



Request for complaint handling review of a complaint about

Lothian and Borders Police

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

February 2009

Case reference: PCCS/0902/00285/PF-LB

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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 complaint about Lothian and Borders Police. The complaints originate from an event when a vehicle registered to the complainer was recorded on camera allegedly travelling in excess of the speed limit.

Complaint 1 – The former manager of the Safety Camera Partnership falsely stated that he had investigated the complainer’s original complaint (that the speeding allegation against him had been incorrectly initiated);

Complaint 2 – The new manager of the Safety Camera Partnership also failed to fully review the complaint;

Complaint 3a) – That the progress sheet recording the allegation against the complainer did not contain the information about the incident that he was told it would contain;

Complaint 3b) - That no officer checked this during the investigation into his complaint;

Complaint 4 – That Police Constable A, who initiated the Notice of Intended Prosecution, would have withdrawn his allegation if he had seen a Home Office Document regarding ‘slip error’ earlier; and

Complaint 5 – That Inspector B did not properly investigate the complainer’s complaints about the police.

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

On 12 November 2004, a speeding device operated by Camera Assistant C of Lothian and Borders Safety Camera Partnership, recorded a vehicle that was apparently travelling on a road in excess of the prevailing speed limit. The video cassette from the device was subsequently provided to the Safety Camera Unit and the information on the cassette was downloaded to the main computer system. Police Constable A provided a statement on 1 July 2005, that he had downloaded the information, and the data recorded showed the equipment was working properly. He stated that he viewed the cassette and that the recorded images showed a vehicle with an identifiable registration number travelling at a speed of 71mph. The speed limit on that particular road was 50 mph.

Police Constable A stated that details regarding the owner of the vehicle were obtained from the Police National Computer. A Notice of Intended Prosecution (NIP) and 'Section 172 form' were then sent to the complainer's home, addressed to a person with a similar surname to the complainer's. Section 172 of the Road Traffic Act 1988 (S172 RTA), enables the force to request details of the driver at the time of the alleged offence from the vehicle's owner. If the form is not returned completed, an offence is committed.

The complainer returned the blank form to the Safety Camera Partnership (the Partnership) with a letter stating that no-one of that name lived at the address and no-one remembered driving that vehicle at that speed on the road. As a result, two officers visited the complainer on 17 December 2004 to make further enquiry into the matter. The complainer refused to provide the relevant information to the officers. Although the complainer explained that the name on the NIP was incorrect, the officers charged the complainer with an offence under S172 RTA. On 2 May 2006, after a trial in court, the complainer was found guilty and fined £180. He was not prosecuted in relation to any allegation of speeding.

The Safety Camera Partnership received a letter from the complainer on 6 June 2005 requesting information regarding the alleged speeding offence, to which the Partnership responded the next day. The complainer then wrote by email to the Safety Camera Unit the same day making a complaint about the alleged speeding offence and subsequent charge against him.

4. Force internal handling

Complaint 1 – The former manager of the Safety Camera Partnership falsely stated that he had investigated the complainer's original complaint (that the speeding allegation against him had been incorrectly initiated);

Complaint 2 – The new manager of the Safety Camera Partnership also failed to fully review the complaint;

Complaint 3a) – That the progress sheet recording the allegation against the complainer did not contain the information about the incident that he was told it would contain;

Complaint 3b) - That no officer checked this during the investigation into his complaint;

Complaint 4 – That Police Constable A, who initiated the Notice of Intended Prosecution, would have withdrawn his allegation if he had seen a Home Office Document regarding ‘slip error’ earlier; and

Complaint 5 – That Inspector B did not properly investigate the complainer’s complaints about the police.

In his email dated 7 June 2005, the complainer wrote suggesting that as a direct result of the Safety Camera Partnership failing to respond to the letter that he returned with the NIP, he was charged by Lothian and Borders Police. The Partnership responded on the same day attaching information that the complainer had requested the day before, about the alleged speeding offence.

On 10 June 2005 the complainer sent an email stating that he had not received the information. On the same day, the Partnership responded by email stating that all information requested including the photographic evidence, the mobile camera number and the calibration certificate, had been sent to the complainer on 7 June 2005.

The complainer responded on 11 June 2005, acknowledging receipt of the information requested and asking that an official complaint be recorded about his treatment by the partnership. The complainer also alleged that the officers who visited his home and subsequently charged him had not allowed him to view the photographic evidence. The complainer wrote again by email on 16 June 2005 to complain about the photographs that were sent to him. He stated that due to his experience and knowledge of radar equipment that he believed a basic operator error had occurred.

The Partnership Manager wrote to the complainer stating that he was happy that staff had acted properly in respect of both the Partnership procedures and the legislation. He stated :

“Very briefly, that means when the registered keeper of a vehicle cannot be traced, the offence is handed over to the Police for further enquiry. That has happened in this case and it has become apparent that the keepers name was misspelt within the DVLA records. That is not our responsibility and you must take that up with the DVLA.

You have been unwilling to identify the driver of a vehicle of which you appear to be the registered keeper. That is also an offence and the matter has now been passed to the Procurator Fiscal for further action.

Accordingly I do not propose to enter into any further communication with you in this matter as any further discussion could constitute subjudicy."

The complainer wrote to Lothian and Borders Police Information Unit on 17 June 2005, to complain about his treatment by the Safety Camera Partnership. The email was passed to the Complaints and Conduct Department who responded to the complainer on the same day, requesting further information from him. The complainer responded by email providing the information regarding his complaint. He complained specifically about his treatment by the officers who had attended at his home, and about errors in recording the alleged speeding incident. He also complained that the Partnership Manager had not dealt with his request for information before instructing police officers to visit him, and that prior to their attendance at his home the officers had not made enquiries to establish the accuracy of the information provided by the Partnership.

The Complaints and Conduct Department discussed the matter with the Partnership and were advised that the prosecution was ongoing at that time and the complaint could not be progressed until the outcome of the court case. On 17 June 2005, the complainer wrote again by email to the Partnership Manager expressing his extreme dissatisfaction at the letter of response.

Chief Inspector D of the Complaints and Conduct Department responded by email to the complainer on 21 June 2005. He explained that the complaint could not be progressed until the criminal proceedings were concluded, but that any concerns about the conduct of the officers would be considered by the force. The complainer responded on the same day to expand on his complaints about the Partnership and the officers that visited him. On 22 June 2005 the complainer sent two further emails one of which requested a meeting with the Chief Constable. The force responded explaining again that no action could be taken until after the court proceedings but if the complainer still had concerns, he should write again at that time. It was also explained that the Deputy Chief Constable was responsible for complaints about the police.

In January 2006, the complainer met with the new manager at the Safety Camera Partnership to discuss his complaints. The new Partnership Manager wrote to the complainer on 26 January 2006 to confirm what was discussed. He advised the complainer that he would review aspects of his case.

Email correspondence between the complainer and the new Partnership Manager ensued. The complainer questioned procedures and the fitness for use of the equipment that was used at the time of the incident. He also questioned the staff training that was provided to camera operatives. In an email of 22 March 2006, the new Partnership Manager wrote confirming that he believed the staff involved in the complainer's case had carried out their work in accordance with their training.

On 5 April 2006, the complainer wrote to the Force Information Unit to lodge a number of complaints about the Camera Safety Partnership.

Chief Inspector E of Road Policing Support, advised Chief Superintendent J that he met with the complainer on 29 May 2006. During the meeting, the complainer raised

concerns about the equipment and Camera Assistant C. In particular he referred to the quality of evidence that Camera Assistant C was able to provide in court, and to a Home Office document on 'slip error' regarding the operation of the equipment used. Chief Inspector E advised the complainer that because he had refused to complete the Section 172 form, he had relinquished his opportunity to challenge the original offence of speeding. Chief Inspector E advised Chief Superintendent J that the complainer was unclear when asked what he believed would be a satisfactory outcome.

Chief Superintendent J wrote to the complainer in a letter dated 12 June 2006, referring to the previous meeting. Chief Superintendent J stated that the conscious decision of the complainer not to respond to the request for information about the driver of the vehicle, had denied him the ability to contest the charge of speeding, the equipment used and the training of the staff involved in court. He wrote that;

"..the only proof necessary for proceeding against you in terms of Section 172 of the Road Traffic Act 1988 was that an alleged offence had taken place in respect of that legislation. It is immaterial in such proceedings to prove whether you were guilty or otherwise of an alleged speeding offence."

He informed the complainer that the force had no jurisdiction to investigate evidence placed before a court of law. He went on to state that he believed the staff of the Partnership had taken a great deal of time and effort to respond to all the complainer's requests for information and documentation and that during a period of three months had responded to 46 such requests. Chief Superintendent J answered the issue regarding the device, and the 'slip error' document. He referred the complainer to the Association of Chief Police Officers (ACPO) Code of Practice for operational use of enforcement equipment. He stated that the Home Office circular the complainer spoke of with Chief Inspector E did not provide any new information for operatives, but reinforced previous information in the 2004 Code of Practice. The letter also responded to the issue of training and the camera assistant. He stated that the staff joining the Partnership received a full training programme and received regular updates together with new issues arising and directives made by ACPO.

Following the letter from Chief Superintendent J, the complainer sent an email on the same date to the Complaint and Conduct Department, about the investigation into his complaint about the police and the Partnership. In response, Superintendent G of the Complaint and Conduct Department, explained to the complainer that his issues would be discussed with the Deputy Chief Constable.

The complainer wrote to Superintendent G by email on the same date, to list his complaints for the benefit of the Deputy Chief Constable. He complained that Camera Assistant C did not use the device in a way that conformed to requirements, and this resulted in him being issued with a NIP. He also complained that the new Partnership Manager had a Home Office Document regarding 'slip error' that he had not shown to Police Constable A and had Police Constable A been aware of this document, he would have dropped the allegation of speeding against him.

On 30 June 2006, Inspector B was appointed as the Investigating Officer and a Complaint Against the Police (CAP) form was completed. The complaints were

recorded on the CAP form as *"Irregularity in procedure x 2"*. She then proceeded to investigate the complainer's complaints about the police.

Inspector B submitted her report dated 9 August 2006 to Superintendent G. She stated that on 13 July 2006 she visited the Safety Camera Partnership where she examined and uplifted the documentation regarding the complainer's complaints. She viewed the tape of the alleged offence and had the procedures fully explained by a Police Officer experienced in this area. On 20 July 2006, Inspector B visited the complainer and noted a statement. She stated that she discussed his complaints in detail and the complainer explained that he was also pursuing his complaint regarding the equipment with the Home Office.

The complainer discussed with Inspector B during the meeting, that the Partnership Manager had failed to investigate his complaint. The complainer stated that he was happy that Inspector B had made the Manager aware of his concerns.

The complainer expanded on his complaints about Camera Assistant C's evidence in court. He stated that he wanted to know if she admitted any operating errors and if corrective advice was given to her. He stated to Inspector B that the Sheriff at the end of the trial advised him his notes would be available if required to pursue a complaint.

Inspector B noted in her report that she had visited the Court and obtained a statement from the Procurator Fiscal regarding the evidence given by Camera Assistant C in court. The Procurator Fiscal advised her that he had no issue with the evidence that was given. He stated that it had not been necessary to raise questions regarding the alleged speeding offence, as the charge had been about the failure to provide the driver's details. He stated that if the Camera Assistant had problems answering any questions in cross examination regarding such information as the speed threshold, it may have been because she did not have the progress sheet. Inspector B was advised by the court that the Sheriff would not allow access to his notes from the trial.

On 9 August 2006, Inspector B discussed the complainer's concerns with Camera Assistant C. She stated that she did answer the complainer's questions in court although the complainer was advised by the Sheriff not to pursue that line of questioning because it was not relevant to that particular trial.

Inspector B noted that on updating the complainer about her investigation into his complaints, he added that he was now pursuing a complaint regarding harassment by the Partnership. On examining the legislation regarding this, the Inspector stated that in her opinion it was not relevant to the complainer's complaint.

Following Inspector B's report, the Deputy Chief Constable in his letter to the complainer on 14 August 2006 conveyed the findings of the report. He stated that the Partnership Manager had been made fully aware of the complainer's concerns. He reiterated the comments made by the Procurator Fiscal in his statement regarding the questioning of the Camera Assistant in court. He stated that;

“...if her response to any question in relation to the issue of [the complainer’s] vehicle speeding was curtailed in any way, it would have been as a result of not being in possession of the progress sheet she completed at the time of the incident.”

He also informed the complainer that Inspector B had spoken to Camera Assistant C about the complainer’s concerns.

Further to the letter from the Deputy Chief Constable, the complainer wrote again by email to Inspector B on 22 August 2006. He stated he was unhappy with her investigation into his complaints. He also referred to his complaint against the previous Partnership Manager and Camera Assistant C, and a complaint he intended to make under the Protection from Harassment Act 1997 and the Scotland Act 1998. The complainer then wrote by email to complain about the Camera Unit and its obligations under the Freedom of Information (Scotland) Act 2002 (FOISA).

The complainer received an email on 11 September 2006 explaining that Inspector B was on annual leave and would contact him on her return. The complainer was also in correspondence with the Partnership Manager at this time. He requested a copy of the Partnership policy on harassment, a copy of accounts and balance sheets, including a breakdown of all amounts spent on vehicles, equipment, rent, rates, phones, electric, pensions, wages and training, under FOISA.

Superintendent G of the Complaints and Conduct Department wrote to the complainer on 13 September 2006. The letter informed the complainer that Inspector B had fully discussed the findings of her investigation and her report with the complainer, and that Superintendent G was satisfied that the original complaints against the individual members of the force had been dealt with appropriately. The letter also advised the complainer on how to progress his requests and complaints under both Data Protection Act 1998 (DPA) and FOISA.

The complainer emailed Superintendent G on 16 September 2006 stating that he had not been made aware of the conclusion to the Inspector’s report. Superintendent G replied by letter on 20 September 2006 stating that he had nothing to add to his last correspondence. The complainer wrote again by email on 21 September 2006 to the Force Information Unit. He stated that he wished to make a complaint of harassment by the staff of the Safety Camera Partnership, and he also wished to challenge the response to one of his FOISA requests (to view the video of the alleged speeding incident). On 25 September 2006, the complainer wrote by email asking that the Deputy Chief Constable be made aware of his complaints.

The Deputy Chief Constable responded on 29 September 2006. He stated that he believed there was no new relevant information brought by the complainer that had not previously been answered by the force. He also reiterated previous advice regarding requests for any documentation and enclosed a leaflet explaining how complaints against police officers are dealt with.

On 10 October 2006 the complainer emailed the force to make a Complaint about the conduct of Superintendent G of the Complaints and Conduct Department. Chief Inspector F responded to the complainer the next day. He referred to the previous letter from the Deputy Chief Constable stating that it was the force’s position that it

had done all it could to answer the complainer's complaints and that it considered the matter to be closed. The complainer stated in a further email the same day, that he had not been informed of the results of Inspector B's findings. He also complained that his recent request for information under FOISA remained outstanding. On the same date, Chief Inspector F responded and again explained how FOISA requests are progressed.

The Force Information Unit wrote to the complainer on 26 April 2007, providing a redacted copy of the progress sheet that had been completed by Camera Assistant C on 12 November 2004.

On 15 January 2008 the complainer sent an email requesting that Inspector B contact him as he now wished to expand on his complaints. Superintendent H of Complaints and Conduct Department responded to the complainer in a letter dated 18 January 2008. She stated that it was her understanding that the complainer had already received a full response from the Deputy Chief Constable on 14 August 2006. She stated that if the complainer had other issues regarding his complaint which he felt had not been answered then he should detail the specific points in writing.

On 22 January 2008, the complainer responded stating that there were unexplored factors in his case. On 25 January 2008, Superintendent H requested details of any issues relevant to his original complaint that had not been answered.

The complainer replied to Superintendent H by email on 25 January 2008. He stated that in relation to the original complaint, he was of the opinion that in charging him under S172 RTA, officers and staff were not conforming to the Scotland Act 1998. He went on to state that no real evidence existed, and the reviewing officer had not followed procedures. He believed that the reviewing officer had simply expressed his own personal opinion regarding the alleged speeding offence. The complainer also stated that his right to privacy and security were infringed, and that the officers were wrong to charge him under S172 RTA, as they had no first hand knowledge that an offence was committed.

Superintendent H responded by letter on 31 January 2008, stating that the specific outstanding issues were unclear.

The complainer wrote again by email on 3 February 2008, to request that the force reconsider his complaint. He complained that Police Constable A, the reviewing officer, had failed to comply with the legislation and procedures; about the lack of action taken by the force in relation to his complaint; and that the force had acted contrary to the Scotland Act 1998. The complainer also stated that the progress sheet he had received did not contain the information that he was told it would contain, and did not contain any information pertaining to his vehicle.

Superintendent H responded by letter to the complainer on 13 February 2008. She stated that she did not believe the complainer had raised any new pertinent information, and that she did not therefore intend to take the matter further. The letter enclosed details of my office, and an explanatory leaflet to assist the

complainer. The complainer wrote by email on 15 February 2008 for the attention of the Deputy Chief Constable as he remained dissatisfied with the force's response.

No further communication from the Deputy Chief Constable was sent to the complainer. The complainer wrote to Complaints and Conduct Department for the attention of an officer who was no longer with the department, and this was explained to him by email on 4 March 2008. On 10 March 2008 the complainer acknowledged the response by the force and advised that there was more information. The force responded that day indicating that they were awaiting the further information from him. There appears to have been no further correspondence with the force regarding the complainer's complaints about the police.

5. PCCS review

An email was received by my office on 11 February 2008. The complainer was asked to complete and sign an application for review form which was received on 28 February 2008 together with additional information. On the same date my office wrote and asked Lothian and Borders Police to provide the relevant complaint case papers by 16 March 2008.

The complainer called my office on 10 March 2008, to ensure that his paperwork had been received. This was confirmed. On 14 March 2008, my office received the case papers pertaining to the complainer's complaint about the police.

The complainer forwarded further information, that he had received from the Force Information Unit to my office on 21 May 2008. On 4 June 2008 and 5 January 2009, my office received further email correspondence from the complainer in relation to his complaint.

On 31 December 2008, the force provided my office with copies of additional correspondence from the complainer.

On 8 January 2009 my office requested copies of any existing operational guidance pertinent to the Safety Camera Partnership, which was received on 23 January 2009.

My office has regularly updated the complainer in the course of this review.

6. Consideration

Complaint 1 – The former manager of the Safety Camera Partnership falsely stated that he had investigated the complainer's original complaint (that the speeding allegation against him had been incorrectly initiated);

Complaint 2 – The new manager of the Safety Camera Partnership also failed to fully review the complaint;

Complaint 3a) – That the progress sheet recording the allegation against the complainer did not contain the information about the incident that he was told it would contain;

Complaint 3b) - That no officer checked this during the investigation into his complaint;

Complaint 4 – That Police Constable A, who initiated the Notice of Intended Prosecution, would have withdrawn his allegation if he had seen a Home Office Document regarding ‘slip error’ earlier; and

Complaint 5 – That Inspector B did not properly investigate the complainer’s complaints about the police.

I note that the complainer originally complained about his treatment by the Safety Camera Partnership, and about the actions of individual staff members. I understand that the complainer was aggrieved that although he had attempted to show the offence of speeding did not occur, he was still convicted of an offence under S172 RTA. The complainer argued that he should never have been issued with a Notice of Intended Prosecution. It is clear that he believed the original fault lay with the Camera Assistant’s operation of the equipment and the reviewing officer’s decision that the offence of speeding had occurred.

Following the trial, it appears that the complainer again brought his concerns to the force and the partnership, and the new Manager agreed to review aspects of his case. The complainer was still not satisfied with the response that staff had carried out their work in accordance with the training they received.

It appears that the complaint was then escalated to Chief Inspector E of Road Policing Support. During the meeting of 29 May 2006 with Chief Inspector E, I note that the complainer raised further concerns as a result of his ongoing complaint. From the notes of the meeting, it would appear that Chief Inspector E discussed all aspects of the complainer’s complaints and attempted to provide a detailed explanation.

Chief Superintendent J then provided a concise response in his letter of 12 June 2006. In my view the letter conveyed the force’s position and answered the complaints that had so far been put to the force by the complainer. It clearly outlined any guidelines to which the force worked and explained the remit of the force regarding evidence that had already been put before the court. The letter also explained to the complainer his position, that when he did not respond to the S172 form, he had denied himself the opportunity to refute the offence of speeding in court.

I note that Chief Superintendent J addressed the effort made by staff to answer his complaints over the previous 18 months. He pointed out that between February and April 2006, the force provided information and documentation on “*no fewer than 46*

occasions". In my view it is clear that the force expended considerable resources on the complainer's requests for information and complaints.

Chief Superintendent J referred to the training that the Camera Assistant had already received and the procedures in place regarding on-going training. He explained the existence of the 'slip error' document the complainer referred to, and its relevance to his complaints, making clear that the document provided no new information and merely reinforced the Code of Practice of 2004. In my view the response from Chief Superintendent J was fair and reasonable.

It appears that the complainer remained unhappy at the response from the force and complained about the investigation into his complaints. He again complained that the Camera Assistant did not use the equipment properly, and stated that the 'slip error' document was significant to his case.

I note that the force progressed the complainer's complaints in line with procedure, to the Complaints and Conduct Department and an Investigating Officer was appointed.

In my view, the Investigating Officer carried out a thorough investigation into the complaints about the police. She noted witness statements, looked into procedures, examined legislation, noted its relevance and viewed video evidence surrounding the original incident. She then provided a full report to the Superintendent at the Complaints and Conduct Department. The Superintendent referred the matter, in line with the force's complaint handling procedures, to the Deputy Chief Constable, who provided the complainer with a final response based on the report.

It appears that the complainer did not believe the force had adequately responded and complained again following this response. He then complained about Inspector B's investigation. I note that the force did not consider that the complainer was adding any new information to his complaints about the police. After reviewing the matter, Superintendent G stated in a letter to the complainer that in his opinion the complaints had been appropriately dealt with. In my view, this was also a reasonable response. It is clear that Superintendent G considered all aspects of the complainer's complaints, including the quality of Inspector B's investigation at that time.

The complainer sent further emails containing complaints, and I note that the Deputy Chief Constable re-considered the matter before he responded. He stated that he did not believe the complainer was bringing any new relevant information to the force.

I note that the complainer had requested a copy of the progress sheet to which the Procurator Fiscal and the Deputy Chief Constable had referred. He received a redacted copy of this in April 2007. The complainer then wrote with his concerns about the information on the progress sheet he had received, and stated that he was unable to find the information pertaining to his vehicle on it.

My understanding of the progress sheet, is that it is an administrative tool. I note that the Procurator Fiscal suggested in his statement to Inspector B, that when the

complainer directed questions about the alleged speeding offence to the Camera Assistant in court, she would not have certain information such as the speed threshold to hand - this would have been recorded on the sheet. I note that the complainer's copy of this sheet appears to contain the information referred to by Procurator Fiscal, although it has been redacted. I also note that in a letter the complainer brought to my office, the Force Information Unit appears to have addressed his question regarding the progress sheet. It informed him that it was not essential that the information to which he referred, was recorded on the sheet.

It is my view that the overall handling of the complainer's complaints about the police was carried out comprehensively by the Force in line with its Standard Operating Procedures. It appears that considerable resources were allocated to the complainer's complaints. I am aware that during the complaint handling process, the complainer was in correspondence with the Safety Camera Partnership, the Force Information Unit and the Complaints and Conduct Department in tandem, and in my view this was effectively coordinated by the force. It is unfortunate that the complainer has refused to accept the explanation from the force that by not responding as requested to the S172 notice he effectively relinquished the opportunity to test the evidence in relation to the allegation of speeding in a court of law. I am satisfied the force has attempted to address all of the issues raised by the complainer in relation to this. I note that at each stage of the complaint process a detailed response was provided to the complainer, after full consideration of the complaints made.

Other Matters Arising

I note that the complainer has raised questions regarding certain legislation, and its interaction with Section 172 RTA, including the Scotland Act 1998, and the European Convention of Human Rights. It is my view that such issues can only be determined by the court process. I note that cases have previously been submitted to the European Court of Human Rights in this respect, but have not dictated that the use of S172 RTA infringes Human Rights legislation.

7. Conclusion

Complaint 1 – The former manager of the Safety Camera Partnership falsely stated that he had investigated the complainer's original complaint (that the speeding allegation against him had been incorrectly initiated);

Complaint 2 – The new manager of the Safety Camera Partnership also failed to fully review the complaint;

Complaint 3a) – That the progress sheet recording the allegation against the complainer did not contain the information about the incident that he was told it would contain;

Complaint 3b) - That no officer checked this during the investigation into his complaint;

Complaint 4 – That Police Constable A, who initiated the Notice of Intended Prosecution, would have withdrawn his allegation if he had seen a Home Office Document regarding ‘slip error’ earlier; and

Complaint 5 – That Inspector B did not properly investigate the complainer’s complaints about the police.

It would appear that the complainer has refused to accept the explanation from the force that, by not responding as required to the Notice of Intended Prosecution, he effectively relinquished the opportunity to test the evidence in relation to the allegation of speeding in a court of law. However, in my view the force has attempted to address all of the issues that the complainer raised in relation to this. It is clear that considerable resources were allocated to the complainer’s complaints. Three areas of the force dealt with the complainer’s complaints in tandem and in my view, this was effectively coordinated by the force. I note that at each stage of the process a detailed response was provided after full consideration of the complaints made. The force are to be commended for the attempts made to address all of the issues raised by the complainer. Therefore, **I do not uphold these complaints.**

Jim Martin
Police Complaints Commissioner for Scotland
February 2009