

[Applicants name and address]

PCCS/00054/10  
17 May 2011

Dear [applicant]

I write to inform you of my decision about the manner in which your complaints about the Chief Constable and a previous Deputy Chief Constable were handled by Central Scotland Joint Police Board.

When a complaint is made about a senior officer of a police force, it is dealt with by the relevant police board or authority, in this case Central Scotland Joint Police Board ("the Board"). This function is discharged under the Police (Conduct) (Senior Officers) (Scotland) Regulations 1999. The Board comprises elected council members for the area in which Central Scotland Police has jurisdiction. The Board's function in relation to complaints is discharged by a complaints sub-committee ("the committee").

The first issue for consideration by a board in these circumstances is whether the alleged acts or omissions fall within the definition of misconduct as set out in the Schedule to the Regulations. If a board believes that the alleged act or omission falls within this definition, it will appoint an investigating officer who, under regulation 5, must be a Chief Constable of another police force in Scotland. However, an investigating officer will not be appointed where it is decided that:

- the complaint does not contain any allegation of an act or omission of a senior officer which would, if proven, amount to misconduct on his part (regulation 5(3)(b));
- the complaint is unfounded or frivolous in nature (regulation 5(4)(a)); or
- the complaint contains allegations of acts or omissions of a senior officer which would, if proven, amount to misconduct of a minor or trivial nature only (regulation 5(4)(b)).

If the board or authority is of the opinion that the complaint does not contain sufficient information to establish whether an alleged act or omission amounts to misconduct, it can take such steps as it considers necessary under the terms of regulation 5(2)(b) to obtain further information. I note that the Board did not utilise this regulation in respect of your complaints.

I am aware that the Board convened a meeting of the committee on 5 February 2010 when your complaint was discussed. Following that meeting the clerk wrote to you on 11 February 2010 advising you of the outcome of the Board's deliberation. This was that it could not reasonably be inferred that the alleged acts or omissions of either the Chief or Deputy Chief Constable amounted to misconduct (regulation 5(3)(b)). I have copied the relevant paragraphs of the Clerk's response below:

*"Following very careful consideration, the Committee concluded that it could not reasonably be inferred that the acts or omissions referred to in your complaint amounted to personal misconduct by either of the named chief officers in terms of the Regulations. In reaching this view, the Committee acknowledged that you felt very strongly about the issues you had*

*raised. What the committee had to consider, however, was whether the acts or omissions which you attributed to the senior officers could if proved, amount to personal misconduct as it is set out in the regulations. The committee decided that it could not reach that conclusion.*

*Responsibility for managing complaints against the police in Central Scotland rests with the Deputy Chief Constable. From the information you provided, the committee did not consider that the Deputy Chief Constable had neglected his duty in this regard nor that he suppressed your complaints. The committee acknowledged that you did not agree with the outcome of the investigation into the complaints you had submitted and that you were unhappy with the process. The committee could not conclude, however, that there was misconduct on behalf of the Deputy Chief Constable in his handling of your complaint which would have justified further action in terms of the regulations.*

*With regard to the Chief Constable, the committee could find no basis on which to determine that he had acted or failed to act in any way which would constitute misconduct with regard to your complaints.*

*... the committee nevertheless acknowledged the strength of your personal feelings about the matters you raised and asked me, as Clerk, to offer you a meeting if you would like any further information about the decision the Board has reached. It should be emphasised that the purpose of the meeting would be to help you understand the decisions that have been taken on your complaint but not to re-open or to re-hear it. Should you wish to take advantage of the offer of a meeting, please let me know."*

Having had regard to the paperwork supplied, I agree with the conclusions reached by the Board for the following reasons.

Firstly, whilst acknowledging that the Deputy Chief Constable is ultimately responsible for how complaints are dealt with, he is supported by other officers and staff in discharging this responsibility. With regard to the complaints you have asked the Board to deal with, I do not consider that the Deputy Chief Constable can be held personally responsible under the misconduct regime for the alleged acts or omissions to which you refer. In my view, your complaints effectively concern the conduct of the officers who support the Deputy Chief Constable in the exercise of his functions. This is confirmed by the fact that you have previously asked my office to review the same complaints about those supporting officers (all of which I found to have been handled reasonably).

Secondly, with regard to your complaint that you should have received personal responses from the Chief Constable, I do not believe it would be reasonable or practical for a Chief Constable to personally respond on each occasion a letter is addressed to him/her. Consequently, I do not believe that a failure to do so would amount to personal misconduct on the part of the Chief Constable.

Finally, I note that the Clerk offered you the opportunity to attend a meeting to answer any questions you had over the decision reached by the Board. I am aware that you declined the offer at that time due to ill health and, so far as I am aware, the meeting did not subsequently take place. Notwithstanding this, I believe that it was commendable of the Clerk to have given you this opportunity.

As you are aware in April 2010 I published a report ( reference PCCS/00536/08) in respect of the original complaints you made about officers of Central Scotland Police. In that report my views on the handling of all the complaints made by you were clearly stated. The complaints that you made to the Board are essentially the same as those you made previously, although you have ascribed these to senior officers on the basis that you believe their seniority makes them responsible for the acts and omissions you allege.

I therefore consider that the Board dealt with your complaints in a reasonable manner.

In reaching my decision, I have had regard to the considerable work undertaken previously in respect of your complaints and the significant amount of resources expended in doing so. As explained, your original complaints were the subject of detailed consideration by my office and the circumstances of these were addressed fully in my report. In light of this, I do not believe there to be any value in the Board engaging further with you in relation to any matters relating to the circumstances of your original complaints. I have therefore written to the Board recommending that in future it does not deal with any non-criminal complaints you make, where it believes that these are directly related to those it has already dealt with.

My involvement in the review of these complaints is at an end. I recognise that you will be disappointed with my decision but I trust that you will understand my reasoning.

In accordance with my normal practice, a copy of this letter will be published, in fully anonymised form, on my website. This will occur on 19 May 2011.

Yours sincerely

**John McNeill**  
**Police Complaints Commissioner for Scotland**