

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's complaints arose from his being stopped by police officers following the use of his car horn.

Of the three complaints dealt with, the Commissioner found that one was handled reasonably while two were not. The Commissioner made a number of recommendations concerning complaints one and three.

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 17 February 2010, the applicant was driving his car along a single carriageway road when an elderly woman pulling a shopping trolley crossed the road from the pavement on his right hand side. The applicant's car was the closest vehicle to her on his side of the road.

The versions of events provided by the applicant and the officers subject to complaint are summarised below.

The applicant's account

According to the applicant, the woman was crossing the road diagonally towards his car and was not looking right or left. As the applicant became aware of her crossing his path he sounded his horn but the woman did not react. He sounded his horn a second time but again the woman did not react. The woman eventually crossed the road and the applicant was able to drive on.

The applicant drove on until he became aware of a police car behind him with its blue lights flashing. The applicant pulled his car into the side of the road to let it pass but the police car drew up behind him instead. Inspector A, who was driving the car, got out and approached the applicant's car, as did Sergeant B, who had been in the front passenger seat.

The applicant rolled down his window and Inspector A asked him if he knew why he had been stopped. The applicant stated that he did not know, to which Inspector A replied "you have just blown your horn twice at an elderly woman walking slowly across the road who had difficulty walking." The applicant replied "how do you know? Did you go back and speak to the woman?" According to the applicant, Inspector A responded "I ask the questions".

Inspector A and the applicant had a discussion about the incident during which the applicant asked Inspector A his name. The applicant had to ask a second time before Inspector A answered. According to the applicant he later had to ask Sergeant B the same question three times before he was given an answer.

Inspector A asked the applicant his name and age, which the applicant provided. Inspector A then asked him for details of his place of birth, occupation and employer. The applicant asked Inspector A why he needed this information, to which Inspector A replied that he had a statutory power to ask for such details. The applicant then provided Inspector A with the information. The applicant asked the officers if they had talked to the woman concerned about the incident or to see how she was doing. According to the applicant, Inspector A again replied "I ask the questions"

Following the discussion, the applicant was allowed to drive on.

The officers' accounts

Inspector A and Sergeant B were in a car being driven by Inspector A on the opposite side of the road from the applicant. The elderly woman crossed their side of the road first but had reached the other side before they passed her.

The officers observed the applicant's car heading towards the woman. The applicant did not slow his car down until he was quite close to the woman, having almost to brake to a complete stop in the process. This was despite the fact that he ought to have had a clear view of the woman long before he started to slow down. According to the officers, the applicant applied his horn for around 4 to 5 seconds with the woman no more than 12 feet away from the car. Inspector A then turned the police car around to pursue the applicant. As they did so, the officers saw the woman who they believed appeared "shaken."

The officers caught up with the applicant on another street a short distance away. Inspector A thereafter asked him if he knew why he had been stopped, to which he replied, "if it's about that old lady back there, she nearly caused an accident by crossing the road." Inspector A informed the applicant that he believed his driving and use of the horn to have been ill-mannered and inappropriate. The applicant protested his innocence and contended that the officers should be challenging the woman instead.

Inspector A and the applicant continued to debate the matter during which time the applicant asked Inspector A and Sergeant B their names. Both officers provided their names which the applicant wrote on a piece of paper. Inspector A asked the applicant for his name and age, which the applicant provided. Inspector A then asked the applicant for his date and place of birth. The applicant refused to provide this information and stated that Inspector A was being unreasonable. Inspector A asked the applicant for his date of birth a second time but the applicant refused to provide this. Inspector A thereafter explained his "statutory powers", following which the applicant answered the question.

The applicant was then allowed to drive off. The officers attempted to locate the woman concerned but were unable to do so.

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 the following complaints:

- (1) that Inspector A acted in an intimidating manner;

- (2) that police officers failed to state their names when requested to do so; and
- (3) that there was no reason for the police to stop the applicant.

The Commissioner's Review

This section sets out the Commissioner's views on the manner in which the complaints were handled 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 intimidation and requiring of information

The applicant states that, in response to his request for information, Inspector A twice replied "I ask the questions". According to the applicant, Inspector A's manner was aggressive and intimidating. The applicant also alleges that Inspector A was not willing to discuss the facts of the incident and instead asserted his authority by requesting information that was not relevant to the incident, such as his date of birth, occupation and employer.

Internal Handling

Inspector C was appointed as the investigating officer in respect of the applicant's complaints. He interviewed the applicant on 6 March 2010, following which he obtained statements from Inspector A and Sergeant B. Inspector A stated:

... I am aware that [the applicant] has written a letter of complaint in which he claims that I was aggressive and intimidating whilst talking to him. He also alleges that I refused to provide him with my name on being requested to do so by him. I refute both of these allegations and regard my dealing with him as professional, albeit firm."

Sergeant B stated the following

... I am aware that [the applicant] has written a letter of complaint in which he claims that [Inspector A] was aggressive and intimidating whilst talking to him. He further alleges that both [Inspector A] and I refused to provide him with our names on being requested to do so by him. I refute these allegations and regard my dealings with him, and indeed the actions of [Inspector A], as completely professional at all times."

On 19 March 2010 Inspector C completed a report in which he found this complaint to be unsubstantiated. Superintendent D thereafter issued the applicant with a response to his complaints, in which he stated the following:

"[Inspector A] states that he conducted himself in a professional manner throughout ... he receives full support from his colleague in all respects..."

... I am informed by [Inspector C] that there were no independent witnesses to this incident and therefore find myself with two competing versions of what occurred. Taking all the circumstances into account, I therefore am unable to substantiate the allegations made by you ...

... Having reviewed the whole circumstances of your complaint I can confirm that it has been decided that no formal action will be taken against the officers."

Consideration

In his application to the Commissioner's office, the applicant expressed concern that Superintendent D's response did not explicitly address his allegation that Inspector A twice told him "I ask the questions". The Commissioner agrees that this aspect of the complaint was not addressed and notes that neither officer comments on the matter in their respective statements. As such, it has not been established whether Inspector A made the comments alleged and, if so, whether this might assist in substantiating the applicant's complaint.

Consequently, the Commissioner does not consider that this aspect of the complaint was dealt with in a reasonable manner. The Commissioner recommends that Inspector A and Sergeant B are asked to provide a response to this aspect of the complaint. A further response should then be provided to the applicant in this connection.

The applicant also claims that he was asked unnecessarily for his date of birth and details of his occupation and employer. Inspector A and Sergeant B's statements are also silent on whether the applicant was asked to provide this information, and whether he was told that the officers had a statutory power to obtain this. Likewise, Superintendent D's response is silent on the whole matter.

Accordingly, the Commissioner recommends that Strathclyde Police now address the applicant's concern that he was asked for information which he believes to be "irrelevant" to the incident in question.

Complaint 2: Failure to state names when requested

The applicant alleges that he had to ask Inspector A twice before he told him his name and that Sergeant B only told him his name on the third time of asking.

Internal Handling

Inspector A stated the following in respect of this complaint:

"[The applicant] asked me for my name which I provided him with. I witnessed him writing my name on a piece of paper ...

... I heard [the applicant] ask [Sergeant B] for his name claiming that he was deeply unhappy with our assessment of the situation. [Sergeant B] provided [the applicant] with his name which he noted on the same piece of paper..."

Sergeant B stated the following::

"[The applicant] thereafter asked [Inspector A] for his name which he provided to him. I witnessed [the applicant] writing [Inspector A]'s name on a piece of paper..."

... [the applicant] asked for my name and number which I readily supplied to him and he noted my name on the same piece of paper he had used to note [Inspector A]'s name ...

Inspector C found this complaint to be unsubstantiated. Superintendent D issued the applicant with the following response:

"... You also tell us that you had to repeatedly ask both officers for their names before they eventually identified themselves to you. Again both officers refute the allegation and state they readily provided their details to you when asked ...

... I am informed by [Inspector C] that there were no independent witnesses to this incident and therefore find myself with two competing versions of what occurred. Taking all the circumstances into account, I therefore am unable to substantiate the allegations made by you...

... Having reviewed the whole circumstances of your complaint I can confirm that it has been decided that no formal action will be taken against the officers."

Consideration

In terms of his correspondence with the Commissioner's office, the applicant believes that he should have been told the version of events which the officers gave rather than simply being told that it was different from his own version. He also complains that the reply he received states only that the officers provided their names and does not mention how many times they had to be asked before they did so.

The Commissioner does not agree with the applicant's position. Superintendent D informed the applicant that both officers denied that they were asked for their names more than once. The clear implication of this is that both officers provided their names at the first time of asking.

Given that there is no other evidence to substantiate the applicant's complaint, the Commissioner considers that Strathclyde Police dealt with this complaint in a reasonable manner.

Complaint 3: The decision to stop the applicant's vehicle

The applicant complains that the officers should not have stopped his car as he had done nothing wrong. According to the applicant, at no point was he told by the officers that they believed he had committed an offence. The applicant seeks an explanation for the officers' decision to stop his car.

Internal Handling

This complaint does not appear to have been formally recorded by Strathclyde Police, although there is some reference to the issue within the complaints file. In his statement, Inspector A describes his reasons for stopping for the applicant as follows:

"The actions of [the applicant] were, in my mind, completely inconsiderate and showed no regard for the difficulty the elderly female had in crossing a busy road."

Sergeant B states the following:

"There is no doubt in my mind that the actions of [the applicant] were totally inconsiderate and showed a complete disregard for the difficulty the elderly female had in crossing a busy road."

Inspector C's report also refers to the officers' reasons for stopping the applicant:

"... they observed a motor vehicle being driven in an aggressive and inconsiderate manner when approaching an elderly pedestrian who was crossing the roadway."

Superintendent D's response also makes some reference to the issues raised by this complaint:

"The officer confirms that he did have occasion to stop your vehicle to speak to you regarding the alleged incident involving the elderly woman, but states that he conducted himself in a professional manner throughout. He felt justified in speaking to you regarding the alleged manner of your driving, in the interests of encouraging good driver behaviour and road safety ..."

... He receives full support from his colleague in all respects ...

... I would comment that while you might disagree with the actions taken, the two officers involved clearly felt justified in speaking to you regarding the manner of your driving that day and indeed having observed what occurred, were entitled to do so."

Consideration

Superintendent D states that the officers felt justified in speaking to the applicant about the manner of his driving, but he does not state whether the applicant was considered to have committed an offence and, if so, the nature of this offence.

In the Commissioner's view, where complaints centre upon the use of police powers (in this case, stopping the applicant's car and requiring him to provide information) it is incumbent on police bodies to state explicitly and accurately the basis upon which those powers were exercised. As the precise legal basis for exercising these powers has not been accurately conveyed to him, the Commissioner does not consider that this complaint was dealt with in a reasonable manner. Accordingly, the Commissioner recommends that Strathclyde Police writes to the applicant explaining precisely the legal basis upon which the powers were exercised.

The Commissioner also recommends that Strathclyde Police formally records this complaint.

Conclusions, Recommendations and Learning

Complaint 1: Alleged intimidation and requiring of information

In the Commissioner's view, the manner in which this complaint was dealt with by Strathclyde Police was not reasonable. The Commissioner recommends the following:

(1) that Inspector A and Sergeant B are asked to provide a response to the aspect of the complaint in which the applicant claims that Inspector A told him on two occasions "I ask the questions". A further response should then be provided to the applicant in this connection.

(2) that Strathclyde Police addresses the applicant's concern that he was asked information which he believes to be irrelevant to the incident in question.

Complaint 2: Failure to state names when requested

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

Complaint 3: The decision to stop the applicant's vehicle

In the Commissioner's view, the manner in which this complaint was dealt with by Strathclyde Police was not reasonable. The Commissioner recommends

(1) that Strathclyde Police writes to the applicant explaining precisely the legal basis for the decision to stop his vehicle and require him to provide the information in question; and

(2) that Strathclyde Police formally records this complaint.

John McNeill
Police Complaints Commissioner for Scotland

Hamilton House
Caird Park
Hamilton
ML3 0QA