

Report of a Complaint Handling Review in relation to Central Scotland Joint Police Board

under section 35(1) of the Police Public Order

Summary and Key Findings

The applicant made two separate complaints against Central Scotland Joint Police Board concerning the manner in which it handled his requests for information.

The Commissioner decided that both complaints were handled in a reasonable manner. However, the Commissioner recommended that Central Scotland Joint Police Board provides the applicant with clarification on what specific measures have been taken in response to complaint 1.

The Commissioner also recommended that Central Scotland Joint Police Board establishes written procedures for dealing with complaints made against itself. Such procedures are required in order to provide the Board, and the Commissioner, with a framework for ensuring effectiveness and consistency in the complaint handling process.

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 24 May 2008 the applicant wrote to Central Scotland Joint Police Board (the Board) requesting information about the performance data of Central Scotland Police. The applicant explained in this letter that Central Scotland Police had assured him that the data he sought would be published soon. However, despite sending a further letter to Central Scotland Police asking when the data would be published, the applicant claimed to have received no reply.

Specifically, the applicant sought a response to the following four questions:

- (1) when would the data he sought be published by Central Scotland Police?;
- (2) why had there been a delay in publishing this data?;
- (3) why Central Scotland Police's crime statistics do not include subsequent conviction rates?; and
- (4) what checks and balances were put in place by the Board to "avoid misuse of targets by such malpractice as the inappropriate claiming of credit for detection"?

Having received no reply to his letter dated 24 May 2008 the applicant wrote again to the Board on 21 June 2008.

On 27 June 2008 the clerk of the Board wrote to the applicant and apologised for the delay that had occurred in responding to his letters. The clerk stated in this letter that she was not in a

position to comment on subsequent conviction rates and assured the applicant that the members of the Board “take very seriously their scrutiny role of the Chief Constable”. The clerk also made reference to communications that the applicant had had with the Freedom of Information Officer of Central Scotland Police.

On 5 July 2008 the applicant wrote again to the Board stating that its letter of 27 June 2008 did not address the questions he had asked. The applicant then asked the following five questions:

“1. Why was there a long delay in publishing your area command performance data for reporting year 2006-2007

2. Please describe in outline the checks and balances in place by your board to avoid misuse of any detection targets placed on Central Scotland Police

3. Please confirm whether an agency outwith the control of your board has responsibility for auditing the above ‘checks and balances’

4. Please confirm when the above ‘checks and balances’ were last subject to a formal audit

5. Where a crime has been reported, and someone is detected and charged but subsequently found not guilty of that offence, please confirm the effect this has on the detection claimed by the force for this crime.”

On 13 September 2008 the applicant, having received no reply to his letter of 5 July 2008, wrote again to the Board requesting a reply to his questions.

On 25 February 2009 the applicant, having still not received a response from the Board, lodged an official complaint in respect its alleged failure to:

(1) provide him with an adequate response to the questions which had raised in his correspondence; and

(2) reply to his correspondence within a reasonable time period.

The Complaints

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

(1) Central Scotland Joint Police Board failed to reply to the applicant within a reasonable time frame; and

(2) Central Scotland Joint Police Board failed to offer a satisfactory explanation for this delay.

The Commissioner’s Review

On 23 March 2009 the applicant wrote to the Commissioner’s office enclosing an application form in which he made two separate complaints about the Board.

On 26 March 2009 the Commissioner's office wrote to the Board requesting all paperwork in respect of the complaints. In response to this letter, the Board wrote to the Commissioner's office on 2 April 2009 explaining that it had now considered the applicant's complaint and made an apology to him.

On 6 April 2009 the Commissioner's office wrote to the applicant asking if he wished to continue with his complaint against the Board in light of the response he had received. The applicant replied to this letter on 11 April 2009 stating that he wished to continue with his complaints regarding the alleged failure to respond to his letters within a reasonable timescale, and for allegedly failing to give a satisfactory explanation for the delay.

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

Complaint 1: Failure to respond within reasonable timescale

The applicant maintains that the Board took an unreasonable time to reply to his correspondence.

Internal Handling

The Board responded to the applicant's complaints on 2 April 2009.

In relation to the delay in replying to the applicant's correspondence, the clerk of the Board admitted that there had been an unreasonable delay and apologised:

"By any reasonable standard, there has been unacceptable delay on the part of the Board in responding to your correspondence and this part of your complaint is also upheld... I offer you the unreserved apologies of the Board."

The clerk of the Board also assured the applicant that lessons had been learned in this case and that she had instructed her staff to put in place a system which would prevent such a delay in the future.

Consideration

The Board clearly recognised that the delay in responding to the applicant was unreasonable and apologised for this. The Board also assured the applicant that lessons had been learned and that a new system would be implemented to prevent such a delay in the future. In the Commissioner's view, this represents a reasonable response to this complaint. However, the Commissioner recommends that the Board provides to the applicant details of the specific measures that were taken as a result of his complaint. In the Commissioner's view, this is necessary in all cases in which measures have been taken in response to substantiated complaints.

Complaint 2: Failure to provide a satisfactory explanation for the delay

The applicant maintains that the Board failed to provide him with a satisfactory explanation for the delay in replying to his correspondence.

Internal Handling

In its letter to the applicant of 2 April 2009 the Board explained that the delay had occurred while the staff of the Board awaited a decision from its legal advisers on where responsibility lay for answering certain of the applicant's questions. The clerk stated that there had been a "significant

delay” in receiving the legal adviser’s opinion and that during this time the applicant’s letters had been “overlooked”. The clerk apologised for this assured the applicant that a system would be put in place to ensure that such a delay did not occur In the future.

Consideration

The Board clearly explained the reasons behind the delay in responding to the applicant’s correspondence. The Board also assured the applicant that a system was being put in place to prevent such a delay occurring in the future.

In the Commissioner’s view, the Board provided the applicant with a reasonable explanation in this connection.

Conclusions, Recommendations and Learning

Complaint 1: Failure to respond within reasonable timescale

In the Commissioner’s view, for the reasons given, the manner in which this complaint was dealt with by the Board was reasonable. However, the Commissioner recommends that the Board provides to the applicant details of the specific measures that were taken as a result of his complaint.

Complaint 2: Failure to provide a satisfactory explanation for the delay

In the Commissioner’s view, for the reasons given, the manner in which this complaint was dealt with by the Board was reasonable. Accordingly, no further action is required in respect of this complaint.

The Commissioner also recommends that the Board establishes written procedures for dealing with complaints against itself. Such procedures are required in order to provide the Board, and the Commissioner, with a framework for ensuring effectiveness and consistency in the complaint handling process.

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