



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**

April 2009

Case reference: PCCS/0904/00349/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 complaints relate to the police investigation into the break in of a lock up garage in which the complainer's vehicle was kept and the subsequent theft of the complainer's vehicle.

Complaint 1 – That a scene of crime examination was not immediately conducted by the force;

Complaint 2 – That door to door enquires were not carried out at the properties surrounding the lockup; and

Complaint 3 – That the complainer's telephone calls were not returned by the force.

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 31 May 2007 the complainer secured his vehicle in a lockup in local town 1. On 13 June 2007, staff from a local organisation discovered that the lockup had been forced open and contacted the complainer who lives in local town 2. The complainer attended the lock up and found that his vehicle had been stolen with only two wheels and a road atlas remaining in the lockup. The complainer then telephoned Strathclyde Police contact centre to report the crime. On 14 June 2007, Constables A and B visited the complainer at his home to note details of the incident.

The complainer's statement shows that he provided a report to the officers and asked if a forensic examination would be carried out. The complainer's statement also asserted that one of the officers advised him that scenes of crime officers were not automatically notified and told him that he would hear from a police officer from local town 1 shortly.

Constable A subsequently raised a crime report for the incident and his statement shows that, as the crime had taken place in local town 1, he requested that enquiries be carried out by an officer based there. Constable A also maintained that he did not submit a scene of crime request due to his lack of knowledge of the area. The incident log shows that the enquiry was subsequently assigned to an officer based in local town 1, Constable C, who received the notification after returning from a period of absence on 21 June 2007. The log also shows that Constable C made CCTV and scene of crime referrals for the incident and, as he was on a nightshift, requested that a dayshift officer be allocated to make door to door enquiries and update the complainer.

Scene of Crime Examiner D contacted the complainer by telephone and met with him at the lock up on 21 June 2007. Scene of Crime Examiner D conducted a visual examination but stated that nothing of evidential value was obtained. Constable C noted in the incident log on 29 June 2007 that there was no trace of the stolen vehicle on any CCTV of the area. Arrangements were made to have the complainer fingerprinted on 16 August 2007 in order that he could be eliminated from any potential prints found on the road atlas left at the scene. The incident log shows that subsequent forensic analysis of the road atlas provided negative results and Constable C noted on 2 December 2007 that there were no further lines of enquiry for this incident. On this date, Constable C also noted that he had forgotten to add that door to door enquiries had been carried out at the overlooking properties once he had returned to day shift.

The complainer stated that he carried out enquiries at three houses near to the scene and was advised by the occupiers that no police officer had contacted them or left calling cards. The complainer asserted that from July 2007 he telephoned Strathclyde Police contact centre on at least three occasions but that, other than one message left on his voicemail by Sergeant E, he received no response from the force.

4. Force internal handling

The complainer raised Complaints 1 and 2 with Inspector F at a local police office on 20 March 2008 and a complaint statement was taken from the complainer at this time. A Complaints About the Police (CAP) form was completed detailing a brief outline of the complaints and describing them as neglect of duty and irregularity of procedure. The subsequent investigation into the complaints was dealt with locally by Inspector F.

Operational statements were provided by Constable A on 21 March 2008; Constable B on 22 March 2008; and Constable C on 2 April 2008. An undated statement was

also obtained from Scene of Crime Examiner D during the investigation into the complainer's complaints.

Inspector F compiled a report dated 4 April 2008 which was submitted to the Deputy Divisional Commander Superintendent G and head of the Complaints and Conduct Unit, Chief Superintendent H.

Inspector F concluded that all the complaints were unsubstantiated. In relation to Complaint 1, Inspector F noted that Constable A completed the crime report in good time and requested that it be forwarded to a local officer for enquiry. He also noted that the case had been allocated to local town 2 area in error and that Constable A had not requested a scene of crime examination as he could not assess the locus. However, he did note that Constable C, on his return on 21 June 2007, immediately requested a scenes of crime investigation.

With regard to Complaint 2, Inspector F stated that Constable C asserted that he had conducted door to door enquiries at the scene on two separate occasions and provided details of five addresses that he called at. He noted that these were not the same properties visited by the complainer and that while Constable C had recorded conducting door to door enquiries on the crime report, the addresses he visited were not specified.

Inspector F identified a number of issues from his procedural review. He stated that the crime report had been allocated to local town 2 area for enquiry and that this appeared to have been a genuine error. He also stated that the incident report was allocated to Constable C on 17 June 2007 although he was not due to return to work until 21 June 2007 which caused a delay in conducting enquires. Finally, Inspector F noted that while Constable C asserted that he had carried out door to door enquiries, details of the premises visited were not recorded in either his notebook or on the crime report.

A letter of response dated 8 April 2008 was issued to the complainer detailing the outcome of Inspector F's inquiries. In this correspondence, Superintendent G confirmed that the matters raised had been recorded as official complaints about the police and advised that although Inspector F had been unable to find any evidence to substantiate his allegations, a procedural error had been identified. In response to the complaints raised by the complainer, he stated:

Complaint 1 – That a scene of crime examination was not immediately conducted by the force.

“Whilst the initial report was made at [local town 2], the officer who obtained the report duly recorded it in the proper fashion but was unable to arrange a scene of crime examination as he had not visited the scene of the crime and was therefore unable to establish that there was any evidence to be obtained there. He asked that the inquiry be passed to a [local town 1] officer who could visit the scene and make a proper assessment.

Although this action was taken the crime report was allocated to an officer who was absent on a training course and this is the procedural error that was made.

On his return to work on 21 June 2007, the inquiry officer immediately arranged for the scene of crime examination to be undertaken and it was concluded later that day. The scene of crime officer has confirmed that there was nothing of an evidential value to be obtained at the scene and, in her opinion, had she attended there on the day that the report had been made there would have been no further evidence available.”

Complaint 2 – That door to door enquires were not carried out at the properties surrounding the lockup.

“Inspector F has also confirmed that door to door inquiries were conducted in the area, although the officer would appear to have visited different addresses to those which you visited yourself.”

The complainer emailed Inspector F on 30 April 2008, following up their telephone conversation of the same date. The complainer expressed his dissatisfaction at the outcome of the complaints enquiry and raised Complaint 3. A further CAP form was completed detailing this complaint as a quality of service issue. Superintendent G wrote to the complainer in response to this further complaint on 2 May 2008.

Complaint 3 – That the complainer’s telephone calls were not returned by the force.

As explained above, Superintendent G wrote to the complainer on 2 May 2008 with his response to this complaint. He stated:

“On the first occasion, your call was returned by Sergeant [E] of this office who left a message on your answering machine. Whilst you may have spoken with the contact centre on your subsequent calls, it would appear that no message was passed to Sergeant [E] and, consequently, she did not receive any further instruction to contact you. I believe that Inspector [F] has already apologised to you for this omission and I would like to re-iterate that apology. Notwithstanding, having left an answering machine message, I would have expected Sergeant [E] to make further attempts to contact you and suitable advice has been given in this regard.”

Superintendent G also addressed the complainer’s concerns over the force’s response of 8 April 2008. He stated:

“...I regret that I have nothing further to add to my original letter. Other than the commission of a procedural error in the allocation of the crime report to an officer who was on a training course, I am satisfied that a suitable level of inquiry was conducted into this matter and that the inquiry officers were unable to secure any relevant evidence which would help them to progress this crime investigation.”

5. PCCS review

A telephone call was received from the complainer by my office on 8 May 2008. The complainer was asked to complete and sign an application for review form which was received on 6 June 2008 together with copies of correspondence with the force.

My office asked Strathclyde Police to provide the relevant complaint case papers on 10 June 2008. The force supplied the required information on 23 June 2008.

The complainer was updated on the progress of his complaint every 28 days in accordance with the PCCS published standards of service.

6. Consideration

There are three distinct issues raised by the complainer:

Complaint 1 – That a scene of crime examination was not immediately conducted by the force.

The complainer is concerned that Constable A did not make arrangements for a scene of crime examination to be carried out immediately after the break in was reported to the police.

Constable A stated that he did not request that a scene of crime examination be carried out as he was in local town 2 and was unable to assess the scene at local town 1. He arranged for the case to be forwarded to a local officer for investigation.

In the response to the complainer of 8 April 2008, Superintendent G explained why Constable A was unable to arrange for a scene of crime examination and stated that a procedural error had occurred when the crime was reallocated to Constable C who was unavailable. Superintendent G also referred to the fact that the delay had had no impact on the investigation. Scene of Crime Examiner D provided her opinion on the effect of the delay in her undated statement. She asserted that that no useful evidence would have been available had the examination taken place immediately after the crime was reported.

I note that despite the fact that this error resulted in the investigation being delayed for several days, the force did not offer any apology to the complainer.

Complaint 2 – That door to door enquires were not carried out at the properties surrounding the lockup.

The complainer stated that he did not believe that the investigation into his report had been handled thoroughly and that he was not convinced every avenue had been explored.

The complainer also stated that Constable C gave him the impression that door to door enquiries had been carried out. However, he advised that when he carried out his own enquires with residents in the area of the lockup, none of the three people he spoke to had been spoken to by the police or had a calling card put through their doors.

Constable C stated that his recollection of the events was limited as nine months had passed from the incident to the complainer making his complaint. However, he stated that he had returned to the locus in order to refresh his memory. Constable C recalled that he attended at the scene on two occasions in the two weeks following being allocated the enquiry in order to carry out door to door enquiries but he could not remember the specific dates. He detailed the properties that he believed he had called at. Constable C stated that he did not recall leaving calling cards at any of the properties he visited and had no corresponding entries in his notebook.

In the force response, Superintendent G noted that the officer and the complainer had attended at different properties and advised that he was unable to find any evidence to support the complaint.

I note that Inspector F made reference in his report to the fact that while Constable C stated that he had made door to door enquires at the scene, details of the properties visited were not recorded in his notebook or on the crime report. I am concerned that there is no record whatsoever of door to door enquiries being carried out in Constable C's notebook and that, because of this, the subsequent entry on the crime report lacks detail. I also note that no record exists of the force considering the possibility of contacting the residents of the properties recalled by Constable C in order to establish if attempts at door to door enquiries were made.

Based on the information provided to my office, it is clear that the complainer's version of events is equally as strong as that of Constable C and I am surprised that this was not referred to in Superintendent G's response of 8 April 2008. I am also surprised that no evidence has been supplied to my office confirming that advice has been offered to Constable C regarding the proper recording of information during an investigation.

Complaint 3 – That the complainer's telephone calls were not returned by the force.

In his email to Inspector F of 30 April 2008 the complainer stated that he had called the force on at least three occasions from July 2007 onwards and had received no response other than one answering machine message.

The matter was subsequently recorded as a complaint about the police and a response issued by Superintendent G. In his letter of 2 May 2008, Superintendent G apologised for this error and stated that Sergeant E had been given advice in respect of her failure to make further attempts to contact the complainer.

I am satisfied that the response offered by the force in respect of this complaint has addressed the complainer's concerns about the failure to return his telephone calls. A learning point has been identified and advice provided to the officer concerned.

7. Conclusion

Complaint 1 – That a scene of crime examination was not immediately conducted by force.

The response provided by the force to the complainer has explained the reasons why a scene of crime examination was not immediately instructed by Constable A. It has also confirmed that this delay had no bearing on the evidence obtained. However, I am of the view that Strathclyde Police should have gone further than acknowledging that a procedural error had occurred. Therefore, **I recommend that the force offers the complainer an apology for the failure identified in the course of its enquiry.**

Complaint 2 – That door to door enquires were not carried out at the properties surrounding the lockup.

Based on the information provided to my office, it is clear that the complainer's version of events is equally as strong as that of Constable C and I am surprised that this was not referred to in Superintendent G's response of 8 April 2008. I also note that no record exists of the force considering the possibility of contacting the residents of the properties recalled by Constable C in order to establish if attempts at door to door enquiries were made.

On the balance of probabilities, **I uphold this complaint and recommend that the force apologise to the complainer for the lack of detail contained in Superintendent G's letter.**

Complaint 3 – That the complainer's telephone calls were not returned by the force.

In my view, the force has addressed this matter in full and identified an area for improvement. In light of the fact that the force provided an apology which was timely and appropriate, **no further action is recommended** in relation to Complaint 3.

Jim Martin
Police Complaints Commissioner for Scotland
April 2009