

# Report of a Complaint Handling Review in relation to Strathclyde Police

under section 35(1) of the Police Public Order  
and Criminal Justice (Scotland) Act 2006

## Summary and Key Findings

**The complaints reviewed by the Commissioner in this report relate to an incident which occurred on 17 June 2007 which led, following the intervention of police officers from Strathclyde Police, to the complainer being ejected from commercial premises.**

Of the six complaints reviewed, the Commissioner found that all were handled in a reasonable manner and accordingly no further action is required by Strathclyde Police.

## The Commissioner's role

Section 35 of the Police Public Order and Criminal Justice (Scotland) Act ("the Act") gives the Commissioner the power to examine the manner in which a policing body has dealt with a "relevant" complaint, as defined in the Act.

The Commissioner is independent of the police service and performs his functions in a fair and impartial manner. Before considering a complaint, the Commissioner's office obtains all papers held by the policing body against which the complaint has been made. These papers are considered alongside information provided by the complainer. The Commissioner then assesses whether the policing body's handling of the complaint was reasonable in all the circumstances. The Commissioner will look at the entire handling process, from the initial investigation by the policing body to the final response issued to the complainer. Among the factors which the Commissioner takes into account are the following:

- whether the policing body's response to the complaint is supported by all material information available;
- whether in dealing with the complaint the policing body has adhered to all relevant policies, procedures and legal provisions;
- where the complaint has resulted in the policing body identifying measures necessary to improve its service, whether these measures are adequate and have been implemented;
- whether the policing body's response to the complaint is adequately reasoned; and
- whether the policing body has communicated with the complainer in a reasonable manner.

## Background

On 14 June 2007, at around 1.45 pm, Constables A and B from Strathclyde Police were called to a supermarket because the complainer was refusing to leave the store. As the facts of the incident are disputed, the accounts of the complainer and Constables A and B are presented separately below.

### Complainer's account

(This account is taken from the complainer's amended statement to police, originally taken on 18 June 2007.)

On 14 June 2007 the complainer went to a supermarket with the intention of making a purchase. While there he noticed a watch that he liked and, believing that it was being sold cheaper elsewhere, asked staff to discount it. This request was declined after which the complainer made his way to the checkout to pay for his purchases. At the checkout the complainer's debit card was refused several times at the till before finally being accepted.

Having made his purchases the complainer asked to see the store manager in relation to the watch which he had seen previously. The manager appeared and spoke to the complainer about the watch. After about 10 minutes the manager asked the complainer to leave the store. Around this time store security staff also appeared and asked the complainer to leave. However, the complainer refused to do so because he had not been given a reason as to why he should. A second manager finally advised the complainer that the police would be called if he did not leave immediately. The complainer stated again, however, that he was not leaving until he was given a reason as to why he should.

Consequently, a call was made to Strathclyde Police and soon after Constables A and B arrived at the supermarket. Following discussions with supermarket staff, Constables A and B asked the complainer to leave the store. However, the complainer maintained his position that he would not leave until he had a reason, in writing, for being asked to do so. Constables A and B then warned the complainer that he would be arrested if he did not leave immediately. The complainer then did leave, accompanied by Constables A and B. On his way out the complainer attempted to drink a glass of water that he had previously requested, which he needed because of a medical condition, but Constable A stopped him from doing so.

Outside the supermarket the complainer asked Constables A and B for their badge numbers. In response to this request Constable A shouted her badge number at the complainer who stated that he needed it in writing because of short term memory problems. Constable B at this time also told the complainer that as he had the vehicle registration number he could make a complaint at the local police station. Feeling “threatened, intimidated and shocked” by the actions of Constables A and B, the complainer subsequently visited a local police station the same day to make a complaint.

At the police station Acting Sergeant C advised the complainer that his complaints seemed to be against store staff and that he should contact the store in question. The complainer was satisfied with this and left. However, over the weekend the complainer contacted the police station again to ask whether his complaints were officially recorded as complaints about the police. In response to this call the complainer was visited at his home on 18 June 2007 by Sergeant D and a statement was taken (leading to a Complaint about the Police (CAP) form being completed the same day).

### **Constable A’s account**

(This account is taken from Police Constable’s A undated operational statement)

Constable A, along with Constable B, was instructed to attend the supermarket at around 1.45 pm on 14 June 2007. Constable A spoke to store staff on her arrival and learned that the complainer had become abusive towards staff when his debit card was refused several times at the till. Constable A also learned that the complainer had been asked several times by staff to leave but had refused to do so.

Constable B then politely asked the complainer to leave the store which he initially agreed to do. However, the complainer made it clear that he was unhappy with the involvement of the police. The complainer then began to question why he was being asked to leave the store, and Constables A and B explained the reasons to him. The complainer continued to maintain that he had every right to be in the store, after which he was warned by Constables A and B that he would be arrested if he remained in the store.

Constables A and B then accompanied the complainer to the main entrance of the store to ensure that he left. Once he had left the store, the complainer was warned by Constables A and B that he would be arrested if he returned. At this time the complainer asked for the badge numbers of both Constables A and B which Constable A gave to him on four separate occasions. Constable A then took the decision not to discuss the matter further because the complainer was constantly arguing with her.

Constable A is adamant that both she and Constable B were civil towards the complainer and were in no way intimidating or aggressive.

### **Constable B’s account**

(This account is taken from Police Constable B’s undated operational statement).

Constable B, along with Constable A, were instructed to attend the supermarket at 1.45 pm on 14 June 2007. On his arrival Constable B learned from store staff that the complainer had been in the store for around 2 hours and was making staff feel uncomfortable. In addition, Constable B learned that the complainer was refusing to leave the store despite being asked to do so on several occasions.

Constable B spoke to the complainer and learned that the dispute within the store concerned the complainer's debit card being refused several times at the till. The complainer was then given the store's customer care number and asked once more to leave the store, which he refused to do. Consequently, Constable B advised the complainer that he would be arrested for breach of the peace if he refused to leave because he was causing alarm and annoyance to store staff.

A short time later the complainer left the store but remained outside, noting the vehicle registration marking of the police car. When Constable B asked the complainer why he was doing this, the complainer replied that he wanted to report him. Constable B then told the complainer that he could contact the local police station to complain if he wished.

Constable B was adamant that he acted professionally in his dealings with the complainer and was in no way aggressive, intimidating or uncivil.

## The Complaints

Based on the contents of the application form, and the information obtained from Strathclyde Police, the Commissioner has identified the following complaints:

- (1) Constables A and B were aggressive and abrupt in their dealings with the complainer;
- (2) Constables A and B, along with Superintendent D, failed to provide the complainer with a satisfactory explanation as to why he was asked to leave the supermarket;
- (3) Constables A and B failed to provide their badge numbers to the complainer on request;
- (4) Superintendent D failed to provide the complainer with a satisfactory explanation for not providing him with a copy of his statement;
- (5) Strathclyde Police has no system in place which permits those who provide statements to review them once they have been recorded; and
- (6) Strathclyde Police would not allow the complainer to have copies of documents relevant to his complaint without first contacting the Force Disclosure Unit and paying a fee.

## The Commissioner's Review

The complainer first contacted the Commissioner's office by telephone on 9 July 2007. He thereafter submitted an application form on 16 July 2008 which contained only one complaint (complaint 4 above). Following receipt of his application, on 16 July 2007 the Commissioner's office contacted Strathclyde Police to request its complaint papers. On 18 July 2007 Strathclyde Police's Complaints and Discipline Branch replied stating that the matter had not yet been resolved by them, but once this had been done the papers would be forwarded. The Commissioner's office then contacted the complainer on 19 July 2007 to inform him that Strathclyde Police were still handling his complaint and only once this had been concluded could the Commissioner review the case.

On 13 August 2007 the Commissioner's office received the case papers from Strathclyde Police. These documents revealed that the only complaints dealt with by Strathclyde police were complaints 1 and 2 above. However, the Commissioner's office, after communicating with the

complainer and examining the relevant papers, identified 6 complaints including the two that had been investigated by Strathclyde Police.

After being informed of the six complaints which the Commissioner's office had identified, the Complaints and Discipline Branch replied stating that as none of these had been investigated by them it intended to contact the complainer and conduct a full investigation. Ultimately this included a reinvestigation of the two complaints already dealt with by Strathclyde Police at the local level.

While the Complaints and Discipline Branch carried out this review, the Commissioner's office closed the complainer's file. However, the file was reopened by the Commissioner's Office on 8 August 2008 once Strathclyde Police had concluded their investigations and notified the complainer of the outcome. The complainer thereafter confirmed in communications with the Commissioner's office that he wished a full review of each complaint that he had raised with Strathclyde Police.

The remainder of this section sets out the Commissioner's views on the manner in which the complaints were handled by Strathclyde Police. Each complaint is set out in turn and is followed by details of Strathclyde Police's handling of it and the Commissioner's views on this.

### **Complaint 1: Alleged aggressive and abrupt police conduct.**

When being asked to leave the supermarket the complainer states that Constables A and B were aggressive and abrupt in their dealings with him.

#### *Internal Handling*

This complaint, along with complaint 2, was made by the complainer on 18 June 2007 in a statement taken by Sergeant E, who recorded it officially in a CAP form the same day. It was thereafter dealt with at the local level by Strathclyde Police.

Sergeant E took statements from Constables A and B as well as four supermarket staff who were eye witnesses to the incident. Sergeant E also viewed the original CCTV footage for the day and time in question. In their undated statements Constables A and B were adamant that they acted in a professional and civil manner towards the complainer. Furthermore, each of the supermarket staff interviewed maintained that Constables A and B had acted in a professional manner.

Following his investigations, Sergeant E prepared a report on 25 June 2007 for Superintendent D, the Sub Divisional Officer based at the police station which dealt with the complaint. On 12 July 2007 Superintendent D wrote to the complainer with his conclusions. Superintendent D stated that based on the available evidence he could not substantiate complaint 1. However, he apologised to the complainer for any perceived aggression on the part of his officers.

On receipt of this letter the complainer requested a meeting with Superintendent D, which took place on 13 July 2007. Following this meeting, Superintendent D sent the complainer a final letter in which he stated that his previous findings in relation to complaints 1 and 2 had not changed. In this final letter Superintendent D also advised the complainer that he could contact the Commissioner's office if he remained unhappy. This ended the local investigation of complaints 1 and 2.

As outlined above, the Complaints and Discipline Branch of Strathclyde Police decided to reinvestigate complaints 1 and 2 along with the other complaints raised by the complainer and identified by the Commissioner's office.

Chief Inspector F, the Investigating Officer appointed by the Complaints and Discipline Branch, examined the prior statements gathered by Sergeant E as well as the supermarket's CCTV

footage. Based on this evidence, Chief Inspector F in his report of 6 June 2008 also concluded that complaint 1 was unsubstantiated.

Chief Inspector F's finding in relation to complaint 1 was subsequently approved by Chief Superintendent G in her final letter to the complainer of 17 June 2008.

### *Consideration*

The statements of the four supermarket workers confirm that Constables A and B acted in a professional manner and were not aggressive or uncivil in their dealings with the complainer. Furthermore, the CCTV footage of the incident does not show Constables A and B acting in an aggressive or uncivil manner. Accordingly, the Commissioner considers that Strathclyde Police dealt with this complaint reasonably. No further action is required in respect of this complaint.

### **Complaint 2: Alleged failure to provide complainer with satisfactory explanation**

The complainer maintains that neither Constable A nor B, or Superintendent D, provided him with a satisfactory explanation as to why he was ejected from the supermarket.

### *Internal Handling*

As described above, this complaint, in so far as Constables A and B are concerned, was dealt with firstly at the local level along with complaint 1. Superintendent D, in his letter to the complainer of 12 July 2007, explained that the reason he had been ejected from the supermarket was because his behaviour had been verging on a breach of the peace. This finding was based on the evidence of the four supermarket workers who provided witness statements.

The complainer, however, strongly disagreed with this finding and expressed this to Superintendent D in the meeting which took place between them on 13 July 2007. In his final letter to the complainer dated 17 July 2007, Superintendent D maintained his position that the complainer's unreasonable behaviour was the reason why he had been asked to leave the supermarket.

As explained, Strathclyde Police then re-investigated complaint 2 in relation to Constables A and B and also investigated the fresh complaint that the complainer had raised against Superintendent D. In his investigation of complaint 2 Chief Inspector F examined the operational statements of Constables A and B and noted that both officers informed the complainer of their reasons for asking him to leave the store. Chief Inspector F made specific reference to the operational statement of Constable B who stated that he told the complainer he was asked to leave because his behaviour was alarming the staff.

In addition, Chief Inspector F made specific reference to the statement of Store Witness H in which he stated that Constables A and B told the complainer he was being asked to leave because of his attitude towards store staff. On this evidence, Chief Inspector F found complaint 2, as it relates to Constables A and B, to be unsubstantiated.

In relation to Superintendent D's alleged failure to provide the complainer with a satisfactory explanation as to why he was ejected from the supermarket, Chief Inspector F also found this complaint to be unsubstantiated based upon the evidence. Chief Inspector F made specific reference to the letter Superintendent D sent to the complainer on 12 July 2007 in which he states that the reason he was asked to leave the store was because his behaviour was verging on a breach of the peace.

The findings of Chief Inspector F were approved by Chief Superintendent G in her final letter to the complainer dated 17 June 2008.

### *Consideration*

In relation to the complaint that Constables A and B failed to provide a satisfactory explanation to the complainer for his ejection from the supermarket, Store Witness H is clear that both officers informed the complainer that he was being asked to leave because of his attitude towards the staff. This is consistent with the operational statement of Constable B who stated that he asked the complainer to leave because his behaviour was causing alarm to staff. Accordingly Chief Inspector F's findings in relation to Constables A and B, as approved by Chief Superintendent G, are entirely justified by the available evidence.

In relation to the complaint about Superintendent D, Chief Inspector F was also justified in finding this to be unsubstantiated on the available evidence. Specifically, the letter sent to the complainer by Superintendent D on 12 July 2007 is clear that the reason the complainer was asked to leave the store was because his behaviour was verging on a breach of the peace. In the Commissioner's view, on the evidence of the staff at the supermarket this was an entirely justifiable explanation.

Accordingly, the Commissioner considers that Strathclyde Police handled this complaint reasonably. No further action is required in respect of this complaint.

### **Complaint 3: Alleged failure to provide badge numbers in writing**

The complainer states that Constables A and B failed to provide him with their badge numbers in writing despite his request for them to do so.

### *Internal Handling*

This complaint was originally raised by the complainer in a statement made to Sergeant E on 18 June 2007 but was not treated as a complaint about the police at that stage. However, Chief Inspector F investigated this matter during the review conducted by the Complaints and Discipline Branch.

Chief Inspector F in his report of 6 June 2008 noted Constable A's position that she gave the complainer her own and Constable B's shoulder numbers on four separate occasions. However, Chief Inspector F does not discuss whether this was in writing as per the specific complaint. He holds the complaint nevertheless to be unsubstantiated.

This finding was approved by Chief Superintendent G in her final letter to the complainer on 17 June 2008. However, Chief Superintendent G directly addressed the essence of the complaint in this letter when she wrote the following:

*"However if it is your position that you asked for the shoulder numbers in writing and were not given same in that format then I apologise."*

### *Consideration*

Although Chief Inspector F did not recognise the essence of the complaint in his report – that the relevant information was requested in writing – Chief Superintendent G remedied this oversight and apologised for the fact that this may not have happened. In these circumstances, the Commissioner requires no further action is required by Strathclyde Police in relation to this complaint.

### **Complaint 4: Alleged failures on the part of Superintendent D**

The complainer maintains that Superintendent D could not provide him with a satisfactory reason for not providing him with a copy of the statement he made on 18 June 2007.

### *Internal Handling*

The complainer originally raised this complaint with the Commissioner's office on 16 July 2007 in his application form. However, as the matter had not been dealt with by Strathclyde Police at that stage, the Commissioner's office referred it back to them.

In his investigations into this complaint, Chief Inspector F examined the statement provided by Superintendent D and noted that the reason given by him for refusing the complainer a copy of his statement was the possibility of a criminal investigation in relation to the actions of Constables A and B. Chief Inspector F also examined the statement of Acting Chief Inspector J, an officer who was based at the Complaints and Discipline Branch, who had explained to the complainer that if his complaints did lead to a criminal investigation then it was the responsibility of the Area Procurator Fiscal to provide him with a copy of his statement. Based on this evidence, Chief Inspector F held this complaint to be unsubstantiated.

This finding was approved by Chief Superintendent G in her final letter to the complainer on 17 June 2008. In this letter Chief Superintendent G explained that the reason the complainer was refused a copy of his statement was because "*the investigation of [your] complaint was very much alive and there was a possibility that the matter would have to be referred to the Area Procurator Fiscal...*" Although Chief Superintendent G accepted that ultimately this proved not to be the case, it was her view that "*the Officers were acting in good faith as matters stood at the time when they declined to provide a copy to you.*" A copy of the complainer's statement was, however, enclosed with this final letter.

### *Consideration*

Chief Inspector F, and subsequently Chief Superintendent G, were justified on the available evidence to hold that the complainer was given a satisfactory explanation as to why Superintendent D refused the complainer a copy of his statement (possible criminal charges). However, once it became apparent that no criminal investigations would take place, it is unclear why the complainer was not then provided with a copy of his statement since it was obviously a matter of importance to him.

This said, given the statement has now been disclosed the Commissioner requires no further action to be taken in respect of this complaint.

### **Complaint 5: Alleged failure to allow complainers to review their statements**

The complainer states that he was not allowed to read over his statement but that it was merely read out to him. He believes that this system is wrong and that everyone who provides a police statement should be given the opportunity to review it.

### *Internal Handling*

This complaint was raised by the complainer in a statement he provided to Inspector I on 6 November 2007.

In his investigations into this complaint Chief Inspector F examined the statement of Sergeant E (dated 11 February 2008) who took the original statement from the complainer. Sergeant E explained that he read the statement back to the complainer and asked him to sign it. Sergeant E also stated that he had visited the complainer again on or around 5/6 July 2007 to read his statement over to him. On this occasion the complainer requested two amendments to be made to his statement, which were incorporated by Sergeant E. Chief Inspector F also notes that Superintendent D read the complainer's statement over to the complainer at a meeting on 13 July 2007.

Given that the complainer had his complaint read over to him several times and signed it, Chief Inspector F found this complaint to be unsubstantiated. This finding was subsequently approved by Chief Superintendent G in her final letter to the complainer of 17 June 2008. Chief Superintendent G made the specific point in her letter that there was no Strathclyde Police policy in place which would prevent a member of the public reading over and signing their statement. She also noted that the complainer had never made a specific request to do this.

### *Consideration*

In the Commissioner's view, based on the available evidence, especially the fact the complainer was never refused the opportunity to read his statement, Chief Inspector F, and subsequently Chief Superintendent G, were justified in holding this complaint to be unsubstantiated. It is clearly implied from Chief Superintendent G's final letter to the complainer that anyone requesting to read over their statement would be permitted to do so. The Commissioner finds this policy to be satisfactory. Accordingly, no further action is required on the part of Strathclyde Police in respect of this complaint.

### **Complaint 6: the role of the Force Disclosure Unit and the payment of fees**

The complainer is unhappy that the only way he could request copies of documents relevant to his complaint held by Strathclyde Police was to contact the Force Disclosure Unit and pay a fee.

### *Internal Handling*

This complaint was raised by the complainer in a statement he provided to Inspector I on 6 November 2007.

In his investigation of this complaint Chief Inspector F examined a statement provided by Sergeant K from Strathclyde Police's Force Disclosure Unit. In Sergeant K's opinion it was correct police procedure for the complainer to be directed to the Force Disclosure Unit to request copies of his own statement, a list of witnesses as well as witness statements. Sergeant K also stated that the Data Protection Act permits an administrative charge to process application requests. On the basis of this evidence, Chief Inspector F found this complaint to be unsubstantiated.

In her final letter to the complainer of 17 June 2008 Chief Superintendent G confirmed that it was through the Force Disclosure Unit that requests for access for information should be made.

### *Consideration*

Strathclyde Police's policy of channelling all access to data requests to the Force Disclosure Unit is, in the Commissioner's view, entirely reasonable as it ensures the consistent application of data protection and freedom of information principles.

Accordingly, no further action is required on the part of Strathclyde Police in relation to this complaint.

## **Conclusions, Recommendations and Learning**

### **Complaint 1: Alleged aggressive and abrupt police conduct**

In the Commissioner's view, for the reasons explained, the manner in which this complaint was dealt with by Strathclyde Police was reasonable. Accordingly, no further action is required.

### **Complaint 2: Alleged failure to provide complainer with satisfactory explanation**

In the Commissioner's view, for the reasons explained above, the manner in which this complaint was dealt with by Strathclyde Police was reasonable. Accordingly, no further action is required.

### **Complaint 3: Alleged failure to provide badge numbers in writing**

In the Commissioner's view, for the reasons explained above, the manner in which this complaint was dealt with by Strathclyde Police was reasonable. Accordingly, no further action is required.

### **Complaint 4: Alleged failures on the part of Superintendent D**

In the Commissioner's view, for the reasons explained above, the manner in which this complaint was dealt with by Strathclyde Police was reasonable. Accordingly, no further action is required.

### **Complaint 5: Alleged failure to allow complainers to review their statements**

In the Commissioner's view, for the reasons explained above, the manner in which this complaint was dealt with by Strathclyde Police was reasonable. Accordingly, no further action is required.

### **Complaint 6: the role of the Force Disclosure Unit and the payment of fees**

In the Commissioner's view, for the reasons explained above, the manner in which this complaint was dealt with by Strathclyde Police was reasonable. Accordingly, no further action is required.

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