

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

The applicant has been involved in a neighbour dispute spanning several years which on numerous occasions has required the attendance of officers from Strathclyde Police. The applicant's complaints relate directly to police action in respect of this dispute.

Of the three complaints included in this report, the Commissioner decided that one (complaint 3) was handled in a reasonable manner, while another (complaint 1) was not. Another complaint (complaint 2) was found not to have been considered by Strathclyde Police. However, given the time which had elapsed since the incident giving rise to the complaint, the Commissioner made no recommendation 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 neighbour dispute spanning several years which on numerous occasions has required the attendance of officers from Strathclyde Police. The applicant is generally dissatisfied with the way in which Strathclyde Police has dealt with this dispute and alleges that officers have shown bias in favour of his neighbours.

The Complaints

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

- (1) that Strathclyde Police failed properly to investigate charges which were brought against the applicant;
- (2) that officers from Strathclyde Police advised the applicant and his family not to contact the police unless they were assaulted; and
- (3) that an officer from Strathclyde Police displayed bias in his treatment of the applicant.

The Commissioner's Review

This section sets out the Commissioner's views on the manner in which the complaints were dealt with by Strathclyde Police. Each complaint is set out in turn and is followed by details of Strathclyde Police's handling of it and the Commissioner's views on this.

Complaint 1: Alleged failure properly to investigate

The applicant maintains that Strathclyde Police failed properly to investigate charges brought against him as a consequence of the neighbour dispute.

Internal Handling

The applicant first made complaints to Strathclyde Police about this issue in early 2004. On 4 March 2006, some time after receiving Strathclyde Police's response to these complaints, the applicant wrote to Her Majesty's Inspector of Constabulary for Scotland (HMICS) seeking a review of the way in which his complaints were handled. HMICS issued a report on the matter in September 2006.

In accordance with its remit, HMICS restricted its review to complaints which the applicant had already made to Strathclyde Police. HMICS noted that the applicant's complaint related to a single charge of breach of the peace. According to a Complaint about the Police (CAP) form dated 24 April 2003, the applicant complained that he was not traced and formally charged by officers of Strathclyde Police before being reported to the Procurator Fiscal.

HMICS concluded that there was no irregularity in procedure on the part of Strathclyde Police as there was no requirement that suspects be charged before being reported to the Procurator Fiscal. However, HMICS found that "...greater effort could have been made by [Strathclyde Police] to trace and charge [the applicant] in respect of the incident with [Neighbour A]". HMICS instructed Strathclyde Police to "review...[the applicant's] wider concerns to ascertain if there are any matters which have not been adequately addressed: specifically the charges libelled against [the applicant]..."

Inspector B from Strathclyde Police was thereafter appointed to deal with the issues raised by HMICS. As part of his investigation, Inspector B conducted interviews with the applicant on 7 and 14 November 2006. During the course of these interviews the applicant alleged that none of the charges which had been brought against him had been investigated by the police. Inspector B also recorded statements from the applicant's wife (dated 14 November 2006), the applicant's son (dated 11 December 2006) and the applicant's sister-in-law (dated 9 January 2007). In addition, statements were obtained from seven police officers who had come into contact with the applicant and his family in the course of their duties.

Inspector B thereafter identified all charges which had been made against the applicant and examined how each had been investigated. The details of these charges are as follows.

(1) Charge of careless driving

Inspector B examined the crime and police reports in respect of this charge and noted that on 30 March 2001 the applicant was charged by Constable C with careless driving. Inspector B also noted that the applicant made a counter-charge against one of his neighbours, Mr D, who was subsequently charged with breach of the peace.

The crime report in respect of the applicant records that witness statements were taken from Mr D, Mr E (Mr D's son) and Mr F (another neighbour of the applicant). On the basis of the evidence a police report was sent to the Procurator Fiscal on 17 April 2001.

(2) Charge of breach of the peace

This charge relates to an incident which took place on 9 July 2001 in which it was alleged that the applicant had shouted and swore at Mr E. Inspector B examined the crime report in respect of this charge and noted that the applicant was cautioned and charged with breach of the peace.

The crime report records that witness statements were taken from Mr E as well as from Mr F and Mr F's wife, Mrs G. On the basis of this evidence a report was sent to the Procurator Fiscal on 8 August 2001.

(3) Further charge of breach of the peace

Inspector B examined the crime report in respect of this charge and noted that the applicant was alleged to have filmed Mrs G, her family and friends in their back garden using a camcorder on 5 June 2002. Inspector B noted that the applicant was not cautioned and charged with this offence because, according to the police report, Constable H "was unable to contact [the applicant]".

The crime report records that witness statements were taken from Mr D and Mrs G, as well as from four eye witnesses who were present when the applicant was alleged to have been filming. On the basis of this evidence a police report was sent to the Procurator Fiscal on 23 July 2002.

(4) Further charge of breach of the peace, and a charge of littering

Inspector B examined the crime report in respect of these charges and noted that the applicant was alleged to have conducted himself in a disorderly manner outside Mr D's home and to have thrown tyres into Mr D's property on 5 September 2002.

The crime report records that witness statements were taken from Mr D and his wife, Mrs I. On the basis of this evidence a police report was sent to the Procurator Fiscal on 13 September 2002.

(5) Further charge of careless driving

Inspector B examined the crime report in respect of this charge and noted that applicant was alleged to have driven carelessly by braking sporadically in front of Mrs G's vehicle on 10 September 2002.

The crime report records that statements were taken from Mr F and Mrs G. On the basis of this evidence a police report was sent to the Procurator Fiscal on 7 November 2002.

(6) Further charge of breach of the peace

Inspector B examined the crime report in respect of this charge and noted that on 6 January 2003 the applicant was alleged to have gestured with two fingers and shouted obscenities at Mrs G and Mr J on 6 January 2003. The crime report records that statements were taken from Mrs G and Mr J. Inspector B noted from the crime report that the applicant was not formally cautioned and charged with this offence before a police report was sent to the Procurator Fiscal on 14 January 2003. Inspector B commented as follows in this regard:

“No other information is available on the Crime Report or standard Police Report to indicate the extent of effort made to caution and charge [the applicant] with this offence.”

(7) Further charge of breach of the peace

Inspector B examined the crime report in respect of this charge and noted that the applicant was alleged to have shouted obscenities at Mr D on 13 March 2003.

The crime report records that witness statements were taken from Mr D and Mr F. On the basis of this evidence a police report was sent to the Procurator Fiscal on 16 April 2003.

(8) Further charge of breach of the peace

Inspector B examined the crime report in respect of this charge and noted that the applicant was alleged to have followed Mr F and Mrs G in his vehicle and shouted obscenities at them. The crime report records that witness statements were taken from Mr F and Mrs G, as well as Mrs I who allegedly overheard some of the applicant's comments.

Inspector B noted that the applicant was not cautioned and charged with this offence before a report was sent to Procurator Fiscal on 4 June 2003. The crime report records that this was “due to the lateness of the hour”.

(9) Further charge of breach of the peace

Inspector B examined the crime report in respect of this charge and noted that the applicant was alleged to have persistently followed Mrs G in his car on 22 June 2003 and placed her in a state of fear and alarm.

The crime report records that witness statements were taken from Mrs G and Mr J, who was accompanying Mrs G at the time. On the basis of this evidence a police report was sent to the Procurator Fiscal on 11 July 2003.

(10) Charge of assault

Inspector B examined the crime report in respect of this charge and noted that the applicant was alleged to have “deliberately bumped into” Mr D. Inspector B also noted that the applicant had contacted police reporting that it was he who had been assaulted by Mr D during this altercation.

Inspector B commented that it was unclear from the respective crime reports if either the applicant or Mr D had been formally cautioned and charged with assault, or if they were informed that a report would be submitted to the Procurator Fiscal.

(11) Two further charges of breach of the peace

Inspector B examined the crime report in respect of these charges and noted that the applicant was alleged to have threatened Mr D's son, Mr E, on 17 May 2004. Inspector B noted that the applicant was interviewed in respect of these charges but was not cautioned and charged. The crime report records that witness statements were taken from Mr E and Mr D.

Inspector B concluded his report by stating the following:

“... there is no evidence, direct or otherwise, which would substantiate that the service received by the [applicant] from Strathclyde Police in respect of the many and varied incidents reported by and against [the applicant], have been dealt with other than professionally and competently.”

Chief Superintendent K thereafter wrote to the applicant on 25 May 2007 addressing the issues highlighted in the HMICS report. In respect of the allegation that Strathclyde Police did not properly investigate the charges brought against him, Chief Superintendent K stated that “from the content of Inspector [B]’s lengthy report I can see no evidence of any systemic failure to treat you as I would expect any member of our community to be treated.”

Chief Superintendent K added:

“It is clear from Inspector [B]’s report that your local Police Officers have attempted to engage with all parties and where necessary, report matters to the Procurator Fiscal.”

Consideration

Inspector B conducted a very thorough investigation into this complaint, examining each charge which had been brought against the applicant, along with the relative crime and police reports. It is clear from this examination that all of the alleged offences were investigated by Strathclyde Police, the vast majority of them being reported to the Procurator Fiscal. In the Commissioner’s view, however, Chief Superintendent K’s response did not adequately reflect Inspector B’s enquiries and conclusions. Given the nature of the applicant’s complaints, the Commissioner would have expected Chief Superintendent K’s response to refer to the nature of the enquiries undertaken by officers into each of the alleged offences.

In light of this, the Commissioner does not consider that this complaint was handled in a reasonable manner by Strathclyde Police. However, as the Commissioner has provided details of the enquiries undertaken into each of the allegations, no further action is required by Strathclyde Police.

Complaint 2: Alleged advice not to contact the police

In his application to the Commissioner, the applicant claims to have been told by the police not to contact them unless they were assaulted. Although he raises this issue in the form of a question, it appears to be an expression of dissatisfaction about Strathclyde Police.

In his statement to Strathclyde Police of 7 November 2006 the applicant stated the following:

“On the 8 February 2001, I called the Police to report that [my neighbours] were shouting and swearing at us. Constable [H]... attended at our house and told us not to phone the Police again unless we were attacked.”

Although not expressed explicitly, on a reasonable interpretation this is a complaint about the police in terms of both the current definition and the definition applicable at the time the applicant gave his statement.

Despite this, it does not appear that Strathclyde Police dealt with this complaint. This is perhaps because Chief Superintendent K’s approach to the applicant’s case was to cover only those issues raised by HMICS in its report. However, it is clear from Chief

Superintendent K's response that she also sought to deal with other matters which the applicant had raised with Inspector B at interview.

However, given the time which has elapsed since the alleged incident (over 9 years) the Commissioner does not consider that any purpose is to be served by Strathclyde Police taking any further action to deal with this complaint. Accordingly no recommendation is made in this connection.

Complaint 3: Alleged bias

The applicant believes that an officer from Strathclyde Police displayed bias in the way in which he dealt with the neighbour dispute.

Internal Handling

The applicant has made this complaint to Strathclyde Police on two occasions.

On the first occasion, the complaint was recorded on a CAP form dated 7 April 2001. The specific allegation was that Constable H was biased in favour of the applicant's neighbours during investigations into the neighbour dispute. In response to this complaint, Inspector L was appointed to conduct an investigation and prepared a report dated 11 May 2001. Inspector L found the complaint to be unsubstantiated as he could find no evidence in support of the applicant's allegation. This finding was repeated by Chief Superintendent M in his final letter to the applicant dated 29 May 2001.

The applicant's second complaint to this effect was recorded on a CAP form dated 13 February 2004. Inspector N was thereafter appointed to investigate the complaint. As part of his investigation, Inspector N visited the applicant at his home on 15 February 2004. During this meeting the applicant expressed his dissatisfaction about the outcome of his previous complaint of alleged bias on the part of Constable H.

Inspector N concluded that the applicant's allegation of impartiality in respect of Constable H had previously been thoroughly investigated and a response issued. Superintendent O reiterated this in his final letter to the applicant dated 17 March 2004:

"Having reviewed the issues you raised with Inspector [N] and in light of the fact that no further information had been provided I consider these matters to have been thoroughly investigated and concluded."

Consideration

In the Commissioner's view, Strathclyde Police conducted reasonable enquiries into this complaint and reached a reasonable conclusion based on the evidence.

Accordingly, the Commissioner considers that this complaint was dealt with in a reasonable manner. No further action is required in this connection.

Conclusions, Recommendations and Learning

Complaint 1: Alleged failure properly to investigate

For the reasons given, the Commissioner does not consider that this complaint was dealt with in a reasonable manner. However, as the Commissioner has summarised the enquiries

undertaken by the officers in relation to each of the alleged offences, the Commissioner makes no recommendation in this connection.

Complaint 2: Alleged advice not to contact the police

It does not appear that this complaint was considered by Strathclyde Police. However, given the time which has elapsed since the alleged incident (over 9 years) the Commissioner does not consider that any purpose is to be served by Strathclyde Police taking any further action to deal with this complaint. Accordingly no recommendation is made in this connection.

Complaint 3: Alleged bias

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

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