

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 to the monitoring arrangements put in place by Strathclyde Police on a registered sex offender. The applicant has raised complaints about the appropriateness of these monitoring arrangements and the conduct of several officers involved in carrying out their duties in this connection.

Of the nine complaints reviewed, the Commissioner found that eight had been handled reasonably. The Commissioner found that the remaining complaint (complaint 4) was not handled reasonably, in that Strathclyde Police did not issue the applicant with a response. Given that the Commissioner has provided details of an officer's position in respect of this complaint, no further action is required of Strathclyde Police.

The Commissioner has also identified a learning point. In the Commissioner's view, unless it is absolutely necessary, officers who are the subject of complaint should not have further contact with a complainer until such time as the complaint is resolved

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

In 1996 Mr A, who is a foreign national, was convicted of a sex offence against his then 9 year old step daughter. He was sentenced to 4 years imprisonment and placed on the Sex Offenders Register for an indefinite period. The court ruled that upon his release from prison he should be deported. Since his release from prison, Mr A has been appealing the deportation order.

After his release from prison Mr A became involved in a relationship with the applicant and moved to her home address. The couple later married and had two children, Child B and Child C.

In March 2004 Sergeant D was appointed to the Offender Assessment Unit and had responsibility for monitoring sex offenders within the local authority area where Mr A lived. Sergeant D states that during 2004 Mr A refused to cooperate with the monitoring process in place for sex offenders and, because of this, was assessed as "medium risk" in December 2004. Sergeant D states that following this assessment it was agreed with the social work department that when Child B registered at school there would be a need for the school to be made aware of Mr A's status as a sex offender in order to monitor his children.

According to Sergeant D, in March 2005 the police received information that Mr A was attending the nursery alone to collect one of his children. Other information suggested that the family were considering home education for Child B, which would have prevented monitoring from an outside agency. Acting in response to this information a child protection meeting was convened in April 2005, the result of which was that Child B and Child C were placed on the Child Protection Register as being at risk of sexual abuse. Sergeant D states that following Mr A's continued refusal to cooperate with the police, a further risk assessment was carried out on 21 December

2005, without the cooperation of Mr A. The result of this assessment was that Mr A's risk level was raised from "medium" to "high".

On 10 January 2006, the applicant contacted police to report a group of men attacking her home. The applicant alleged that one of the men had thrown eggs at her and had used racially abusive language towards Mr A. The applicant also claimed that CCTV cameras installed at her house were vandalised and that one of the windows of her car had been smashed. The applicant recorded part of the incident on her camcorder. Constables E and F attended the scene and detained five individuals at a nearby address on suspicion of breach of the peace and vandalism. Each of them was taken to a police station and, following interview, each was charged with breach of the peace. Constable G states that following this incident he conducted door to door enquiries at nearby addresses in an attempt to trace witnesses to the incident. These enquiries were unsuccessful.

Sergeant D states that later the same day she contacted Senior Social Worker H and reported that she had concerns about the welfare of the family due to the incident earlier in the day and the reputation of one of the individuals involved in the attack. Senior Social Worker H stated that after being informed of the incident at the applicant's home she felt that the family would be at risk if they remained in the house.

Sergeant D states that she informed Senior Social Worker H that it was her intention to visit the applicant's home and offer to re-house the family. She added that if this offer was refused she would remove the children under emergency police powers. Senior Social Worker H states that she and Sergeant D agreed that the children should be removed to a place of safety immediately and that the best course of action would be for both parents to move with the children.

On the same day Sergeant D and Sergeant J of the Family Protection Unit attended the applicant's home address and made an offer to re-house the family. At this time the applicant and the children were in the house without Mr A. Initially the applicant refused the offer. However after being informed that the police would use their powers to remove the children, the applicant agreed to be re-housed with her children. As the family were leaving the house Mr A returned home and decided that he would remain at the house while the applicant and the children were re-housed in temporary accommodation.

On 9 February 2006, a child protection case conference review meeting was held. The applicant, Constable K from the Offender Assessment Unit and staff from the social work department, including Senior Social Worker H and Social Workers L, M, N and O attended the meeting. Mr A was not in attendance. At the meeting Constable K provided an update of Mr A's status as a sex offender, his current risk assessment and his immigration status. In relation to Mr A's immigration status, Constable K stated words to the effect that Mr A was an illegal immigrant and that his appeal against his deportation was ongoing.

Constable K states that during March 2006 he attempted to visit Mr A at his home address on several occasions as part of the monitoring process for registered sex offenders but was unable to locate him. On 14 March 2006 Constable K and Constable Q visited the applicant at her temporary address to enquire into Mr A's whereabouts. The applicant was unwilling to allow the officers into her home and the discussion about Mr A took place in the common close. Having been unable to locate Mr A both officers left the applicant's address.

A further child protection case conference review was convened on 12 May 2006. At this meeting a care plan was developed to ensure the safety of the applicant's children. The care plan agreed that Mr A would not be allowed to visit the family's temporary accommodation or have any unsupervised contact with his children. On either 17 or 18 August 2006, acting on information that Mr A was gaining access to his children without the supervision of a social worker, Constable K, Sergeant R and Social Worker S visited the applicant at her temporary address. The applicant was informed by Constable K that if Mr A was found in the flat then the police would apply for a

child protection order and the children would be removed from the applicant's care. The applicant was unwilling to allow Constable K into her home. Accordingly, Sergeant R and Social Worker S entered the applicant's home, leaving Constable K outside. Sergeant R and Social Worker S explained to the applicant that if Mr A was found to be having unsupervised contact with his children then the children would be removed from her care. Having informed the applicant of this both officers and Social Worker S left the applicant's address.

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) Sergeant D was unprofessional while at the applicant's home;
- (2) Constable K made racist remarks about Mr A;
- (3) Constable K assaulted the applicant;
- (4) Strathclyde Police has raised Mr A's risk level without explanation;
- (5) Constable K has harassed the applicant and Constable Q was uncivil towards her;
- (6) Police have discriminated against Mr A due to his race and his status as a sex offender;
- (7) Constable K is conducting surveillance of the applicant;
- (8) Constable K behaved oppressively towards the applicant and Sergeant R neglected his duty to prevent this; and
- (9) Mr A was told that Strathclyde Police would not accept complaints made by fax.

The Commissioner's Review

The applicant first contacted the Commissioner's office by letter on 10 June 2008. She thereafter submitted an application form on 10 July 2008.

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 handling of it and the Commissioner's views on this.

Complaint 1: Sergeant D was unprofessional while at the applicant's home

This complaint consists of a number of separate allegations which the applicant believes represents unprofessional behaviour on the part of Sergeant D whilst at her home on 10 January 2006.

The applicant believes that Sergeant D:

- (a) encouraged police officers to wrongfully arrest three individuals in relation to the alleged attack on the applicant's home in order to make the incident appear worse than it was;
- (b) asked police officers to "canvass" neighbours opinions on the applicant's family;
- (c) harassed the applicant into leaving her house; and

(d) failed in her duty to look after Mr A's interests and was discriminatory in her attitude towards Mr A.

Internal Handling

The applicant contacted Strathclyde Police via fax on 18 March 2006 and made Complaints 1-6 and 9. Superintendent T of Strathclyde Police Complaints and Discipline Branch acknowledged receipt of the complaints on 30 March 2006 and informed the applicant that Detective Inspector U had been appointed to carry out an initial investigation into the complaints. In response to the complaints Detective Inspector U obtained statements from Sergeant J and Constable Q. No statement was obtained from Sergeant D as she was on annual leave at the time of Detective Inspector U's investigation. Detective Inspector U also considered statements provided by the applicant and Mr A. Detective Inspector U produced an initial report which was sent to the Procurator Fiscal on 14 April 2006 in order to determine if any officer had committed a criminal offence. The Area Procurator Fiscal wrote to Chief Superintendent V on 21 April 2006, confirming that there was no evidence that a police officer had committed a criminal offence.

On 26 April 2006 Chief Inspector W wrote to the applicant to inform her that Inspector X had been appointed to conduct a full investigation into her complaints. In a statement to police dated 8 June 2006 the applicant raised Complaint 7; in a later statement dated 28 August 2006 she raised Complaint 8.

Inspector X categorised the complaint as one of irregularity in procedure and obtained statements from:

- Sergeant D;
- officers who participated in the arrests following the incident at the applicant's home;
- one of the individuals who was arrested by police;
- officers who interviewed neighbours following the incident; and
- officers who were witnesses to the conversation between the applicant and Sergeant D.

Having considered the findings of Inspector X's investigation, Chief Superintendent V wrote to the applicant on 1 June 2007 in response to Complaint 1. In relation to the first element of the complaint - that Sergeant D encouraged police officers to wrongfully arrest 3 individuals in order to exaggerate the seriousness of the attack on the applicant's home - Chief Superintendent V responded:

"I have to advise you that the officers who took the decision to deal with these individuals in this manner denies that they were influenced in any way by the Sergeant. They are quite clear that there was a sufficiency of evidence to detain these individuals."

Chief Superintendent V did not respond specifically to the second element of the complaint. In relation to the third and fourth elements of the complaint, Chief Superintendent V characterised these as follows;

"On the 10 January 2006 you complained that the same female police Sergeant dealt with the removal of your children in an unprofessional manner, was dogmatic in her attitude in relation to the removal of the children and failed to take cognisance of your husbands interests in the matter."

In response to these complaints Chief Superintendent V stated:

"... with regard to both these allegations, I can only advise you that the officer concerned has a divergent opinion from yours for which she is given support by a colleague who was present. She denies acting in a dogmatic and unprofessional manner and in relation to your

husband she takes the view, also supported by a colleague, that you were given the opportunity to discuss the circumstances with each other.”

Consideration

In relation to the first element of complaint 1, the applicant believes that Sergeant D sought to exaggerate the seriousness of the incident in order to justify splitting up her family. The Commissioner notes that five individuals were arrested following the incident. It appears that the applicant agreed with two of the arrests, but not the other three.

Each officer involved in the arrests provided statements to the effect that Sergeant D had no involvement in the decision to carry out the arrests. In addition, Constable G states that having viewed the camcorder footage he felt that the actions of all five individuals warranted their arrest. Furthermore, one of the individuals arrested following the incident stated that he did not consider himself to have been wrongfully arrested.

In the Commissioner's view, these statements provide no support for the allegation made by the applicant. It also appears that the video recording provided sufficient evidence to justify the arrests of all five individuals. As a result of this Strathclyde Police concluded that there was insufficient evidence to substantiate the allegation. In the Commissioner's view, this is an entirely reasonable conclusion to reach in respect of this part of the complaint.

In relation to the second element of the complaint, the applicant believes that Sergeant D asked police officers to canvass neighbours' opinions on her family. Constable G states that he made door to door enquiries with Constable Y in an attempt to identify eye witnesses to the incident at the applicant's home. Statements were also obtained from Constable G and Constable Y, both of whom state that they were attempting to identify witnesses to the incident at the applicant's home and were not canvassing the opinion of neighbours in relation to the applicant's family.

The Commissioner is of the view that Strathclyde Police has adequately investigated this element of the complaint and uncovered no evidence in support the applicant's allegation. However, Chief Superintendent V did not respond specifically to this issue in her letter to the applicant. It would clearly have been beneficial if Chief Superintendent V's letter to the applicant had addressed this issue. However, in the Commissioner's view this element of the complaint has been adequately addressed in this report and accordingly there is no need for Strathclyde Police to issue a separate response.

In relation to the third element of complaint 1, the applicant believes that Sergeant D harassed her into leaving her house. Sergeant D attended the applicant's home in order to offer to re-house the family and if necessary remove the applicant's children. As noted earlier, the applicant was initially unwilling to leave the house and therefore Sergeant D tried to convince the applicant to leave with her children. Sergeant J states that he then informed the applicant that the police had the power to remove the children and would do so if she refused to leave the house. It appears that at this point the applicant agreed to leave the house but felt she had been harassed into doing so.

In the Commissioner's view, Sergeant D was attempting to secure the safety of the children and therefore her priority was to remove them from the house to a safe location. Given the difficult nature of this task it is understandable that the applicant was unhappy with this course of action. However, after the applicant initially refused to leave the house Sergeant D took time to discuss the situation with the applicant and tried to persuade her to leave with the children rather than simply removing them.

Other officers who witnessed the conversation between the applicant and Sergeant D state that Sergeant D conducted herself in a polite and courteous manner. In the Commissioner's view, aside from the account given by the applicant, there is no evidence to suggest that Sergeant D

harassed her into leaving her home. Indeed, it appears that she provided the applicant with every opportunity to remain with her children.

In relation to the fourth element of Complaint 1, the applicant believes that Sergeant D failed in her duty to look after Mr A's interests and was discriminatory in her attitude towards him. According to the applicant Sergeant D was prepared to re-house the family without Mr A and was not willing to wait for him to return home before doing so.

According to the statements of Sergeant D and Sergeant J, after Mr A returned home Sergeant D explained to him that the family was being re-housed. Sergeant J then informed Mr A that he was able to join his family in temporary accommodation but Mr A refused this offer and decided to remain in the applicant's home. It appears that the applicant and Mr A were then afforded time to discuss the situation prior to the applicant and her children being taken to temporary accommodation. According to Sergeant J's statement, Sergeant D acted professionally towards Mr A at all times.

Sergeant D's preference was to re-house the whole family, including Mr A. However, it appears that the seriousness of the situation led Sergeant D to believe that it was necessary to re-house the family as quickly as possible. As Mr A was not at home it appears that Sergeant D was prepared to re-house the family without him in order to ensure the safety of the children. Given that Sergeant D considered the children to be in danger it is understandable that she believed waiting for Mr A to return home would have extended the period of time the children were in the applicant's home and therefore, in the police's view, in danger. It appears that when Mr A returned home he was made the same offer to be re-housed as the applicant and her children, but declined this.

Based on the majority of the evidence, the Commissioner considers that Mr A was given an opportunity to be re-housed. In the Commissioner's view, there is no support for the applicant's claim that Sergeant D discriminated against Mr A.

Overall, the Commissioner considers that there is no evidence to support the applicant's complaint that Sergeant D acted unprofessionally in relation to the incident in the applicant's home. In the Commissioner's view Strathclyde Police handled this complaint in a reasonable manner. Accordingly, no further action is required of Strathclyde Police in respect of this complaint.

Complaint 2: Constable K made racist remarks about Mr A and was uncivil to the applicant

Complaint 2 relates to comments the applicant alleges Constable K made at a child protection review meeting on 9 February 2009. The applicant claims that in responding to a question at the meeting regarding Mr A's immigration status, Constable K replied that "he is an illegal immigrant". The applicant believes this to be a racist comment. The applicant states that at the same meeting Constable K interrupted a conversation she (the applicant) was having with words to the effect "tell Mr A to stop messing about with lawyers". The applicant believes that this remark was uncivil.

Internal Handling

Inspector X categorised this complaint as one incident of racially discriminatory behaviour and one of incivility. In conducting his investigation Inspector X gathered statements from each individual who attended the meeting. Inspector X concluded that these statements provided insufficient evidence to substantiate the applicant's complaint. Chief Superintendent V responded to the first element of this complaint in her letter of 1 June 2007, in which she stated:

"From the investigation carried out by Inspector X, indeed as confirmed by the officer himself, I am in no doubt that such phraseology was used. The issue for me to decide is whether its use was indeed racist in the context in which it was delivered. In the first place

the officer denies any racist intent and has taken the position that he said this in response to a direct question regarding your husband's status and in the context of the meeting believed he was simply stating the position."

In relation to the element of the complaint alleging that Constable K was uncivil towards the applicant, Chief Superintendent V stated in her letter:

"... there is no real dispute about the words that were actually said, rather, the manner of their delivery and the context. Generally, others present found the officer's tone to be conciliatory rather than uncivil."

Chief Superintendent V concluded that there was insufficient evidence to substantiate either complaint.

Consideration

The statements obtained by Inspector X confirm the discussion that took place at the meeting. Constable K states that in response to a question from Social Worker N about Mr A's immigration status he said, "I believe he is an illegal immigrant and that Immigration are investigating the matter". It appears that at this point the applicant disagreed with Constable K stating that Mr A "was not an illegal immigrant."

Social Workers L, M and N were in attendance at the meeting and recall Constable K using the words "illegal immigrant". However, each states that they did not consider the comment to be racist. In addition, all three witnesses were consistent in stating that the applicant did not allege during the meeting that she believed the comment to be racist.

The Commissioner notes that Strathclyde Police has gathered statements from all available witnesses who attended the meeting. In addition to the applicant, three witnesses stated that Constable K used the term "illegal immigrant". Each of these witnesses stated that they did not believe the term to be racist.

Chief Superintendent V has taken the view that this comment was made in direct response to a question regarding Mr A's immigration status and, given this context, was not a racist remark. In the Commissioner's view, this was a reasonable view to take in the circumstances.

In relation to the element of the complaint alleging that Constable K was uncivil towards the applicant, Mr N, Senior Social Worker H and Social Worker L each stated that Constable K used words to that effect, "Mr A should stop messing about with lawyers". Each witness believed that this was appropriate in the context and not uncivil.

Having reviewed the statements made by Mr N, Senior Social Worker H and Social Worker L, each is of the view that Constable K's comments were made in an attempt to encourage cooperative working between the applicant, Mr A and himself. Given that no witnesses support the applicant's allegation, the Commissioner considers that Strathclyde Police's conclusion that there is insufficient evidence to substantiate this complaint is reasonable.

Accordingly, the Commissioner requires no further action to be taken by Strathclyde Police in respect of this complaint.

Complaint 3: Alleged excessive force

This complaint relates to a incident that took place at the applicant's temporary address on 14 March 2006. The applicant states that on answering the buzzer of her flat Constable K identified himself and asked the applicant to let him into the flat. The applicant states that she refused and said she would come down to the main door to speak to Constable K. According to the applicant,

as she opened the main door and stepped outside, Constable K rushed forward and pushed the applicant with his body and forced the door open. The applicant believes that in doing so Constable K assaulted her.

Internal Handling

This allegation was reported to the Area Procurator Fiscal who ultimately decided that it was not one from which it could reasonably be inferred that a criminal offence had been committed. The allegation was thereafter considered by Strathclyde Police as a non-criminal complaint of excessive force.

Inspector X obtained statements from Constable K and Constable Q, who was a witness to the incident. In her letter of response to the applicant, Chief Superintendent V stated:

“The allegation of excessive force is denied by the officer concerned and he is supported in this by his colleague”.

Strathclyde Police therefore concluded that there was insufficient evidence to substantiate the applicant’s allegation.

Consideration

It is clear that Constables K and Q hold a different view of the incident from that of the applicant. Given that there appears to be no other witnesses to the incident, it is difficult to reach any conclusion other than that her complaint is unsubstantiated.

In the Commissioner’s view, Strathclyde Police therefore handled this complaint in a reasonable manner. Accordingly, no further action is required in respect of this complaint

Complaint 4: Strathclyde Police raised Mr A’s risk profile without explanation

The applicant is unhappy that Mr A’s risk level as a sex offender was raised from “low” to “medium” in December 2004 and then to “high” in December 2005. The applicant believes that Strathclyde Police has not provided any clarification on why the risk level has been changed.

Internal Handling

Although this complaint was raised with Strathclyde Police, it was not considered in Inspector X’s report nor is there any reference to it in Chief Superintendents V’s letter to the applicant.

Consideration

According to Sergeant D over a period of approximately 9 months, Mr A would not fully cooperate with the police, did not agree with the monitoring process and refused to allow unannounced police visits to his home. According to Sergeant D’s statement, Mr A has refused to participate fully in the risk assessments which form part of his monitoring arrangements. It appears that following Mr A’s refusal to cooperate with the monitoring process he was assessed as a medium risk in December 2004.

Sergeant D states that a letter was received from the applicant’s solicitor on 18 August 2005 asking why Mr A’s risk level had been raised from low to medium. Sergeant D states that she thereafter contacted the applicant’s solicitor and explained that the reason for the risk level being raised had been explained to Mr A, who had refused to accept the reasons behind the decision.

Sergeant D states that a further risk assessment was held in December 2005 when Mr A's risk level was raised from medium to high. In her statement Sergeant D explains that the risk level was raised due to Mr A's failure to cooperate with the risk assessment process; the fact that his children remained on the Child Protection Register; and further information provided by the social work department.

As noted earlier, although Sergeant D addresses this complaint in her statement, no response was issued by Strathclyde Police. However, as Sergeant D's account of why Mr A's risk status was increased from medium to high has been provided above, the Commissioner does not require Strathclyde Police to respond separately to this complaint.

Complaint 5: Alleged harassment and incivility by Constables K and Q

This complaint relates to a conversation between the applicant, Constable K and Constable Q on 14 March 2006 at the applicant's temporary accommodation. The applicant states that Constable K accused her of having her husband in her temporary accommodation, stated that her husband was a "Schedule 1 Offender" and held open the close door so that neighbours could hear the conversation. The applicant is of the view that Constable K said these things in order to intimidate and harass her. The applicant also states that Constable Q asked how her children were and whether they were attending nursery. The applicant objects to this kind of behaviour and questioning

Internal Handling

Strathclyde Police categorised this complaint as an act of oppressive conduct or harassment by Constable K and an act of incivility by Constable Q. Inspector X obtained statements from Constable K and Constable Q. In her letter of 1 June 2007 Chief Superintendent V responded to the complaint of harassment as follows:

"I am in the position where I am faced with two differing accounts, namely yours, and that of the police officers and I am unable to be certain where the truth of the matters lies... The same officer also denies any intention to insult, humiliate or harass you. He does confirm that the phrase 'sex offender' was used but contends that this was in the context of the reason for his visit and delivered in an appropriate manner."

In relation to the complaint of incivility Chief Superintendent V's letter states;

"You construed the intention of an officer enquiring after your children and whether they were at nursery as incivility by that officer. I can only say that the officer himself does not deny a conversation taking place in those terms but does deny that there was any intention of incivility."

Consideration

The Commissioner notes that Constable K was attempting to locate Mr A after being unable to speak to him following several visits to his home. In the Commissioner's view, given that Mr A is a registered sex offender, and Constable K was responsible for monitoring him, it was reasonable for the officers to visit the applicant and enquire if she knew the whereabouts of Mr A. From the information available to the Commissioner it is not possible to verify the nature of the conversation between the applicant and Constable K. However, in the Commissioner's view it was reasonable for Constable K to have asked the applicant if her husband was in her flat.

The applicant raised concerns about Constable K holding open the close door, which she said allowed the applicant's neighbours to overhear the conversation that was taking place. The Commissioner notes that the applicant was unwilling to allow the officers into her home and left her flat in order to speak to the officers at the main door of the flats. The statements of Constable K

and Constable Q confirm that they asked the applicant if they could speak to her in private but she was unwilling to do so. It therefore appears that the applicant took the decision to hold the conversation with the officers in public rather than in her flat. Accordingly, in the Commissioner's view it is not reasonable to apportion blame on Constable K for the conversation being held in a public area, and therefore being audible to the applicant's neighbours.

The applicant is also unhappy that Constable K referred to Mr A as a "Schedule 1 Offender". The applicant believes that Constable K said this in a loud voice so that her neighbours would hear. Constable K accepts that he referred to Mr A as a registered sex offender and that he did so in the context of a discussion about Mr A's refusal to meet with the police. Constable K also claims that he spoke quietly to the applicant when using this term. On the other hand, Constable Q states that Constable K did not make any reference to Mr A being a sex offender at any point during his conversation with the applicant. The differing versions of events given by the applicant and the other witnesses makes it impossible to establish with any certainty what was discussed.

In relation to the complaint of incivility, the evidence indicates that Constable Q was simply enquiring into the welfare of the applicant's children. Given that the children had recently been moved into temporary accommodation and were on the child protection register, it was not unreasonable for Constable Q to have done so. In the Commissioner's view, there is no evidence to suggest that in asking this question Constable Q was being uncivil towards the applicant.

In the Commissioner's view, in light of the different accounts of the language used, Strathclyde Police's conclusion that there was insufficient evidence to substantiate either allegation was reasonable. Accordingly, no further action is required of Strathclyde Police in respect of this complaint.

Complaint 6: Alleged discrimination against Mr A

The applicant believes that Sergeant D and Constable K have discriminated against Mr A over a period of time due to his race and because he is a sex offender. The applicant believes that both officers have "a racist problem" and because of this are harassing her family, abusing their power and interfering in the family's right to be together. The applicant believes that this has culminated in Strathclyde Police putting pressure on the social work department to take decisions "against" her family.

Internal Handling

Inspector X categorised this complaint as one of racially discriminatory behaviour. Inspector X obtained statements from the officers subject to the complaint, as well as a social worker.

In her response to this complaint Chief Superintendent V's stated:

"Having reviewed Inspector X's report it is quite clear to me that as a Registered Sex Offender your husband has consistently been obstructive and failed to engage with the processes. No one pretends that this is an easy situation and police officers have a duty to carry out these procedures with diligence and persistence. The police officers actions have been guided not by any consideration for your husband's ethnic origins but solely by the knowledge that he is a Registered Sex Offender along with their responsibility to act with other agencies to protect, as far as possible, the welfare of your children. I can only say that Inspector X was unable to find any suggestion that the officers concerned have been acting in a racist manner and it is a matter of regret that you consider their motivation to have been racist rather than generated by concern, and their duty as police officers, towards your children."

Consideration

Both officers deny the allegation that they have discriminated against Mr A due to his race or his status as a sex offender. They state that they have attempted to engage with Mr A in order to fulfil Strathclyde Police's duty to monitor registered sex offenders in the community.

Support for their accounts is provided by Senior Social Worker H who states that, having worked with Constable K for a number of years, has never known him to make any racist comments or indulge in racist behaviour of any kind. This view is supported by other social workers that have worked with Constable K. Social Worker M who states that she has found Sergeant D and Constable K professional and very patient in their dealings with the applicant's family.

Based on this evidence, the Commissioner considers that there is no support for the applicant's complaint that Sergeant D and Constable K discriminated against him on the ground of race.

The applicant also believes that Strathclyde Police has influenced the social work department in the latter's decisions in respect of the applicant's family. However, staff of the social work department who provided statements to Inspector X have denied that Strathclyde Police sought to influence the social work department's decisions.

From the information available to the Commissioner it appears that Constable K and Sergeant D in carrying out their duty to monitor the applicant in the community have encountered a number of problems with the applicant and Mr A. In the Commissioner's view, it appears that the applicant and Mr A do not agree with the monitoring procedures and that this had led them to believe that the police are harassing the family, abusing their power and interfering with the families right to be together. The Commissioner is of the view that there is no evidence to support these allegations. Accordingly, the Commissioner believes that this complaint has been handled in a reasonable manner.

Complaint 7: Alleged surveillance

The applicant believes that Constable K is conducting surveillance of her. The basis for this belief appears to be a message left on her telephone by Constable K.

Internal Handling

Inspector X categorised this complaint as one of oppressive conduct or harassment. As part of his investigations he obtained statements from Constables K and Q as well as the recording of the telephone message left by Constable K on the applicant's answer machine.

In responding to this complaint Chief Superintendent V's stated:

"I am informed that on 1 and 2 June 2006, a male officer attended your home address and later left a message on your answering machine. The content of that message led you to believe that you were being surveilled. In essence, I understand that the content of the message was to the effect that he had been at your house and knew you were in. In this regard I can advise you that it is the officer's position, as supported by his colleague, that when en route to your house for a pre-arranged visit, he saw you entering the premises. It is his position, again as supported by his colleague, that on their attending at your home you did not open the door. It is the position of both officers that this was not surveillance, simply a chance sighting of you near your home address. As you may be aware Inspector X has obtained a copy of this telephone message. There is no doubt that the officer has identified himself and made you aware of his belief that you were in the house when he called. He makes reference to your lack of response to his communications and advises you that if there is no response appropriate steps would be taken... I can only say that there is nothing in the content of this message which would lead me to believe that the

officer was doing anything other than fulfilling his own responsibilities and giving you appropriate advice.”

Consideration

The Commissioner considers that Chief Superintendent V's response accurately reflects the accounts given by Constables K and Q. In the view of the Commissioner the statements of the Constable K and Constable Q confirm that the response provided by Chief Superintendent V is an accurate version of the events leading to the complaint.

The complaint seems to stem from a message left by Constable K on the applicant's answering machine. In his message Constable K said that he knew the applicant was in the house. It is perhaps understandable that the applicant might wonder how Constable K could know this. However, according to the evidence the officers were at the applicant's address in order to visit her. The statements of Constables K and Q indicate that they had been unable to contact Mr A and upon leaving the address saw the applicant entering. According to the officers' statements, this is why Constable K left a message stating that he knew the applicant was in the house.

In the Commissioner's view, there is no evidence to suggest that the sighting of the applicant by the two officers was anything other than a chance sighting. Accordingly, the Commissioner considers that the handling of this complaint by Strathclyde Police was reasonable.

Complaint 8: Alleged oppressive conduct and neglect of duty

This complaint relates to a conversation between Constable K and the applicant on 17 or 18 August 2009. Constable K attended the applicant's home with Sergeant R and Social Worker S. The applicant states that when the officers and the social worker arrived she told them that she would not allow Constable K into her home. According to the applicant, Constable K then said to her words to the effect that they had information that Mr A was coming to the flat, that she was putting the children at risk and that they would therefore remove them.

The applicant believes that Constable K behaved oppressively towards her in saying that she was putting her children at risk and that he was there to remove them. The applicant is unhappy that Constable K said this in front of her children and that, as his senior officer, Sergeant R failed in his duty to prevent this.

Internal Handling

Inspector X categorised these complaints as oppressive conduct or harassment against Constable K, and neglect of duty against Sergeant R. Inspector X obtained statements from Sergeant R and Constable K and also from Social Worker S.

In response to the complaint relating to Constable K, Chief Superintendent V stated:

“In his part the officer concerned does not deny saying this to you but contends that it was appropriate in the context of the conversation regarding the safety of your children. He is supported in this by his colleague and by staff from the Social Work Department. There is no reason to believe the officer's conduct was oppressive.”

In response to the complaint about Sergeant R, Chief Superintendent V stated:

“In a similar vein you complained that this officer's supervisor should have intervened to prevent this alleged harassment. Again, the officer concerned denies this allegation being of the view that his colleague was not being oppressive and was being professional.”

Strathclyde Police therefore concluded that there was insufficient evidence to substantiate either complaint.

Consideration

According to Social Worker S, she and the officers concerned attended the applicant's home in order to inform her that if Mr A was found to be having contact with his children, a child protection order would be sought and the children would be placed in the care of the local authority. Both Sergeant R and Social Worker S state that Constable K spoke to the applicant in a calm and professional manner. In terms of the statements provided by Sergeant R and Social Worker S there appears to be no evidence to support the applicant's allegation that Constable K behaved oppressively towards her.

It follows from this conclusion that there was no need for Sergeant R to take action in this regard. Accordingly, the Commissioner considers Strathclyde Police reached a reasonable conclusion in respect of this complaint.

However, the Commissioner notes that at the time of this incident Constable K was already the subject of a number of complaints by the applicant. In the Commissioner's view, unless it is absolutely necessary, officers who are subject to complaints should have no contact with complainers until such time as the complaints are resolved. In the present case, the applicant could have been informed by Sergeant R and Social Worker S of the repercussions of allowing Mr A to have contact with her children without the need for Constable K to have been present.

Complaint 9: Refusal to accept complaints by fax

The applicant states that Mr A phoned Strathclyde Police to request the fax number for the complaints department in order that he could submit a complaint relating to the alleged assault on his wife by Constable K. According to the applicant, Mr A was told that he could not fax complaints to the police.

Internal Handling

Strathclyde Police does not appear to have considered this as a complaint about the police. The complaint is not considered in Inspector X's report or in Chief Superintendent V's response to the applicant.

Consideration

The Commissioner notes that the applicant did fax a complaint to the police in relation to the alleged assault, which was considered by Strathclyde Police as a complaint about the police. Accordingly, regardless of the information that might have been given to the applicant over the telephone, it appears that the applicant was still able to make a complaint via fax. In addition the Commissioner notes that the Strathclyde Police Standard Operating Procedure on complaints about the police states that complaints are accepted via fax.

In light of the above, the Commissioner does not consider it necessary for Strathclyde Police issue a separate response to this complaint.

Conclusions, Recommendations and Learning

Complaint 1: Sergeant D was unprofessional while at the applicant's home

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

Complaint 2: Constable K made racist remarks about Mr A and was uncivil to the applicant

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

Complaint 3: Alleged excessive force

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

Complaint 4: Strathclyde Police raised Mr A's risk profile without explanation

In the Commissioner's view, the manner in which this complaint was dealt with by Strathclyde Police was not reasonable, in that it failed to issue a response. However, as the details of Sergeant D's account of why Mr A's risk status was increased has have been provided above, the Commissioner does not recommend any further action by Strathclyde Police.

Complaint 5: Alleged harassment and incivility by Constables K and Q

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

Complaint 6: Alleged discrimination against Mr A

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

Complaint 7: Alleged surveillance

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

Complaint 8: Alleged oppressive conduct and neglect of duty

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

Complaint 9: Refusal to accept complaints by fax

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

Learning Point

The Commissioner notes that several of the complaints raised by the applicant relate to Constable K's involvement with her and Mr A. It is clear that Constable K's continued contact with the applicant following these complaints generated further complaints against him. In the Commissioner's view, it is unfortunate that Constable K was placed in a position where he required to be in regular contact with a member of the public who had made complaints about him. The Commissioner recognises that it is not always possible to restrict contact between officers and complainers who have made complaints about them. However, the Commissioner believes that, unless absolutely necessary, officers who are the subject of complaint should not have further contact with a complainer until such time as the complaint is resolved

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