

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

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

Summary and Key Findings

On 18 January 2008 the applicant made a complaint about Central Scotland Police in respect of how complaints about the police are recorded. Specifically, the applicant alleged that Central Scotland Police's method of recording complaints was inadequate in that it prevented the applicant and his wife from receiving individualised responses to their respective complaints. The applicant also claimed that the recording method resulted in the under-reporting of complaints about the police.

The Commissioner decided that the applicant and his wife ought to have received direct responses to their own complaints. However, for the reasons set out in the report the Commissioner recommends no further action in relation to this aspect of the complaint.

The Commissioner recommended that the eight Scottish police forces, under the auspices of ACPOS, develop formal, national guidance on the recording of complaints about the police. Given his role under section 42 of the Act, the Commissioner will also be involved in this 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 19 July 2008 the applicant wrote to Central Scotland Police asking how complaints made by himself, his son and his wife were "listed in the data on complaints against the police published by Central Scotland Police".

On 31 July 2008 Deputy Chief Constable A wrote to the applicant stating that "the complaints made... are included in the on duty complaints about the police statistics published for 2007/2008." Deputy Chief Constable A explained that the complaints were categorised under the following headings:

- (1) neglect of duty;
- (2) other criminal; and
- (3) other non criminal.

Deputy Chief Constable A also explained that the same complaints had featured in the "published figures for the same period relative to misconduct proceedings".

On 2 August 2008 the applicant wrote again to Deputy Chief Constable A asking him to be "specific as to the number of complaints registered in each of these categories...."

On 25 August 2008 Deputy Chief Constable A wrote to the applicant and specified the number of complaints registered in each category as follows:

Neglect of Duty – 2

Other Crime – 4

Other – 5

Irregularity of Procedure – 2

Deputy Chief Constable A explained that, in addition to these complaints, specific questions and comments were addressed in the letter of response dated 5 November 2007 sent to the applicant's son.

Deputy Chief Constable A added that the applicant should direct all future correspondence to the Commissioner's office because the complaints about which he was enquiring were under review by the Commissioner.

On 2 September 2008 (the letter is in fact dated 2 August 2008, apparently in error) the applicant wrote again to Deputy Chief Constable A asking about the "division" of the number of complaints raised between himself, his son and his wife and on what basis that division had been made. The applicant also stated in this letter that he had not raised a complaint with the Commissioner about Central Scotland Police's data management practices and, as such, intended to continue directing his enquiries to Deputy Chief Constable A.

On 29 September 2008 Deputy Chief Constable A wrote to the applicant advising that from the point at which the complaints made by the applicant's son were first received by Central Scotland Police, he (the applicant's son) had been considered to be "the complainer in this case." Deputy Chief Constable A explained that a "single complaint about the police had been recorded which contains a number of allegations."

Deputy Chief Constable A also stated that he had been advised by Central Scotland Police's Data Protection Officer that he was not entitled to give out further information about the applicant's wife and son as this would constitute third party information in terms of the Data Protection Act 1998. Deputy Chief Constable A advised the applicant again to refer all future enquiries to the Commissioner's office.

On 7 November 2008 the applicant wrote to Deputy Chief Constable A making an official complaint "in respect of the Central Scotland Police process of recording complaints". The applicant's primary concern was that Central Scotland Police's method for recording complaints "[served] to obscure and suppress the true extent of public concern regarding the public's interface with the police."

On 18 November 2008 Deputy Chief Constable A wrote to the Commissioner's office explaining that the applicant had written several recent letters to Central Scotland Police. Deputy Chief Constable A further explained that as the matters raised by the applicant related directly to a complaint that was under review by the Commissioner, he had decided to forward the applicant's correspondence for the Commissioner's consideration.

On 29 November 2008 the applicant wrote again to Deputy Chief Constable A stating that he agreed with Deputy Chief Constable A's referral of his complaint to the Commissioner. The applicant added that he expected his complaint about Central Scotland Police's complaint recording methods be recorded as a "new" complaint.

On 23 December 2008 Deputy Chief Constable A replied to the applicant confirming that his concerns had been recorded as an additional complaint. Deputy Chief Constable A advised the applicant that he would contact him following consideration of this.

On 12 January 2009 Deputy Chief Constable A wrote to the applicant and stated the following:

“In response to the concerns you raise, as I have explained in previous correspondence, on receipt of a letter from [a solicitor’s firm] on behalf of your son, a complaint was recorded. Thereafter based on all the information gathered as a result of comprehensive interviews with your son, your wife and you a number of allegations were identified, all directly linked to the complaint. Each of these allegations was appropriately categorised as previously explained and have also been recorded.”

Deputy Chief Constable A added that he believed Central Scotland Police’s processes for recording complaints “are in accordance with other Scottish Police Forces who adopt similar recording procedures”. Deputy Chief Constable A was satisfied that the methods used were appropriate and equitable.

The Complaints

Based on the contents of the correspondence received from the applicant, and the information obtained from Central Scotland Police, the Commissioner has identified a single complaint, namely that Central Scotland Police’s method of recording complaints is inadequate.

The Commissioner’s Review

The applicant contacted the Commissioner’s office by letter on 18 January 2008 to make the complaint reviewed in this report.

This section sets out the Commissioner’s views on the manner in which the above complaint was handled by Central Scotland Police. The complaint is set out below and is followed by details of Central Scotland Police’s handling of it and the Commissioner’s views on this.

Alleged inadequacy of Central Scotland Police’s method of recording complaints

The applicant maintains that Central Scotland Police’s method of recording complaints is inadequate because:

- (1) it prevented the applicant and his wife from receiving individualised responses to their complaints; and
- (2) it results in under-reporting of complaints about the police.

Internal Handling

These issues were covered by Deputy Chief Constable A in his letters to the applicant dated 29 September 2008 and 12 January 2009. As noted above, in his letter of 29 September 2008 Deputy Chief Constable A stated that the applicant’s son was considered to be the complainer in the case. Deputy Chief Constable A added that a “single complaint about the police [was] recorded which contains a number of allegations.” This point was repeated by Deputy Chief Constable A in his letter of 12 January 2009 in which he explained that a “single complaint” was recorded on receipt of the letter from the firm of solicitors. Deputy Chief Constable A added that as a result of interviews with the applicant, his wife and son a number of allegations were identified, each of which was appropriately categorised.

Deputy Chief Constable A went on to state in his letter of 12 January 2009 that the complaint recording procedures used by Central Scotland Police were “in accordance with other Scottish Police Forces who adopt similar recording procedures”. He added that he considered Central Scotland Police’s complaint recording procedures to be “appropriate and equitable”.

Consideration

In respect of the applicant’s claim that he and his wife ought to have been provided with individualised responses, the Commissioner considers that, strictly speaking, such responses should have been given.

Each year until 2007, when this role was taken over by the Commissioner’s office, HMICS undertook an “Annual Statistical Return” with each Scottish police force. The purpose of this exercise was to collate, among other things, statistics relating to complaints about the police. In the preamble to the Annual Statistical Return HMICS explained the following in relation to the recording of complaints:

*“A ‘case’ is a single investigation undertaken by an investigating officer into one incident or a group of incidents following a complaint by one or more persons. Thus where a person complains of an assault by an officer during arrest and that he was later subjected to threats at the police station, this would be investigated as **one complaint case** comprising two complaint allegations. Had a second person complained about the assault, this would still be investigated as one case but there would then be **two complainers**” (emphasis in the original).*

This definition is repeated in “Police Complaints: Statistics for Scotland” (2009) the Commissioner’s first report on complaints statistics since taking over this function from HMICS.

On the basis of this definition, Central Scotland Police ought have categorised the applicant and his wife as separate complainers. It follows that Central Scotland Police ought to have provided them with individualised responses to the allegations they made.

On the other hand, the applicant and his wife were notified by Central Scotland Police that a full response to the complaints had been sent to their son. The applicant’s son subsequently shared the contents of the letter of response with them. The Commissioner therefore has some difficulty in understanding why the applicant is concerned about not having received a personal response. Given that the applicant and his wife clearly received the response to the complaints (albeit indirectly), the Commissioner requires no further action by Central Scotland Police in relation to this aspect of the complaint.

In respect of the second element of the applicant’s complaint, the Commissioner considers that Central Scotland Police’s recording methods may not truly reflect satisfaction levels. In the present case, despite the fact that there were three separate complainers Central Scotland Police recorded only one. Although Deputy Chief Constable A is correct to state that allegations are recorded and published, this does not assist in identifying the number of individual complainers who have expressed dissatisfaction about the police in any given period.

Aside from the definition quoted above, there is no formal, national guidance on the appropriate methods for recording police complaints. Prior to the establishment of the Commissioner’s office, ACPOS published a report by a working group consisting of representatives of the complaints departments of the eight Scottish forces, Audit Scotland, HMICS and what was then the Scottish Executive Criminal Justice Department. The report, entitled “Standardisation of Recording of Complaints Against the Police”, has been produced in a number of versions, the most recent of which (version 8) is dated November 2006. The report is mainly concerned with standardisation of heads of complaint and does not touch upon the issue raised by this case. In any event, it does not constitute formal guidance on the recording of complaints about the police.

The Commissioner therefore recommends that the eight Scottish police forces, under the auspices of ACPOS, develop formal, national guidance on the recording of complaints about the police. Given his function under section 42 of the Act, the Commissioner will also be involved in this process. An important aspect of such guidance will be the need to reflect the number of individual complainers who make the same or similar complaints. Such an approach will provide greater scope for assessing public satisfaction levels.

Conclusions, Recommendations and Learning

Alleged inadequacy of Central Scotland Police's method of recording complaints

In the Commissioner's view, given the definition of a "complaint case" issued by HMICS and endorsed by the Commissioner, the applicant and his wife ought to have received direct responses to their own complaints. However, for the reasons outlined above, the Commissioner recommends no further action in relation to this aspect of the complaint.

In respect of the applicant's claim that Central Scotland Police's method of recording complaints results in under-reporting, the Commissioner recommends that the eight Scottish police forces, under the auspices of ACPOS, develop formal, national guidance on the recording of complaints about the police. Given his function under section 42 of the Act, the Commissioner will also be involved in this process.

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