

Report of Complaint Handling Reviews 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 raised by the applicant relate primarily to historical issues between himself and the education and social work departments, and the subsequent involvement of Strathclyde Police in these issues. The complaints concern the following three incidents:

Incident 1 – the way in which officers of Strathclyde Police dealt with the applicant's complaints surrounding his arrest for breaching an interdict against a head teacher.

Incident 2 – the attitude and actions of an officer who carried out a visit in relation to the safety of the applicant's children.

Incident 3 – the attitude and actions of an officer who charged the applicant with wasting police time.

The Commissioner considered that, on the whole, Strathclyde Police handled the applicant's complaints in a reasonable manner. However, the Commissioner identified as a learning point the need to ensure that when an officer or other witness is asked for his/her position on a complaint, a written record of this is prepared and retained on file.

The Commissioner commended Strathclyde Police for putting in place an effective means of dealing with the applicant's complaints, specifically the appointment of an Inspector as a dedicated point of contact.

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.

Introduction

The applicant first contacted the Commissioner's office by telephone on 23 July 2008, and submitted an application form on 28 July 2008. It was unclear at that time whether the police had completed its investigation into the applicant's complaints. On 19 August 2008, the Commissioner's office requested the case files from Strathclyde Police.

On 27 August 2008 Strathclyde Police reported that due to an administrative error the applicant's complaints about the police had not been dealt with and that it would now complete its investigation.

On 15 September 2008 the applicant wrote to the Commissioner's office claiming that he was not satisfied with the outcome of his complaints about Strathclyde Police. On 19 September 2008 the Commissioner's office wrote again to Strathclyde Police requesting its files. These were received on 3 October 2008. Further information regarding the applicant's complaints was requested from Strathclyde Police on 2 July 2009. This was received on 17 July 2009.

The applicant's complaints stem from three separate incidents which took place in March 2007, December 2007 and June 2008. The complaints arising from each of these incidents were dealt with separately by Strathclyde Police and the Commissioner has therefore addressed the complaints in three separate reports.

Background

Following a dispute between the applicant and the head teacher at his children's school, an interdict was granted which prohibited the applicant from approaching her. In February 2007, a power of arrest was added to the interdict, which was extended to exclude the applicant from the school buildings.

The applicant stated that on 8 March 2007 he entered the school playground with his son, as the latter was "playing up" and would not go into the school. He claimed that as he was discussing this with another teacher, the head teacher began "shouting and bawling". The other teacher took the applicant's son and the applicant left the playground. According to the applicant, following this incident four police officers came to his house and arrested him for breaching the interdict by being in the school grounds. According to the applicant, he had known that he was going to be "lifted"; however, he still believed that he had been wrongly arrested. The applicant maintained that the interdict did not include the school grounds and that therefore he should not have been arrested.

According to the custody record for 8 March 2007, at around 4.15 pm the wording of the interdict was explained to the applicant and he was given a copy in an attempt to appease him. Two officers then read the interdict with the applicant. Inspector B informed the applicant while he was in custody that his arrest was on the instruction of the Procurator Fiscal.

In his statement the applicant maintained that he did not wish to make a complaint about the officers as they "were just doing their duty". However, he believed that the interdict had been "significantly altered by the court". He believed that he was in police custody "illegally" and felt that the paperwork was "erroneous or false". He believed that the interdict was founded on false allegations by the headmistress and he informed Strathclyde Police that he wished the matter to be investigated further.

The Complaints

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

- (1) that Strathclyde Police failed to investigate the applicant's complaint that the head teacher of the school made false allegations against him resulting in an interdict;
- (2) that Strathclyde Police failed to "uphold the law" for the applicant and his family;
- (3) that in March 2007 the applicant was taken from his home, and wrongly arrested and detained by police officers; and
- (4) that Strathclyde Police failed to investigate the allegations which the applicant's children had made against the head teacher.

The Commissioner's Review

This section sets out the Commissioner's views on the manner in which the applicant's complaints were handled by Strathclyde Police. Details of how the complaints were handled are set out below, and are followed by the Commissioner's views on this.

Internal handling

On 3 January 2008 the applicant telephoned Strathclyde Police and spoke with Inspector C. He stated that he wished to make a complaint going back to 2006 regarding failures to investigate his concerns about the head teacher at his children's school, and about the social work department. In a letter dated 11 January 2008, Chief Inspector D informed the applicant that his concerns about the head teacher had been investigated by Superintendent E, and the applicant's solicitor had been informed in June 2007 that there was no evidence found to support the claims. Accordingly, no report had been submitted to the Procurator Fiscal. Chief Inspector D informed the applicant that, on reviewing the matter, he was satisfied with the standard of investigation.

The applicant then wrote to Strathclyde Police on 28 January 2008 complaining that the head teacher at his children's school provided "false intelligence" to the police which led to his arrest on 8 March 2007. He demanded that action be taken. On 1 February 2008, Chief Inspector F wrote to the applicant stating that the matter would be investigated.

The complaint liaison log shows there was ongoing contact with the applicant between January and August 2008 regarding other complaints. However, on 27 August 2008 Chief Superintendent G wrote to the applicant advising that due to an administrative error his complaint had not been addressed. Chief Superintendent G informed the applicant that the matter would now be investigated by a senior officer.

Subsequently, on 1 September 2008 a statement of complaint was obtained from the applicant by Inspector A. In his statement the applicant maintained that the interdict was founded on false evidence, and that he should not have been arrested as the interdict did not apply to the school grounds. However, the applicant stated on two occasions in his statement that he had no complaint against any police officer.

On 11 September 2008 Chief Superintendent G wrote to the applicant stating:

"... I am entirely satisfied that your concerns centre upon what you perceive to be inaccurate information given to the court by members of the public, which resulted in the granting of an Interdict forbidding you from approaching the headmistress of your children's primary school."

Chief Superintendent G noted the applicant's confirmation that he had no complaint about the manner of his arrest or the treatment he received while in custody. Chief Superintendent G concluded that in the circumstances the matters which the applicant had raised did not fall to be considered as a complaint about the police. He advised the applicant that if he remained concerned about the circumstances leading to the granting of the interdict he should seek advice from his solicitor.

Following receipt of Chief Superintendent G's letter, the applicant called Strathclyde Police and spoke with Superintendent H. In an undated file note of the telephone call, Superintendent H noted that the applicant disputed having no complaint about the actions of the police. Superintendent H pointed out to the applicant that there was a signed statement to the effect that he had no such complaints. According to the file note, the applicant reiterated that his complaint was about a member of the public, but refused to listen to any further explanation and said that he had been in contact with the Commissioner's office. The applicant then terminated the call.

Consideration

The complaints about this incident were initially overlooked by Strathclyde Police's Complaints and Discipline Department. However, it appears that between January and August 2008 the applicant had ongoing contact with the local division concerning other complaints. Furthermore, the applicant had not voiced any concerns as to the progress of his complaints about this incident although he had ample opportunity to do so.

It is unfortunate that the complaints were initially overlooked by Strathclyde Police. However, once the problem was identified, the Complaints and Discipline Branch issued an immediate apology to the applicant and action was taken to deal with the complaint.

It is clear from the applicant's signed statement that his complaints concern the process which led to the granting of the interdict, rather than about Strathclyde Police. The applicant emphasised this when he said the following:

"I must make it clear that I have no complaint about any police officer connected with this matter. The officers who came to my house were just doing their duty."

Later in his statement the applicant reiterates that what he said "is not a Complaint about the Police."

Given the terms of the statement, the Commissioner believes that Chief Superintendent G's response to the applicant of 11 September 2008 was entirely reasonable. Although, following receipt of the letter, the applicant maintained that he did in fact wish to complain about the actions of the police, the fact remains that he signed a statement to the opposite effect. In the Commissioner's view, Chief Superintendent G was entitled to rely on that statement.

Generally, where a person signs a police statement unequivocally withdrawing his/her complaints, police bodies are entitled to proceed on the basis that the complaints have been abandoned or otherwise resolved. In the Commissioner's view, the only exception to this is where, despite the person having signed the statement, there are legitimate doubts that the statement genuinely expresses the person's position with regard to the complaints. Based on the information provided by Strathclyde Police, the Commissioner has no reason to doubt that the applicant's statement accurately reflected his position at the time.

Conclusions, Recommendations and Learning

For the reasons given the Commissioner considers that the manner in which these complaints were dealt with by Strathclyde Police was reasonable. Accordingly no further action is required of Strathclyde Police.

Background

On 20 December 2007 Strathclyde Police received a telephone call from a member of the public stating that two young children were trying to sell candles door to door at their father's request. It was dark, the children appeared to be very cold and the caller was therefore concerned for their safety. The caller informed the police of the address the children had given when asked (the applicant's address).

When officers arrived at the address, the applicant refused entry and demanded to speak with Chief Inspector D, with whom he had previous dealings. While officers were at the house, two members of the social work department arrived to carry out a weekly visit, and they too were denied entry by the applicant.

Later that same day, the applicant sent a letter to the Chief Constable of Strathclyde Police complaining about the behaviour of one of the police officers, Constable J, who attended his home. The officer who enquired into the complaint, Inspector P, summarised the applicant's account of the incident in his report of 22 July 2008. The applicant stated that on the evening in question Constables J and K called at his home asking to speak with his children. According to the applicant, Constable J was aggressive and tried to enter his home without a warrant. When two social workers arrived, the applicant believed they were there for the same reason as the police. The applicant's children appeared behind him at the door and the police officers were able to see that they were fine. The applicant believed that Constable J was advised by his senior officer to leave him alone, as he noticed Constable J talking on the telephone before he left.

It appears that after failing to attend a number of appointments, on 29 May 2008 the applicant finally attended at a local police station to discuss his complaints. According to Inspector P's report, during this meeting the applicant indicated that he wished to withdraw his complaints about Constable J. Although he was not prepared to make a statement about his complaints, it appears that he was to attend the same police station the following day to sign a document withdrawing his complaints. However, on 30 May 2008 the applicant sent an email to the Chief Constable of Strathclyde Police in which he retracted what he apparently said at the meeting. The result of this was that Strathclyde Police continued dealing with his complaints.

The following are the accounts given by the various witnesses.

Constable J and K's accounts

According to his statement of 11 June 2008, when Constable J arrived at the applicant's house he heard the applicant shouting at two people to "get off his property". Constable J established that the two people in question were social workers who were there to check on the applicant's children. He advised the applicant to allow the social workers to see the children, but the applicant refused to do so. While trying to persuade the applicant to allow them to see the children, Constable J found him to be "rude and obstructive." Eventually the children appeared behind their father and Constable J saw that they were safe and well.

Constable J strongly refuted the applicant's allegation that he had acted aggressively and put the children in a state of fear and alarm. He claimed that he had displayed tact and patience in the face of the applicant's obstructive behaviour.

Constable J's account was supported by Constable K in his statement of 11 June 2008. According to Constable K "at no time did [Constable J] act in an unprofessional manner towards [the applicant] or his children." Constable K added that everything was explained calmly to the applicant, using tact and patience. Constable K found the applicant to be obstructive and un-cooperative.

The Social Worker's account

Social Worker S had attended at the applicant's home with a colleague to carry out their weekly child protection visit. However, the applicant closed the door and would not let them into his house. When the police arrived, Social Worker S and the colleague went back to the door with the officers, but the applicant said he would not speak with the officers while the social workers were present. Much negotiation took place between the officers and the applicant and throughout this the officers were "professional and polite". According to Social Worker S, no one had been rude to the applicant or raised their voices.

The Complaints

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

- (1) that Constable J was aggressive towards the applicant and put his children in a state of fear and alarm;
- (2) that Constable J tried to enter the applicant's home without a warrant; and
- (3) that the police failed in its duty towards the applicant and his family.

The Commissioner's Review

Details of how these complaints were handled by Strathclyde Police are set out below, and are followed by the Commissioner's views on this.

Internal handling

On 21 December 2007, Chief Inspector D emailed Superintendent M confirming the contents of a discussion they had had with the applicant the previous day. According to the email, the applicant had agreed during the discussion that he would raise any issues he had through his solicitor. An Inspector would be nominated to deal with these issues. On 31 December 2007, Chief Inspector D sent a further email to Superintendent M confirming that Inspector P had been appointed to act as a liaison officer.

On 27 December 2007 Superintendent F of the Complaints and Discipline Branch wrote to the applicant informing him that a senior officer would contact him regarding his complaints.

Chief Inspector D wrote to the applicant on 11 January 2008. He stated that the complaint about Constable J was under investigation and he would revert to the applicant in due course. Chief Inspector D informed the applicant that he should seek advice from his solicitor and advised him to direct all correspondence through his solicitor to prevent him breaching the interdict (see above).

The police complaint contact sheet shows that between the beginning of February 2008 and May of that year, numerous attempts were made by Inspector P to meet with the applicant to discuss his complaints. In the event, the meeting did not take place until 29 May 2008. According to Inspector P's report, during the course of the meeting the applicant accepted Inspector P's explanations of the police activity in relation to the incident. Ultimately the applicant stated that he did not wish any action to be taken against Constable J and accepted that the latter was only doing his job. According to the report, the applicant wished to withdraw his complaint about Constable J. No statement was taken from the applicant at that time but arrangements were made for him to meet with Inspector P the following day when he would "sign off the appropriate paperwork". It appears that this is a reference to a document headed "To whom it May Concern" which is within the police files. The document contains an unequivocal withdrawal of the applicant's complaint about Constable J. However, it was never signed by the applicant as on 30 May 2008 he wrote to the Chief Constable of Strathclyde Police renewing his complaints. Strathclyde Police therefore continued to consider the complaints.

In his report to the Divisional Commander, Inspector P summarised the information he had obtained from the applicant, the police officers and the social workers. He concluded that the officers were justified in visiting the applicant given the nature of the telephone call from the public, and that they were patient and professional throughout. Also, according to Inspector P there were "no indications whatsoever that the officers had made any attempt to enter the house in any way against the householder's wishes."

Inspector P noted that the applicant had in the past raised issues with Strathclyde Police, the social work department, the education department, his MSP, and the Procurator Fiscal. He explained that in December 2007 a management policy was put in place to deal with the "continual non urgent issues that the complainer was raising". Inspector P said that he had been designated as the applicant's single point of contact.

Chief Superintendent Q wrote to the applicant on 1 August 2008 in response to the complaints. He informed the applicant that Constable J had refuted the allegation that he was aggressive during the incident. Chief Superintendent Q reported Constable J's account that he acted professionally and politely at all times. He added that Constable J's account was supported by Constable K and by another independent witness. Accordingly, Chief Superintendent Q did not intend to take any further action in relation to Constable J.

Consideration

The Commissioner believes that, on the whole, Chief Superintendent Q's letter of response to the applicant was reasonable, although it could have provided a clearer explanation regarding the complaint that officers tried to enter without a warrant. It is apparent that this complaint was fully considered and investigated by the enquiry officer.

The enquiry officer appears to have been thorough and professional during his investigation into these complaints. There are clear indications that the applicant, when he finally attended a meeting with Inspector P, agreed to withdraw his complaints, but the following day sought to renew them again. Despite these difficult circumstances, the applicant's complaints were thoroughly investigated.

Conclusions, Recommendations and Learning

In the Commissioner's view, the manner in which these complaints were dealt with by Strathclyde Police was reasonable. Accordingly, no further action is required.

Background

On 4 June 2008 the applicant called the emergency services stating that two unknown males were at his door asking to see his children, refusing to leave, and threatening him. Constables N and R attended at the applicant's home. On the advice of Chief Inspector M, Constable N noted a statement from the applicant, who appears to have informed him that he could identify the men as social workers with whom he had previous contact. According to the statement the applicant also provided the names of the social workers. However, the applicant refused to sign Constable N's notebook in which the statement was noted.

Since the applicant had stated during the original 999 call that he did not know either of the men, Constable N charged the applicant with wasting police time and depriving the public of the emergency services.

The applicant's account

In his statement of 10 June 2008, the applicant explained that he had been in his back garden when his daughter came to tell him that two men were in the front garden. He asked the men to leave but did not ask who they were or why they were there. One of the men seemed to be demanding to see the children and his manner was aggressive and condescending. He was the same man whom the applicant had seen the previous week sitting in a car outside the applicant's home "possibly trying to photograph [the applicant's] children. The applicant "felt sick inside" and dialled 999, but both of the men left before the police arrived.

According to the applicant, Constable N asked if he knew the men, and he replied that he did not. Constable D then asked if he could identify the men again, to which the applicant replied that he could. After taking a statement, Constable N began to lecture the applicant about the use of the 999 telephone system. The applicant found Constable N's attitude to be "abrasive" and he felt that Constable N had failed to take into account his fears for his children. Before leaving, Constable N informed the applicant that he would inform Inspector P and Superintendent M of the circumstances.

On 6 June 2008 Constable N, along with another Constable, visited the applicant's home and charged him with wasting police time. Constable N had apparently spoken to the two men who had visited the applicant's home two days previously. The applicant insisted that he did not know the men who had arrived at his house but felt that Constable N did not take this into account. The applicant asked Constable N why he had not interviewed his children, and Constable N advised him that this could be arranged.

The applicant felt that Constable K failed to make proper enquiry into the circumstances and accordingly failed to provide a satisfactory service.

Constable N's account

According to his statement of 3 July 2008, Constable N stated that on arriving at the applicant's home he was handed the applicant's phone and told by him "It's your boss" (i.e. Chief Inspector M). Chief Inspector M advised Constable N to take a short statement from the applicant and to warn him about misuse of the 999 system. While noting the statement, the applicant named the men as Social Workers S and T. The applicant added that he found the weekly visits by Social Workers S and T to be threatening. Constable N checked with the social work department and

confirmed that Social Workers S and T were the men who had been at the applicant's home that day.

Constable N explained that when he visited the applicant to charge him with wasting police time, he was asked by the applicant to speak to his children about the incident. However, Constable N advised the applicant that this was not necessary.

The Social Workers' accounts

On 25 June 2008, statements were obtained from Social Workers S and T who had attended at the applicant's home on 4 June 2008. Social Worker S stated that he and Social Worker T visited the applicant's home on a weekly basis. When they did so on 4 June the applicant told them that he was calling the police. The applicant then proceeded to tell the emergency services that there were "two strange men", whom he did not know, asking to see his children. Social Worker S added that he had attended at the applicant's address on numerous previous occasions.

Social Worker T gave a similar version of events.

The Complaints

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

- (1) that Constable N was "abrasive" and showed no empathy for the applicant and his family's situation;
- (2) that Constable N failed to make proper enquiry and listen to the applicant and his children's version of events;
- (3) that Constable N failed to provide a satisfactory service; and
- (4) that Constable N failed to take into account all available information and did not interview the applicant's children.

The Commissioner's Review

Details of how these complaints were handled by Strathclyde Police are set out below, and are followed by the Commissioner's views on this.

Internal handling

Inspector U was appointed investigating officer and completed a report about the complaints on 3 July 2008. Inspector U advised Constable N of the allegations.

According to Inspector U, in order to ensure the matter had been properly investigated he examined an excerpt from Constable N's notebook dated 4 June 2008, in which there is a brief statement by the applicant. According to the notebook entry, the applicant named the two men as Social Workers S and T. Inspector U considered the evidence of the applicant, the officers involved and the social workers who had attended. He noted in his report that Constable N refuted the allegation of incivility.

Inspector U also noted that Constable N had not interviewed the children on the basis that he had not considered this necessary. He was satisfied from the applicant's statement in Constable N's notebook that the incident did not involve two strangers, as the applicant had originally suggested.

Inspector U concluded in his report that he was satisfied the allegations made by the applicant against Constable N were unfounded, and that it was reasonable for the applicant to have been charged with wasting police time.

Superintendent W wrote a letter of response to the applicant dated 6 August 2008. Superintendent W identified two elements to the complaint: firstly, that Constable N was "abrasive" when he interviewed the applicant; and, secondly, that Constable N did not fully investigate the incident. Superintendent W advised the applicant that Constable N contended that his manner was not abrasive, and was supported in this by Constable R. He concluded therefore that the applicant's complaint could not be substantiated.

With regard to the complaint that Constable N had not made proper enquiries into the incident, Superintendent W advised that he was content that the investigation was "now complete" and that "the determination of future progress" lay with the Procurator Fiscal. Superintendent W explained that this meant the matter was "sub judice" and "it would be inappropriate of [him] to comment..."

Consideration

During his investigation into the applicant's complaints about Constable N, Inspector U considered the statements of the applicant, Constable R, Chief Inspector M and the social workers who were involved. Inspector U also examined Constable N's notebook.

Following Inspector U's report into the incident, Superintendent W communicated the findings to the applicant. From the information provided the applicant was aware of the identity of the men when he called the police. The Commissioner is of the view that Strathclyde Police fully considered complaints 2, 3 and 4 and provided reasonable responses.

It is obvious from Inspector U's report, and Superintendent W's response, that complaint 1 (that Constable N was abrasive) was considered as a complaint about the police. The response to the applicant implies that the complaint was discussed with Constable N, and that his position was supported by other witnesses. It is clear that the statement obtained from Constable R supports Superintendent W's response. However, Constable N does not address this particular complaint in his statement, and there are no notes in the file explaining when or how he made his position clear.

Conclusions, Recommendations and Learning

In the Commissioner's view, the overall manner in which these complaints were dealt with by Strathclyde Police was reasonable. However, Strathclyde Police should note as a learning point the importance of demonstrating the action taken during the investigation of a complaint about the police. In particular, Strathclyde Police should ensure that when an officer or other witness is asked for his/her position on a complaint, a written record of this is prepared and retained on file.

Other matters

The Commissioner notes that a robust method was put in place for dealing with the applicant when he contacted the police. It is clear to the Commissioner that the applicant has been afforded time and understanding from Strathclyde Police, in what must have been challenging

circumstances. In the Commissioner's view Strathclyde Police should be commended for the way the applicant was dealt with.

John McNeill
Police Complaints Commissioner for Scotland
Hamilton House
Hamilton
ML3 0QA