

Case reference: PCCS/00386/PF-SP

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

This review relates an allegation by the applicant that on 14 April 2007 she awoke to find a gang of youths in her house, where they attacked her son. The applicant has raised three complaints about the initial police response and subsequent investigation that was carried out into her allegation.

The Commissioner has concluded that two out of these three complaints were handled in a reasonable manner, but that an aspect of one (Complaint 2) was not. The Commissioner has therefore recommended that Strathclyde Police apologises to the applicant for the fact that she was never made aware of the force's recognition that the initial investigation could have been conducted better, or that the officers involved had been given advice on this issue.

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 applicant. 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 applicant. 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 applicant in a reasonable manner.

Background

On 14 April 2007, the applicant telephoned the police for assistance, claiming that she had awoken to find a gang of youths in her house. She alleged that members of the gang assaulted her son (Mr A) and stole a motorbike from her home. The applicant's other son (Mr B) was also at home during the alleged incident. According to the police telephone records for the night in question, the applicant called the police at 4.31 am and 4.48 am. However, in her statement to the police the applicant claimed to have contacted the police before 4 am to report the incident. Constables D and E were instructed to attend the applicant's address at approximately 5.16 am and arrived there at 5.28 am.

On arrival at the address both officers state that they were met by the applicant and Mr F. The applicant stated that approximately eight youths had been in her home and had used weapons to assault Mr A. The applicant also stated that one of the youths had identified the group as a gang known to operate in the local area. Both officers state that the applicant expressed concern about the time it had taken for the police to attend at her home and that they apologised to her for the delay and explained that it had been a busy night.

At 3.47 am on the same morning the police received a telephone call from another address in the same street as the applicant's home, alleging that a gang of youths had smashed the windows of the house. The police incident report shows that Constables D and E were made aware of this incident when they attended the applicant's home at 5.28 am. Constables D and E discussed this incident with Mr A, who informed the officers that a friend of his lived at this address.

According to their statements, both officers asked Mr A if he was able to provide any reason for the attack on him. The applicant and Mr A claim that in asking this question Constable D stated “what have you done to deserve this”.

Paramedics then attended the scene and Mr A was taken to hospital by ambulance. The officers removed a laptop from the applicant’s home which the applicant believed had been handled by one of the youths who allegedly assaulted Mr A. This was sent for fingerprint and DNA analysis. The results of this analysis did not identify any individual known to the police.

Both officers then attended the nearby address of Mr A’s friend and took statements from three individuals in that house. According to the statements of both officers these witnesses identified Mr G as being one of the individuals responsible for attacking their home. Later the same day Mr G was arrested for a breach of the peace and culpable and reckless conduct at the address where an incident had been reported to the police at 3.47 am. Mr G was also interviewed under caution about the incident that had occurred at the applicant’s home. However, according to Constable D there was insufficient evidence to charge Mr G in relation to that incident.

On 18 April 2007, the applicant contacted the police to report that the stolen motorbike was within a house in the local area. The applicant states that after she passed this information to the police she “didn’t hear anymore about it”. However, the crime report shows that the applicant’s allegation was investigated but that no motorbike was found. The crime report also states that Constable D contacted the applicant to inform her that the bike was not at the address she had provided.

An update on the Crime Management System dated 20 April 2007 details that the applicant contacted the police again to report that a neighbour was aware of who was responsible for the alleged incident at her home. Constable D spoke to the individuals identified by the applicant who informed the police that they were on holiday on 14 April 2007 and could not provide the police with any information about the incident.

During the investigation the applicant suggested to police that she was concerned that there may be further incidents at her address. In response to this a “community information report” was completed which stated that any calls to the applicant’s address should be treated as urgent.

The Complaints

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

- (1) Strathclyde Police took too long to attend at the applicant’s home;
- (2) Strathclyde Police did not investigate the incident properly and did not keep the applicant informed about the police investigation; and
- (3) Strathclyde Police was dismissive of the applicant’s allegation.

The applicant’s solicitor wrote to Strathclyde Police on 21 February 2008 raising each of these complaints. Inspector H was appointed to investigate the complaint.

The Commissioner’s Review

The applicant first contacted the Commissioner’s office by letter on 9 June 2008. She thereafter submitted an application form on 7 August 2008.

The remainder of this section sets out the Commissioner's views on the manner in which the applicant's 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: that the Police took too long to attend the applicant's home

The applicant is unhappy about the period of time taken for the police to attend her home. In the letter of complaint sent to police the applicant claims that she telephoned the police for assistance at around 3 am but that police officers did not arrive at her home until around 5 am.

Internal Handling

As noted above, the applicant raised this issue with the police officers who attended her home and also in a telephone conversation with Inspector J. On both occasions she was informed that the reason for the delay was that the police had received a high volume of calls on the morning of the alleged incident. The applicant's solicitor thereafter raised this as an official complaint about the police in a letter of 21 February 2008. A complaint about the police form (CAP) was then completed.

Inspector H obtained statements from Constables D and E, as well as a report of police resource activity and Strathclyde Police's telephone records for 14 April 2007.

Following the conclusion of Inspector H's investigation, Superintendent K wrote to the applicant's solicitor on 8 April 2008 in response to the complaint. In her letter Superintendent K states:

"Our records indicate that the first of the two calls made by your client was at 0431 on 14 April 2007, with a subsequent call being made at 0448 hours that day. The information was that they [the intruders] had left the locus and due to prioritisation/call volume officers were not actioned to attend until 0516 hours, arriving approximately 12 minutes later. On arrival the officers state that they apologised to your client for the delay and explained the reasons why they had not responded sooner. In addition, in the statement given recently by your client she was unaware what time she was awakened in the early hours of the morning."

Consideration

There is clearly a dispute between the applicant and Strathclyde Police in relation to when the applicant first reported the incident at her home. According to the police telephone record for 14 April 2007, there were two telephone calls made from the applicant's home to the police, at 4.31 am and 4.48 am. On the other hand, the applicant believes that she contacted the police before 4.00 am. The Commissioner notes that, according to the telephone record there were calls made to the police from other addresses in the applicant's street at 3.47 am and 3.53 am. However, there is no record of a call having been received from the applicant's home prior to 4.31 am. In the Commissioner's view, the contents of the telephone records are to be preferred to the applicant's recollections.

In responding to the applicant Superintendent K confirmed that the reason for the delay in officers attending her home was due to the prioritisation of the incident and the volume of calls received on 14 April 2007. It appears that due to the intruders having left the applicant's home the report was not prioritised for an immediate response. Having reviewed the call summary of 14 April 2007, the Commissioner notes that at the time the incident is alleged to have occurred at the applicant's home (between 3.00 am and 5.00 am) the police received 10 telephone calls from the public in the local area. According to a police resource report, there were three police units on duty on 14 April 2007 and each of these units was responding to other incidents at the time the applicant contacted the police.

Constables D and E were asked to attend the applicant's address at 5.16 am and arrived at 5.28 am. In the Commissioner's view, the police attended the applicant's home as soon as officers were available. According to their statements, on arriving at the applicant's home Constables D and E apologised for the delay in attending. The Commissioner notes that Inspector H met with the applicant and repeated that apology.

In the Commissioner's view, Strathclyde Police handled this complaint reasonably and provided the applicant with an adequate explanation as well as an apology in relation to the delay.

Complaint 2: Alleged failure to properly investigate and keep the applicant informed

Complaint 2 is raised in a letter from the applicant's solicitor to Strathclyde Police. The letter states that the applicant feels that the police took very little action in relation to the incident. In particular the applicant felt that the police spent little time questioning her two sons and did not check the scene for fingerprints.

In the letter there are further claims that the applicant received no information about the police investigation despite making repeated enquiries to this effect. In particular, the letter raises concerns that the applicant did not receive any information about whether any of the intruders were arrested or charged.

Internal Handling

Despite the contents of the applicant's statement and the letter of complaint sent by her solicitor, the CAP form does not record any complaint about the quality of the investigation of the incident. Inspector H nevertheless makes reference to the issue in his report. He pointed out that no statements were taken from the applicant or her two sons and that it would have been good practice to obtain elimination fingerprints from the applicant and those in her household. According to Inspector H, it would also have been good practice to research intelligence systems and crime reports regarding the gang in question. According to Inspector H, the absence of these measures was probably explained by the inexperience of the enquiry officer. Inspector H added that Constables D and E had been counselled in relation to the apparent shortcomings in their enquiries.

In her letter to the applicant's solicitor responding to the complaints, Superintendent K wrote the following:

"Your client feels that police took little action and did not check for fingerprints etc. I can advise you that the laptop computer was indeed seized for forensic examination... To date the fingerprints have not yet been identified and as such it is not feasible to return this item to your client at this time... In addition, a person was arrested nearby however, to date there is no evidence available to link that person to your clients incident."

It appears that following the response to the applicant, Superintendent K added some further comments to Inspector H's report. Specifically she wrote that:

"... the enquiry could have better investigated not only at the time of the incident but in the weeks following. The original officers, Constables [D] and [E] have been spoken to and advice given about the enquiry."

With regard to being updated on the investigation, according to the applicant she contacted Inspector L to report this concern. Inspector H obtained a statement from Inspector L in relation to this complaint.

In her response to the applicant's solicitor Superintendent K stated:

“The officer in charge of the enquiry states he did make contact with your client on a number of occasions on the days following this incident in regard to the progress of the enquiry.”

In the comments she appears to have added to Inspector H’s report after the response was issued to the applicant’s solicitor, Superintendent K stated:

“The complainer... has been updated on enquiries to date regarding forensic evidence. In addition, further enquiries are ongoing to have her laptop computer returned.”

Consideration

In relation to the first element of this complaint, according to the statements of Constables D and E Mr A refused to provide a statement. Constables D and E also stated that Mr A became defensive when asked if he could think of any reason for the attack and that he denied any knowledge of the suspects or their identities. In the Commissioner’s view, this explains why a statement was not taken from Mr A, but it does not explain why none was taken from the applicant or Mr B. The Commissioner therefore does not consider there to be any merit in the applicant’s complaint that the officers spent too little time questioning Mr A. However, Strathclyde Police does not appear to have explained to the applicant why no statements were taken from herself and Mr B. In the Commissioner’s view, that issue ought to have been covered in Superintendent K’s response to the applicant’s solicitor.

It is clear that Strathclyde Police has identified a number of omissions in the initial enquiry into the incident. After identifying these omissions Inspector H carried out further enquiries in relation to the alleged incident. These enquiries included:

- obtaining statements from the applicant and Mr A;
- showing the applicant photographs of suspects; and
- taking fingerprints from the applicant and her family in order to eliminate them from the fingerprint analysis of the laptop.

In the Commissioner’s view, these actions support the applicant’s complaint that the original enquiry into the incident was not handled properly. Yet none of this information was communicated to the applicant’s solicitor by Strathclyde Police in its response to the complaints. Indeed, the letter of response to the applicant’s solicitor conveys the impression that the investigation was carried out satisfactorily. The applicant was not informed of the apparent inadequacies in the investigation, nor that the officers concerned had received advice on these shortcomings.

The fact that the officers received advice was reiterated by Superintendent K in the comments she added to Inspector H’s report following the response to the applicant’s solicitor. It would clearly have been desirable for the applicant’s solicitor to have been given this information in the letter of response. However, failing that, it is difficult to understand why an updated response was not sent to the applicant to reflect the additional comments made by Superintendent K.

The second element of this complaint is that the applicant received no information about the police investigation despite making repeated enquiries to this effect. In particular, the letter raises concerns that the applicant did not receive any information about whether any of the intruders were arrested or charged.

The Commissioner notes that the applicant raised this issue with Inspector L on 16 April 2007. According to Inspector L’s statement the applicant did not make a formal complaint at that time and merely enquired into the progress that had been made in the investigation. Inspector L informed the applicant that Inspector J would contact her regarding the progress that had been made. According to Inspector H’s report, that evening Inspector J contacted the applicant, and advised

her of the ongoing enquiry. Inspector J also apparently told the applicant that further enquiry would be made by officers.

According to his statement Constable D contacted the applicant on 18 April 2007 in response to information she provided in relation to the location of the motorbike allegedly stolen from her home. Constable D states that he contacted the applicant again on 20 April 2007 in response to her providing information that her neighbours knew the identity of the youths who were involved in the alleged incident.

The Commissioner is of the view that Superintendent K's letter adequately addresses the concerns raised in the applicant's letter that Strathclyde Police had not provided the applicant with any information about the police investigation. Superintendent K confirms in his letter that the applicant was contacted by police officers during the course of the police investigation. The Commissioner notes that the statement of Constable D supports this view.

However, it appears that a number of issues arose during the course of the police investigation, the details of which were not conveyed to the applicant. It appears that there was a delay in the fingerprint analysis on the laptop but there is no indication that the applicant was informed of this delay. The police were unable to trace any of the individuals involved in the incident. However, from the information available to the Commissioner it does not appear that the police informed the applicant of this while the original enquiries were ongoing.

It seems clear that Constable D contacted the applicant in the days following the incident. However, it does not appear that further updates were given to the applicant as the enquiry proceeded. It was only after the applicant submitted a complaint to Strathclyde Police, and Inspector H became involved, that the applicant was updated on the progress of the investigation. In the Commissioner's view, it would have been preferable if Strathclyde Police had reflected this in its response to the applicant's solicitor.

Complaint 3: That the Police were dismissive of the applicant's allegation

The applicant appears to hold the view that Constables D and E were dismissive of her allegation. In her statement to Inspector H the applicant states that she felt that the police thought her family was responsible in some way for the incident at her home and believed that there was a gang warfare element to the incident. The applicant states that Constable D used language to the effect: "what have you done to deserve this?" The applicant believed that in saying this Constable D was suggesting that Mr A had been involved in some way with the youths who allegedly attacked him and this had led to him being attacked.

Internal Handling

The CAP form categorised this complaint as a "quality of service" complaint. In response to the complaint Inspector H obtained a statement from Mr A and Constables D and E.

Superintendent K addressed both these issues in her final response to the applicant:

"Your client intimates that the attending officers were dismissive of the complaint and accused her son of "having done something to start trouble". The officers however give a different version of events in that they formed the opinion that your son was being defensive when asked about the incident and furthermore that he refused to provide a statement to them. I am therefore faced with differing contradictory accounts of what was or was not said that evening. Nevertheless, I can tell you that in Strathclyde Police we value all members of our community and we endeavour to treat everyone with courtesy and consideration at all times. Conduct such as that described by your client does not accord with that value and if it remains your clients view that the officers behaved as suggested that is a matter of regret".

Consideration

The source of this complaint is the officers perceived attitude towards Mr A and Constable D's apparent belief that he may have done something to provoke the youths who allegedly attacked him.

The Commissioner is of the view that given the circumstances surrounding the incident it was not unreasonable for Constable D to have enquired as to whether Mr A had any involvement with the youths who attacked him. According to the statements of Constables D and E, Mr A became defensive when questioned about the incident and refused to provide a statement to police. In the Commissioner's view, this may have caused the officers to believe that Mr A had more information about the incident than he was willing to tell the officers. This may, in turn, have provided the officers with reason to believe that the incident was gang-related.

For these reasons the Commissioner considers that this complaint was handled by Strathclyde Police in a reasonable manner.

The Commissioner notes that Constable D submitted a "community information report" to the Divisional Intelligence Office, which provided notification of the applicant concerns that there may be further incidents at her home. Constable D therefore requested that any calls to the applicant's address be treated at urgent. In the Commissioner's view this suggests that Constable D was sufficiently concerned about the incident at the applicant's home to ensure that the police responded urgently to any future incidents.

Conclusions, Recommendations and Learning

Complaint 1: Complaint 1: That the Police took too long to attend the applicant's home

The applicant has received a verbal apology from the officers who attended at her home, as well as from Inspector H. She has also received a written explanation in relation to why there was a delay in the officers attending her home. In the Commissioner's view, the manner in which this complaint was dealt with by Strathclyde Police was reasonable.

Complaint 2: Alleged failure to properly investigate and keep the applicant informed

In the Commissioner's view, the alleged attack upon the applicant's son was fully investigated following Inspector H's involvement. However the Commissioner's role is to examine the manner in which the applicant's complaint regarding a lack of proper investigation was dealt with. In the Commissioner's view, this complaint was not handled reasonably by Strathclyde Police. As noted above, despite an apparent recognition by Strathclyde Police that the initial investigation was not conducted properly, the applicant was never informed of this. Nor was she informed that the officers concerned had been given advice on this issue.

Given that the present report sets out Superintendent K's more detailed view of the initial investigation, there is no need for Strathclyde Police to provide any further information about this to the applicant. However, the Commissioner recommends that Strathclyde Police apologises for the fact that the applicant was never made aware of the force's recognition that the initial investigation could have been conducted better; and that the officers involved had been given advice on this issue.

With regard to the alleged failure to keep the applicant updated on progress in the investigation, the Commissioner notes that the letter from Superintendent K adequately responds to the points raised in the letter from the applicant's solicitor. Accordingly, the Commissioner considers that this complaint was handled reasonably. However, the Commissioner considers that Superintendent K's response could have been fuller and could, for example, have referred to the

delay in obtaining the fingerprint analysis. As these details are contained in the present report, there is no need for Strathclyde Police to take further action in this respect.

Complaint 3: That the Police were dismissive of the applicant's allegation

For the reasons given, the Commissioner considers that this complaint was handled reasonably by Strathclyde Police.

John McNeill
Police Complaints Commissioner for Scotland

Hamilton House
Caird Park
Hamilton
ML3 0QA