainer's complaints about the police properly which he initiated in 2003.

It is my view that, based on the allegations made about Constable A and the specific reference to making a complaint, there is clear inference of a complaint being made within the complainer's statement of 22 October 2003. It is evident that the complainer's intention was to make a complaint about Constable A with the overriding priority being that he wanted the situation to stop and move on with his life. The statement provided by the complainer's girlfriend on 23 October 2003 stated that she was also unhappy with the behaviour of her ex-husband (Constable A) and with the texts that she had received. However, all she wanted was for someone from the force to ask Constable A to stop contacting her by phone. At this point it is clear that the complainer had made the complaint and Mrs X's statement was taken as a consequence of this. I note that this position is acknowledged by Chief Inspector S in his report of 18 June 2008.

Superintendent C's statement noted in October 2007, some four years after the initial complaint, states that she had formed the opinion that the complainer was not complaining about the police as such, but rather that he wanted assistance in curtailing the behaviour of Constable A as it was adversely affecting his relationship with Mrs X. Superintendent C based this decision on a number of factors, in particular:

"whilst the text messages may have been inappropriate and derogatory, they were not threatening or criminal."

And:

"there was no complaint or allegations about any on duty conduct of Constable A at that time."

As stated in Superintendent S' report of 18 June 2008, it is clear from the complainer's statement of 22 October 2003 that, in addition to being inappropriate and derogatory, the allegations he made against Constable A were threatening and criminal. I note that the complainer also advised the force at that time that he feared for his future safety.

Superintendent C's position also suggests that irrespective of the nature of the texts, as Constable A was not on duty she did not believe that this was, according to force policy at that time, a complaint about the police. I can find no evidence that Superintendent C, or any other member of the force at that time, made any enquiry to ascertain if Constable A had been sending texts whilst on duty. As such, it is surprising that Superintendent C was so adamant that Constable A was off duty. Had it transpired that Constable A had been on duty, the force would have been under an obligation to record the complaint irrespective of how Superintendent C viewed the content of the texts as described by the complainer and Mrs X. Additionally, as it is clear that the complainer's complaint contained criminal allegations against Constable A, and had it transpired that Constable A was on duty, the force would have been obliged to comply with the Lord Advocate's guidelines in relation to reporting the matter to the APF.

Considering Superintendent C's position, I would have expected to find evidence that Strathclyde Police had considered referring Constable A's alleged off duty behaviour to the Area Procurator Fiscal.

I note that Inspector F, during the course of his enquiries in July 2005, discussed the complainer's complaints about the police with Superintendent C. He stated that:

"I approached Superintendent C to seek her views on the matter. She confirmed that it was [Constable A's] ex-wife who had complained and that she had interviewed the complainer, that it was not a Complaint Against the Police and had been dealt with as a personal welfare issue. She told me she had written to the complainer informing her of her actions."

Inspector F also stated that Superintendent C maintained her position that:

"[the complainer] was not entitled to feedback as he had never been involved in the complaint process."

I also note that Chief Inspector S explained to the complainer the process of the force when dealing with complaints about the police before the Police, Public Order and Criminal Justice (Scotland) Act 2006 was in force. Chief Inspector S advised that off duty conduct was not recorded as a Complaint About the Police at that time but that it was recorded in a different way. Again, the force appear to have assumed that Constable A was off duty at the time the complainer and Mrs X said he had sent the texts. It is of concern that, five years after the complainer made clear his dissatisfaction, this explanation was again provided when there appears to be no evidence to either confirm or contradict whether Constable A was on or off duty when the messages were received.

I note that Superintendent E confirmed in her statement dated 13 June 2008 that:

"As I recall, there was no evidence supporting the allegation, but [the] division felt there may be welfare issues which I might consider raising with Constable [A] to prevent the situation deteriorating further.....[then] Chief Inspector [L] did indeed speak with Constable [A] and as far as I remember, Constable

[A]'s position was that he in fact was the recipient of unpleasant texts, which he did not save, and that he had never sent any of that nature to his wife or anyone else."

It is evident that the complaints raised by the complainer and his girlfriend were investigated as a single issue. However, I note that Chief Inspector S identified during the course of his investigations that:

"the available evidence shows that [Superintendent C] did investigate the complaint, however she had failed to identify the complainer as a complainer in his own right and did fail to update him with the course of action taken to resolve the complaint either verbally or in written correspondence in 2003. It is also clear that [Superintendent C] failed to take the opportunity to resolve the matter in July 2005 when the complainer's request for an update was brought to her attention by Inspector F."

It is my view that Chief Inspector S's assessment of the issue is correct. I am concerned that the separate and distinct complaints raised by the complainer were treated as merely supportive of Mrs X's concern, which was subsequently dealt with as a welfare issue by Strathclyde Police.

It is not clear why Chief Superintendent K's response to the complainer contradicted the very detailed assessment and conclusions contained in the report submitted by Chief Inspector S on 18 June 2008. Despite the findings of Chief Inspector S, Chief Superintendent K aligned herself with the original position of Superintendent C who stated that the complainer was not a complainer in his own right. Specifically, Chief Superintendent K stated to the complainer that:

"the issues raised by you and your then partner were inseparable and were rightly dealt with as one."

The fundamental error throughout the handling of this complaint is the adherence to the view formed by Superintendent C in October 2003. This appears to have determined the manner in which the force has handled the complainer and his allegations against Constable A and Strathclyde Police thereafter. Several officers have chosen to focus on a specific element of the complainer's statement noted on 22 October 2003 where he stated "*I just want this all stopped and get on with my life*" whilst ignoring the alleged conduct of Constable A. The reasoning behind the force's continued stance in this matter cannot be adequately ascertained.

Overall, despite several officers being in the position to identify Superintendent C's initial error, it is extremely disappointing that this error has not been acknowledged to the complainer or properly addressed at any point. I am concerned that it is not clear in this complaint whether the force adhered to the Lord Advocate's Guidelines in relation the reporting of the original criminal allegations to the APF. Finally, I note the force has never provided an apology for these particular failings.

Complaint 2 - That Strathclyde Police failed to provide a satisfactory response to the complainer about complaints regarding individual officers, despite his repeated attempts to progress his complaints about the police with the force.

As already noted, the complainer raised his original complaints about Constable A in his statement dated 22 October 2003. However, the complainer also reiterated his concerns to the force in July 2005, July 2006 and February 2007 and asked for an update on the progress of his complaints.

Upon the complainer's first request for an update on his complaints in July 2005 I note, as stated above, that Inspector F made enquiries into the background of events and was advised by Chief Inspector D and Superintendent C that the complainer had never made a complaint about the police. It is clear that Inspector F took the advice of both officers and did not progress the complaint. This appears to have been a conscious decision based upon Superintendent C's view at the time that the complainer *'had never been involved in the complaint process'*. However, I note that Inspector F's statement shows that, as the complainer was away on business, he spoke to the complainer's partner on 16 July 2005 and provided a full update regarding his conclusions.

Inspector J's statement shows that the complainer then contacted the force on or around 29 July 2006 to make a complaint about the police and that, following several attempts to contact the complainer, he spoke to him on 14 August 2006 where the complainer advised:

'At this time he explained to me that he was concerned that he had made a complaint three years previously and that he had heard nothing from the police'.

Inspector J's statement shows that he arranged to meet the complainer later in the day and that, before this meeting, he made enquiries with both Strathclyde Police Professional Standards Department and the administration department at police office X but was unable to trace any record of a complaint about the police. Inspector J's statement shows that he then advised the complainer in person that he could find no record of a complaint about the police and that the complainer then *'relayed an account of him having been "fitted up" for an assault that had occurred during July 2005'*. Inspector J's statement concludes by asserting that the complainer then left and that it was his belief that the complainer was:

'not making a complaint against the police at this time but providing a version of events for his account of the alleged assault his partner's [relative] which had been subject of a criminal trial at [a local] Sherriff Court and which the sheriff had found beyond all reasonable doubt that he was guilty of. It was not fresh evidence which had not been taken into account'.

The files supplied to my office show that the complainer gave a statement to the force on 17 February 2007 stating that:

'I wish to make a complaint against Strathclyde Police in its organisational incompetence in the way that it dealt with my official complaint I made in 22 October 2003'.

The complainer's statement also showed that he had never received a reply to what he believed was a clear complaint about the police.

As noted in Section 4 of this review, this statement was taken following HMIC's involvement in the matter. I also note that although the force appeared to have no copy of the original handwritten statement it did eventually find a typed copy of the statement given by the complainer in 22 October 2003.

In Superintendent N's response to the complainer on 5 April 2007, the force position remained that:

'I am aware that you provided a statement on 22 October 2003 in support of a stance taken by [Mrs X].....Within your statement, this was followed by "I just want all this stopped and to get on with my life" which appears to indicate that you did not, at that time, wish to pursue the matter through investigation and probable courts process'.

It is my view that this response, despite the force having found a copy of the complainer's first statement, failed to capture accurately what the complainer's concerns were. This response also ignored the complainer's clear intention that he wanted to make a **new** complaint about the way he viewed the force's organisational abilities. It is unfortunate that it had taken the force over four years to provide a written response to the complainer regarding his complaints about the police. Even then, I am not satisfied that this response was sufficiently detailed and comprehensive.

A clear indication of the inadequacy of the force response is that in his subsequent statements of July 2007, October 2007 and June 2008, the complainer again reiterated his frustrations both at the lack of investigation into his original complaint and the responses he had received from the force.

The second written response by the force to the complainer was sent by Chief Superintendent K's following Chief Inspector S's enquiries in June 2008. The final report by Chief Inspector S dated 18 June 2008 acknowledged that, in part, the complainer's position was correct. He stated:

"It is clear the complainer was written to on 5 April 2007 by Superintendent N, however, this is the only written correspondence during the period 5 April 2007 to date, it may have been prudent for written correspondence to have been forwarded to him to update him with the ongoing status of the enquiries being made during this period."

He also noted that:

"It is accepted practice for a complainer to be updated via written correspondence on the conclusion of a complaint enquiry and in this regard Chief Superintendent C has erred."

Chief Superintendent K's response to the complainer on 19 June 2008 stated that :

"I concede that regrettably, no verbal or written outcome was provided to you. However, I believe this oversight can in part be explained, in the context of my next comment with regard your then partner's complaint. Nonetheless I apologise for the oversight."

Although this part of the response only refers to Superintendent C's failure to update the complainer, Chief Superintendent K's letter later acknowledged that there were 'gaps where the issue has lain stale for periods of time' and I note that an apology is offered to the complainer for this. However, it is difficult to accept this response as satisfactory considering that Chief Superintendent K agreed with Superintendent C's initial actions. It is also difficult to accept this response as satisfactory considering the penultimate paragraph where the complainer is advised:

'On reading your complaint, I cannot help but come to the conclusion that the overriding issue for you is your conviction in a Court of Law'.

This statement clearly does not take into account the fact the complainer had contacted the force regarding Constable A's actions nearly two years prior to the incident on 16 July 2005. Overall, Chief Superintendent K's response is unsatisfactory.

Complaint 3 - A police officer contacted the complainer's lawyer looking for his telephone number which the complainer believed to be inappropriate as all communication or contact with him should have been channelled through his lawyer.

It is clear that the force contacted the complainer's solicitor in response to a request for information from the solicitor by telephone on 20 December 2005 and in writing on 21 December 2005 requesting the complainer's telephone number. From the files supplied by the force it is noted that the complainer's solicitor failed to respond and the force wrote again on 6 April 2006 with this request. Superintendent H also requested, via the solicitor, that the complainer make contact with him to progress matters and confirms this in his statement noted during June 2008.

The complainer asserted in his statement of 12 June 2008 that:

"Chief Inspector S has explained that anyone contacting my lawyer was doing so to progress my complaint and that the person doing this would be unaware of my wishes. He has told me that my complaint was forwarded to [a local] Division where the officer I complained about worked. This is another example of gross misadministration which affected my Court case. I am complaining about this."

From the information available to me, I can find no evidence that the force was made aware of the complainer's request that all contact should have been channelled through his solicitor. As such there is in my view, no corroborative evidence to support the complainer's assertion. However, I am satisfied that the actions of Superintendent H were well intentioned, and having made attempts to arrange a meeting to progress matters with the complainer, his actions were in the interest of pursuing and concluding matters for the complainer.

Complaint 4 - That the length of time taken by Strathclyde Police to respond to the complainer's complaints about the police was too long.

I note that Chief Inspector S' report stated:

"it is unfortunate that the enquiry into the non-criminal allegations took a period of 4 months to complete (January 2008 – April 2008) resulting in the complainer having to be re-interviewed on 12 June 2008....to clarify matters in his original statements and in this regard it is clear the time taken to investigate and respond to the complainer is unacceptable and not in keeping with the standards of service reasonably expected by members of the public."

Although Chief Inspector S' report appears to refer only to what he viewed as the complainer's non-criminal allegations, I note that Chief Superintendent K's final response to the complainer acknowledged that there had been a delay and in this regard it accurately reflects the conclusions drawn by Chief Inspector S. Notwithstanding the fact that the complainer has been given an apology for the delay, it is my view that the force has still not acknowledged properly the role that it has played in taking nearly five years to bring, from its perspective, the matter to a conclusion.

Other matters arising

Strathclyde Police has made a number of critical errors in dealing with the complainer's complaints. It appears that despite the complainer making several complaints about the police including criminal allegations against Constable A, the force failed to have his complaint recorded or investigated as such. The allegations raised in October 2003 do not appear to have been reported to the Procurator Fiscal. It is clear that the issues raised by both the complainer and his girlfriend were dealt with as a single issue, which was not deemed to be a complaint. From the files supplied to my office there appear to have been inconsistencies when determining when a complaint is a complaint about the police.

Furthermore, I am disturbed at the administration processes employed during the course of this "complaint" process. The complainer's solicitor wrote to police office X in November 2005 requesting a copy of the complainer's statement. This letter was responded to by Superintendent H from force sub-division Y, in April 2006, after the complainer's court case was concluded. Inspector J made attempts to find a record of the complaint in August 2006, without any success. HMIC intervened in November 2006 and the report authored by Superintendent C dated 31 October 2003 and copies of the complainer's statement were traced in January 2007. Most

disturbing is that Inspector P stated in his report 27 February 2007 he could not trace any record of a request having been received from the complainer's solicitor for information required. Superintendent N compounded this in his letter of 5 April 2007. Copies of both letters written by the solicitor were included in the file correspondence supplied to my office by the force.

I note that the complainer has received a response from the force regarding the failure to provide a statement and has not confirmed this as a ground of complaint with my office. However, it is clear that the complainer has repeatedly voiced his concern that had his solicitor been provided with a copy of his original statement it may have had an impact on his defence at his trial. In her letter of 19 June 2008 Chief Superintendent K responded to the complainer:

"Basically this is down to human error...it seems this breakdown occurred due to the Member of Staff, although carrying out certain enquiry, basically not looking in the place where your papers were held. I apologise for this."

The extent of the response to an issue which could potentially have had serious implications on the complainer is of concern. There is no reference to the force identifying this as a problem and learning from it. I also note that the original handwritten copy of the statement has never been found.

There are also a number of administrative issues which have become evident throughout my review of these papers. Specifically:

- There is no record of the meeting between Constable A and Superintendent L.
- There is no documented record of the meeting between the complainer and Inspector J on 14 August 2006.
- There is no record of contact or correspondence from HMIC to Strathclyde Police on 17 October 2007, when the force confirmed to HMIC that matters were not complete.
- Nor is there a copy of the letter sent by HMIC on 18 October 2007 to the Acting Deputy Chief Constable.

These are matters of concern.

There is no information on the file or explanation provided to suggest why Chief Superintendent K wrote to the complainer on 7 August 2007 advising that *"this matter is now closed."* It is evident that a CAP form was completed on 14 August 2007, which appears to be after contact from HMIC on or around that date. Subsequently the complainer was then interviewed on 24 October 2007, curiously again following contact from HMIC.

Eleven officers, ranging in rank from Sergeant to Chief Superintendent who were involved in the process of dealing with the complainer, or who had sight of the complaints raised by the complainer, provided statements approximately four years after the complainer's initial complaint. I note that these statements were taken following HMIC's involvement. Furthermore, these officers have appeared to concentrate on the incidental detail surrounding the relationship between the parties

concerned rather than recognising specific complaints. It is my view that collective responsibility lies with the force in failing to provide a swift and satisfactory solution to the complainer's complaints.

The force has failed to consider, pursue or investigate this complaint in the first instance within its own standard operating procedures. In relation to the incident of October 2003, it does not appear that the force has considered the Lord Advocate's Guidelines in relation to reporting the matter to the Procurator Fiscal or indeed under the Police (Conduct) (Scotland) Regulations 1996.

It is unsurprising that the complainer has remained frustrated and disappointed in the processes followed by Strathclyde Police. Whilst, over a period of five years, the complainer provided five statements to the force and Mrs X provided two, no formal statement was noted from Constable A until February 2008.

I understand that the force is now conducting an internal review of the procedures in place regarding complaints about the police. I suggest as part of that review the force consider the manner in which complaints about the police are captured and recorded.

7. Conclusion

Complaint 1 - That Strathclyde Police failed to investigate the complainer's complaints about the police properly which he initiated in 2003.

It is my view that the initial approach by the force to the complaint about the police raised by the complainer was flawed. This then impacted on the subsequent handling of the complaint. That the force failed to embrace subsequent opportunities to rectify the initial errors is of concern.

The manner in which the force investigated the complainer's concerns lacked structure, rigour and coherence. Additionally, the responses given to him, at best, lack professional precision. I note that the complainer has already stated to the force:

"I now have a very unhealthy respect for the police force".

I can understand that view.

Given that the complainer has expressed his concerns to the force on a number of occasions over a considerable period of time, and given the consistent inability of the force to recognise, investigate and properly address these concerns, **I uphold this complaint and recommend that the force give a full apology to the complainer.**

Complaint 2 - That Strathclyde Police failed to provide a satisfactory response to the complainer about complaints regarding individual officers, despite his repeated attempts to progress his complaints about the police with the force.

I agree that the force failed to provide a satisfactory response to the complainer and, as a result, I recommend that the force provide regular updates to complainers in the event of delays in the complaint handling process. As such, **I uphold this complaint.**

Complaint 3 - A police officer contacted the complainer's lawyer looking for his telephone number which the complainer believed to be inappropriate as all communication or contact with him should have been channelled through his lawyer.

I am satisfied that the force has provided an adequate and detailed response to the complainer regarding this matter. Whilst it is clear that the officer seeking the information was not aware that the complainer did not wish to be contacted by the force, it is also clear that he was attempting to make contact in order to progress an enquiry from the complainer's solicitor. Therefore, **I do not uphold this complaint.**

Complaint 4 - That the length of time taken by Strathclyde Police to respond to the complainer's complaints about the police was too long.

Notwithstanding the fact that the complainer at times failed to engage with the force in order that it could progress matters, it is evident that the initial investigation into his complaints was flawed and the complainer lost confidence in the force's ability to deal with his complaints. The force should have dealt with the complainer separately from Mrs X and recorded the complainer's complaints accordingly.

It is my view that the force, as a public service, should have made a more concerted effort to clarify and record the complainer's concerns at an earlier stage. Strathclyde Police failed to provide a satisfactory apology for the delay. Therefore, **I uphold this complaint.**

Other matters arising

It is a matter of concern to me that Strathclyde Police, over a period of six months, provided inconsistent and conflicting updates to my office regarding the status of the complainer's complaints. It would appear that the force did not give the matters raised by the complainer any serious consideration until the repeated intervention of both HMIC and my office.

I am of the view that over a period of five years Strathclyde Police, in its handling of his complaints about the police, has treated the complainer badly. I remain unclear if this has come about through maladministration, incompetence or a desire to avoid thorough investigation of his complaint. As part of the general review which I have asked all forces to carry out of their current procedures, Strathclyde Police should revisit this case, assess where and why they fell short of acceptable standards and learn lessons from it.

Jim Martin
Police Complaints Commissioner for Scotland
October 2008