

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 2009

Case reference: PCCS/0910/0480/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 bodies handle complaints from the public. The Commissioner 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.

The Commissioner aims to review complaints in an independent, open and fair manner. In line with this aim the Commissioner will publish the reports of his complaint handling reviews, whilst bearing in mind individuals’ rights to confidentiality. The following report therefore details the Commissioner’s 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 the Commissioner review the handling of his complaint about Strathclyde Police. The complaint relates to an allegation made by the complainer regarding accounting irregularities at a social club where he was previously a member. The complaint is that Strathclyde Police did not properly investigate this allegation.

2. Power to conduct a complaint handling review

Section 35 of the Act provides the Commissioner 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 the Commissioner's office requests the complaint case papers from the police body in question. The Commissioner examines the facts of the case, looking at information provided by both the complainer and the police body. The Commissioner considers whether the information available does, or does not, support the complaint, and whether or not the police body has responded to the complaint in a reasonable manner. The Commissioner also considers whether the police body communicated with the complainer in a reasonable manner, including whether the police body handled the complaint within a reasonable timescale. The Commissioner then comes to a view on whether the conclusions drawn by the police body in handling the complaint were reasonable in all the circumstances.

Once the Commissioner has reached his conclusions he prepares a report which details his findings. 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, the Commissioner proposes 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 the Commissioner 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 police body. The complaint is therefore a relevant complaint.

2.2 Relevant complainer

The Act further provides that the Commissioner 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 17 April 2001 Strathclyde Police received a letter from the complainer alleging irregularities in the balance sheets of a social club of which he had previously been a member. Detective Chief Inspector A wrote to the complainer on 18 April 2001 to inform him that an enquiry would be carried out into his allegations.

The complainer states that Detective Inspector B visited him at his home, where the complainer gave him copies of balance sheets and other documentation that related to the running of the social club. The complainer states that these records demonstrated embezzlement having occurred at the social club. The complainer's statement advises that Detective Inspector B later left him a note at his home address stating that there was no evidence of fraud.

Detective Inspector B states that in 2004 or 2005 the complainer attended Police Station C and again reported his concerns about financial irregularities at the same social club. In his statement Detective Inspector B claims that he told the complainer that he would need financial statements or documentation to support his suspicions before he could begin an enquiry. Detective Inspector B states that the complainer

returned to police station C “some days later” where he provided balance sheets relating to the social club’s accounts. Detective Inspector B states that he examined the balance sheets and found no evidence of financial irregularities.

In his statement Detective Inspector B advises that he and Detective Constable D visited the complainer at his home address, and informed him that there was no evidence to justify a criminal investigation. Detective Inspector B states he also sent a letter confirming this to the complainer’s solicitor.

On 10 September 2007, the complainer returned to police station C, where he again made allegations of embezzlement at the same social club. Detective Constable E was assigned to investigate the allegation and arranged to meet the complainer with his solicitor on 20 September 2007 at Police Station C. Detective Constable E states that the complainer believed that the board of the social club were embezzling funds and, as evidence of this allegation, produced balance sheets for the club’s accounts for the period 1994 – 2005. The complainer states that in January 2007 he took the balance sheets to an accountant, who told him that they had not been audited. The complainer also states that the accountant was unable to provide him with a full report as he did not have the social club’s financial books.

Detective Constable E’s statement shows that the complainer believed that the accounts did not balance and showed a “deficit” of £19,683. Detective Constable E states that he believed the complainer did not understand the context of the term “deficit” in relation to the accounts.

Detective Constable E states that having found no irregularities on the balance sheets he contacted the social club’s accountants, who informed him that the balance sheets were accurate in relation to the social club’s financial records.

Detective Constable E states that he also contacted an accountant, whom the complainer said he had approached previously, to enquire into his findings regarding the balance sheets. The accountant confirmed that the complainer had been in touch with him previously but said that he had refused to take on the case and had not looked at any of the balance sheets from the club. Detective Constable E’s statement advises that he spoke to one or two members of the club who stated that all persons within the club were aware of an ongoing feud between the complainer and the club. Detective Constable E questioned in the circumstances why no other members of the club had come forward with complaints about the club’s finances, or had approached the complainer in this connection.

On 6 March 2008 Detective Constable E visited the complainer at his home with Detective Constable F, where he informed the complainer that the balance sheets were in order and that he was happy with the explanation from staff at the social club in response to the complainer’s allegation. Detective Constable E states that the complainer was not satisfied with the outcome of his enquiries.

4. Internal handling

The complainer initially contacted the Commissioner's office on 25 August 2008 to request a review of the complaint he had made about Strathclyde Police. The Commissioner's office contacted Chief Superintendent G of the Strathclyde Police's Professional Standards Department who confirmed that they had no record of the complainer's complaint. The Commissioner's office informed Chief Superintendent G that the complainer had been in contact with officers within Strathclyde Police's N Division in relation to his allegations of financial irregularities at a social club. On 7 October 2008 Chief Superintendent G sent a memo to the Divisional Commander of N Division requesting that the complainer be contacted by a senior officer to discuss his complaints.

This request was passed to Detective Inspector H who visited the complainer at his home address on 11 November 2008. The complainer then explained his complaint about Strathclyde Police. Detective Inspector H took a statement from the complainer and a Complaint About the Police (CAP) form was completed on the same day. The complaint was categorised on the CAP Form as an on-duty, non-criminal complaint regarding a "neglect of duty".

The CAP form recorded the complaint as follows:

"...officers failed to properly investigate allegations that members and officials from the club had been involved in financial irregularities in the management of club funds."

Detective Inspector H took statements from Detective Inspector B on 13 November 2008 and Detective Constable E on 18 November 2008. Both officers gave accounts of their separate investigations and state that they found no evidence of financial irregularities on the balance sheets. Detective Inspector H also took statements from Detective Constable F and Detective Constable D.

Detective Inspector H states that he obtained various documents which the complainer had given to Detective Inspector B and Detective Constable E. Detective Inspector H states that after examining these documents he found that they did not support an allegation of embezzlement.

Detective Inspector H's statement advises that he visited the complainer with Detective Sergeant J on 5 December 2008 to inform him of his findings and to explain the figures in the balance sheets. Detective Inspector H states that the complainer remained unhappy with the outcome of Detective Inspector B and Detective Constable E's enquiries.

Detective Inspector H's enquiry report was submitted to the Deputy Divisional Commander K on 12 December 2008. The enquiry report concluded that both Detective Inspector B and Detective Constable E carried out appropriate enquiries into the allegations made by the complainer. The report stated:

"...appropriate initial enquiry was made into the allegations made by [the complainer]. The documents were seized, collated and witnesses

interviewed. The club balance sheets were confirmed as accurate by the accountants, and there were no funds missing. The witnesses and documentation convinced both [Detective Inspector B] and [Detective Constable E] that there were no irregularities in the club's income and expenditure'.

Deputy Divisional Commander K outlined Strathclyde Police's response to the complainer in a letter of 12 January 2009, stating:

"I am satisfied that both officers conducted their enquiries appropriately and they concluded that there was no evidence of a crime. The evidence utilised to allow them to come to that conclusions was both relevant and appropriate."

The enquiry report also commented on the procedures used when investigating the allegations from the complainer, noting that:

"...enquiries in turn have been recorded in a number of different ways over the years. It would be worthwhile to develop a standard recording method perhaps by spreadsheet to avoid reinvestigation of the same complaint when there is no new evidence."

Deputy Divisional Commander K concluded his response by stating that should further evidence in support of the complainer's allegation become available Strathclyde Police would consider making further enquiries.

5. PCCS review

The complainer telephoned the Commissioner's office on 25 August 2008 stating that he wished to make a complaint about the handling of a complaint against Strathclyde Police. The complainer was asked to complete and sign an application form and this was received by the Commissioner's office on 2 September 2008. The Commissioner's office wrote to Strathclyde Police on 26 September 2008 to confirm the status of the complaint. Chief Superintendent G replied in writing on 7 October 2008, confirming that there was no record of the complaint and that he would arrange for an officer to contact the complainer to clarify the nature of his complaint.

The complainer telephoned the Commissioner's office again on 22 December 2008 to say that he was not satisfied with the way the police had handled his complaint. The complainer was asked to complete and sign an application form which was received on 7 January 2009.

On 22 December 2008 the Commissioner's office asked Strathclyde Police to provide its papers. A letter was received at the Commissioner's office from Chief Inspector L on 7 January 2008 stating that the complaint had not been concluded. However, Chief Inspector L anticipated that it would be concluded within 7 days, at which point the relevant case papers would be sent to the Commissioner's office. The case papers were eventually received on 26 January 2009.

A letter was received by the Commissioner's office from the complainer on 16 January 2008 stating that he had received Strathclyde Police's response to his complaint and that he was dissatisfied with this. The complainer requested that the Commissioner review the police handling of his complaint.

During correspondence with the Commissioner's office, the complainer stated that he believed Detective Inspector H was not neutral when investigating his complaint. He also claimed to have requested a written report of Detective Inspector H's investigation but had not received a copy.

6. Consideration

The complainer raises one distinct issue, namely that Strathclyde Police failed properly to investigate an allegation of financial irregularities in the accounts of a social club.

It appears that the balance sheets are the main evidence provided by the complainer of financial irregularities at the social club. In the Commissioner's view the statements taken from Detective Inspector B and Detective Constable E clearly describe the enquiries carried out to confirm the accuracy of the balance sheets. Both officers satisfied themselves that the balance sheets contained no evidence of financial irregularities. Detective Constable E discussed the balance sheets with key witnesses, including the social club's accountants, who confirmed that the balance sheets were accurate. The cumulative result of these enquiries provided no evidence to support the complainer's allegation.

Detective Inspector H also examined the balance sheets and found no evidence of financial irregularities. Accordingly each officer who has examined the balance sheets has come to the same conclusion: that no financial irregularities have been shown to exist in the documentation referred to by the complainer.

From the information available to the Commissioner, it appears that Strathclyde Police believed there may have been some confusion on the complainer's part as to the use of the term "deficit" in the balance sheets, and that this had caused the complainer to believe that money was missing. It would appear that officers from Strathclyde Police met with the complainer on a number of occasions in an attempt to clarify the figures in the balance sheets. Despite this, the complainer still maintains that money is missing from the balance sheets.

Detective Inspector H's enquiry report concluded that Strathclyde Police had carried out appropriate enquiries into the complainer's allegation. In the Commissioner's view, Strathclyde Police has considered the complaint appropriately and provided the complainer with a reasonable response.

Other issues raised by the Complainer

As noted above, the complainer has raised with the Commissioner's office two additional concerns in relation to the way in which Strathclyde Police handled his complaint. The first is that he believes Detective Inspector H was not neutral when

investigating his complaint; the second is that he did not receive a written report of Detective Inspector H's investigation into his complaint.

In relation to the complainer's first concern, in the Commissioner's view Detective Inspector H considered all relevant information in relation to the complaint and came to a reasoned and proportionate position. In terms of the information available to the Commissioner, there is no evidence that Detective Inspector H was biased when investigating the complainer's complaint.

In relation to the complainer's second concern the Commissioner notes that it is not standard Strathclyde Police procedure to supply to complainers reports prepared by investigating officers. The complainer was provided with a final written response to his complaint from Deputy Divisional Commander K, the contents of which accurately reflected Detective Inspector H's report.

7. Conclusion

In the Commissioner's view, Strathclyde Police thoroughly investigated the complainer's allegations in accordance with its complaint handling procedures. The evidence reviewed by Detective Inspector H supports his conclusion that Detective Inspector B and Detective Constable E carried out appropriate enquiries. Accordingly, **the Commissioner does not uphold this complaint.**

The Commissioner notes that the complainer appears to have made the same allegation to the police on more than one occasion and that Detective Inspector H's enquiry report notes that standard recording methods should be developed to prevent allegations being investigated more than once when no new evidence is provided. This is an example of good complaint handling and the Commissioner endorses Detective Inspector H's recommendation.

John McNeill
Police Complaints Commissioner for Scotland
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