

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

For some years the applicant and Mrs B have been involved in a dispute. On 19 September 2007, Mrs B telephoned a court where the applicant worked and reported that the applicant had access to Mrs B's criminal records. The applicant contacted Strathclyde Police complaining that Mrs B had made a malicious allegation against her. She subsequently made a formal complaint about Strathclyde Police on the basis that it had failed properly to investigate her allegation.

The Commissioner found that Strathclyde Police dealt with the complaint in a reasonable manner. Accordingly, no further action is required of Strathclyde Police in this connection.

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

The applicant has been involved in a dispute with Mr A and his daughter, Mrs B, for a number of years. It appears that this dispute began after Mrs B was charged with benefit fraud. The applicant believes that Mr A blames her for these charges being brought against Mrs B. During the dispute there have been several incidents between the applicant and Mr A and Mrs B which have resulted in police involvement. As a result of this police involvement, the individuals involved in each side of the dispute believe that Strathclyde Police is biased in favour of the other.

On 19 September 2007, Mrs B telephoned a court where the applicant worked and reported concerns, which had been conveyed to her by a Mrs C, that the applicant was in possession of court papers detailing Mrs B's criminal convictions. Mrs B was informed by the applicant's supervisor, Mrs D, that there was no possibility of this and accordingly Mrs B did not take the matter any further.

In October 2007 the applicant was asked to take a 6 month leave of absence by Mrs D. According to Mrs D's statement this was an organisational matter which was not a result of the telephone call made by Mrs B.

The applicant states that having been made aware of Mrs B's telephone call she contacted Strathclyde Police complaining that Mr A and Mrs B had made malicious allegations against her. The applicant states that Strathclyde Police refused to investigate the matter.

The police incident report indicates that on 29 November 2007 Constable E attended the applicant's home and discussed the matter with her. An update to the incident report dated 3 December 2007 shows that Constable E contacted Mrs D who confirmed that there was no

possibility of the applicant having had access to Mrs B's criminal records. On 4 December 2007, Constable E contacted the applicant and informed her that Mrs B's telephone call to the court did not constitute a crime. A further update to the incident report dated 11 December 2007 indicates that Constable E visited Mr A to make him aware of the allegation and to discuss it with him. The incident report states, however, that Mr A was not home at this time and that his wife was informed of the allegation. The final entry in the incident report explains that there was insufficient evidence to substantiate any crime having been committed by the applicant, Mr A or Mrs B.

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 a single complaint, namely that Strathclyde Police did not properly investigate the applicant's allegation.

The Commissioner's Review

The applicant first contacted the Commissioner's office by letter on 8 January 2008. She thereafter submitted an application form on 11 January 2008.

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

The Complaint

According to the applicant, Mrs B's allegation against her was malicious and Strathclyde Police failed properly to investigate it. The applicant also suggests that Strathclyde Police refused to investigate the matter or approach Mr A for fear of becoming the subject of a complaint.

Internal Handling

The applicant raised this complaint with Strathclyde Police in a letter to Chief Superintendent F dated 27 January 2008. A Complaint about the Police (CAP) form was completed on 29 January 2008, which categorised the complaint as one related to service delivery. A brief description of the complaint on the CAP form states:

"The complainer thinks that police are acting unfairly in a matter involving her and a male named Mr A."

Inspector G was asked to conduct an enquiry into the complaint. Inspector G met with the applicant to discuss her complaint and established the background of the ongoing dispute between her and Mr A and Mrs B. Inspector G states that he agreed with the applicant that his enquiry would focus solely on Strathclyde Police's response to the telephone call made by Mrs B in which she alleged that the applicant had access to her criminal records.

Inspector G agreed to establish if any crime had been committed and obtained statements from members of staff at the court, including Mr H who had received the telephone call from Mrs B. A statement was also taken from the applicant's supervisor Mrs D.

After obtaining these statements Inspector G informed the applicant that they provided no evidence of a crime having been committed by Mrs B. Following this discussion Inspector G approached Mrs B and informed her of the applicant's allegation. Mrs B confirmed that she had made the telephone call after being informed by Mrs C that the applicant had court papers relating to her. Mrs C was subsequently interviewed by Sergeant J and confirmed Mrs B's version of events.

At the conclusion of his enquiries Inspector G met with the applicant again and reiterated that Mrs B's telephone call to the court was not a crime. Inspector G also informed the applicant that he had found no evidence that Mr A had made a telephone call to the court.

In his response to the applicant's complaint dated 23 June 2008 Chief Inspector K stated the following:

"In relation to your initial allegation of an act of criminality on the part of the A family, enquiries have revealed that no crime has been established resulting from the actions of one Mrs B telephoning the [court]..."

... I do not consider this to be a matter for the police to progress any further."

Consideration

Having been informed of the applicant's allegation, Constable E conducted enquiries and established that Mrs B had not committed a crime. Following the applicant's complaint about the handling of the investigation, Inspector G conducted additional enquiries, including interviews with relevant witnesses, but again found no evidence of a crime having been committed.

In the Commissioner's view, Strathclyde Police conducted reasonable enquiries into the applicant's complaint and reached a conclusion which was based on the evidence produced. Given the extent of enquiries undertaken by Inspector G, it is difficult to see what more could have been done by Strathclyde Police in connection with the applicant's complaint.

The applicant also raised concerns that Strathclyde Police refused to approach Mr A for fear of becoming the subject of a complaint by him. However, as noted above Constable E visited Mr A's home in an attempt to speak to him about the allegation and was unable to do so only because Mr A was not at home at the time. There does not appear to be any evidence to support this aspect of the applicant's complaint. In any event, as enquiries established that Mrs B had not committed a crime it is difficult to see what, if anything, Mr A could have added as a potential witness.

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

Conclusions, Recommendations and Learning

For the reasons given, the Commissioner considers that Strathclyde Police handled this complaint in a reasonable manner. Accordingly, no further action is required of Strathclyde Police in this connection.

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