

# 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 Commissioner has considered two complaints made by the applicant in respect of how Strathclyde Police handled a road traffic issue.

The Commissioner found that both complaints were handled in a reasonable manner by Strathclyde Police, and made no recommendations 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

For some time the applicant has been concerned with what he considered to be a dangerous traffic situation regularly occurring at a busy road junction (junction X). Specifically, he had observed that at peak times drivers using junction X were wrongly creating a third traffic lane on approach to the junction, when the road markings provided for only two lanes.

The applicant has corresponded with a number of different agencies, including Strathclyde Police, about his concerns. In a letter dated 30 December 2008, Chief Inspector A of the Road Policing Department advised the applicant that his concerns had been referred to the roads operator and other relevant agencies. Chief Inspector A told the applicant:

*"Strathclyde Police have no authority to instruct a roads operator to carry out design changes to a road network, this being reserved for engineers and design staff at the roads operator and Transport Scotland. The police are restricted to providing advice and guidance in these circumstances.*

*Assurances were given to Strathclyde Police that the issue would be addressed and it continues to feature on the agenda of liaison meetings with [the relevant agencies] at which [Strathclyde Police] is represented."*

Chief Inspector A also provided advice to the applicant on the use of the road:

*"I would refer to earlier correspondence from Inspector [J] ... who highlighted the dangers of stationary traffic queues on high speed roads which is an obvious safety issue and being one reason why drivers use lane 2 of the slip road to turn left onto [another road].*

*This manoeuvre, although conflicting with the road markings, is in itself not an offence and indeed it is a system which exists and is signed thus elsewhere. The proposal from the roads operator is to formalise this manoeuvre by changing the road markings and installing signage to this effect.”*

The applicant corresponded further with Strathclyde Police, and on 8 January 2009 he wrote complaining that the same problem was occurring at another, nearby junction (junction Z). According to the applicant, the problem was occurring at junction Z because of the failure to take any action in respect of junction X. He wrote

*“Because I follow the lane markings I have been subjected to abuse, putting aside the dangers of collision. At no time have I observed police action at this junction.”*

Following further correspondence with Strathclyde Police, the applicant was invited to a meeting involving the police and the roads operator at which it was agreed that new road markings would be put in place at junction Z. In the interim, it was also agreed that traffic officers would monitor the situation at junction Z from time to time.

On 26 February 2010 junction Z was observed by Constables C and D. The applicant's account of what took place on that date is provided in a statement he gave to the police on 1 March 2010:

*“As I drove down the off slip and over the hump/ hill I saw a solid line of traffic (cars) on my left (nearside) who were all over the white line/road edging that runs down the side of the dedicated lane.*

*I slowed down and put on the left hand signal and travelled past the end of this line of cars on their right hand side (offside). This was due to a van behind me who was almost touching my bumper. As I started to reach the bell-mouth of the junction I was continually signalling to turn left. At this point I could see two uniformed police officers standing at the junction on my right hand side. As I neared the give way line onto the roundabout I allowed one car on my side (nearside) to cross over the white line and turn left ... The white line that runs down the off slip actually disappears at this point by turning into the nearside kerb. After the car had cleared I made my manoeuvre to turn left but was aware of a car at my near left panel (rear side near) who was attempting to force himself up the left hand side of my car.*

*At this point the driver of this vehicle blew his horn at me but I couldn't see him personally. I then sounded my horn at the police man and I signalled with my hand by pointing over towards the driver of this car in order to point out what was happening to the police officer.*

*Both police officers just stared at me and I then drove left and joined [another road]. I then became aware of a police motorcyclist ... travelling behind me. I stopped ... he then approached my driver's window and proceeded to give me a dressing down about my driving. I told him how angry I was he had done nothing about the drivers that I felt were offending. I informed the officer about the reason for him being there that morning in that I had made a previous complaint to Strathclyde Police regarding the actions of drivers both on that slip road and at the junction mouth itself.”*

## The Complaints

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

(1) that Strathclyde Police failed for over two years to deal with a traffic problem reported to them by the applicant; and

(2) that two police officers failed to take appropriate action against motorists who were failing to comply with road markings.

## 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 how Strathclyde Police handled it and the Commissioner's views on this.

### Complaint 1: Failure to deal with a traffic problem

The applicant stated the following in his letter to Strathclyde Police of 23 November 2009:

*"The outcome is clear but entirely illogical. The road junction cannot meet capacity at busy times. Drivers drive on the hard shoulder recklessly and mount the kerb on the opposite side forcing up to three lanes where only one exists."*

#### Internal Handling

The applicant's letter of 23 November 2009 was apparently not received by Strathclyde Police and he sent a further copy in January 2010. Previous correspondence between the applicant and the Roads Policing Department was gathered and, as noted above, a meeting involving the roads authorities was arranged by Chief Inspector A in order to explore the issue.

In his response to this complaint dated 10 March 2010, Superintendent B summarised the outcome of the meeting:

*"In order to address [your] concerns, we arranged for you to meet with interested parties at the Road Policing Complex ... at which time it was agreed that the road markings at that junction were unsatisfactory and that steps would be taken to have them replaced. Notwithstanding, it was also confirmed that the current road markings were such that, during the congestion rush hour, a line of vehicles develops in the nearside of the slip road which straddles the kerb shy line, effectively creating two lanes of traffic. It is the view of the 'experts' who have viewed the current markings that this was a common sense approach to the congestion issues which was easing any tailback onto the main ... carriageway. Indeed, in addition, failure to comply with any kerb shy line was 'non-enforceable' and therefore the police could not take any action in this regard.*

*It was agreed, however, that Chief Inspector [A] would have officers monitor the junction from time to time, as operational commitments allowed, in order to ensure a free flow of traffic and address any incidents of anti-social driving."*

#### Consideration

The applicant initially appeared to acknowledge that this complaint had been resolved in light of the meeting he attended. In his letter to the Chief Constable of 26 February 2010, he stated:

*"Following the meeting I felt that we had made substantial progress and was impressed with the reasonable behaviour of all involved."*

However, following the incident on 26 February 2010, the applicant altered his position. He stated that this was because "what started as a matter of principle result[ed] in my honour being brought into question." In the Commissioner's view, however, the incident of 26 February 2010 (dealt with

in complaint 2 below) does not, in itself, amount to a convincing basis for questioning the way in which complaint 1 was dealt with.

As noted above, the applicant has been in contact with Strathclyde Police in respect of his concerns about junction Z since 2008, and earlier in respect of similar concerns about junction X. He has been advised, quite correctly, that it was not the responsibility of the police to effect design changes to roads and he was given advice about how to drive under the conditions stated in order to best ensure safety. Nevertheless, the applicant's persistent concerns led to the police convening a multi-agency meeting at which a practical solution to the problem was found. In the Commissioner's view, this was a satisfactory outcome to the complaint which was not undermined by the applicant's involvement in the incident of 26 February 2010.

For these reasons, the Commissioner considers that this complaint was dealt with in a reasonable manner.

## **Complaint 2: The incident of 26 February 2010**

In his statement of 1 March 2010 the applicant stated the following:

*"My complaint specifically is that both officers present that day did nothing to assist what I had already complained to Strathclyde Police about, which was intimidation from other drivers and in addition the one officer who stopped me was picking on the innocent driver in all of this, who is myself. The officer who stopped me was not uncivil towards me but I object and complain about the reasons for which I was stopped."*

### *Internal Handling*

Inspector E made enquiries into this complaint and obtained statements from Constables C and D and from the applicant. He also examined photographs of the location in question.

In his statement, Constable C gave the following account:

*"During my morning briefing ... I was made aware of a complaint by a member of the public who had concerns regarding the off slip [at junction Z] [that] motorists were driving on the verge and crossing a solid white kerb shy line situated in the lane ...*

*I took up observations whilst on high visibility motorcycle duties looking at detecting any offenders or anti-social driving which may occur.*

*Traffic flow was very heavy due to the morning rush hour. All traffic leaving the [road] took up a nearside position and crossed over the white kerb shy line allowing other vehicles to pass them to their offside creating two lines of traffic which was the most common sense solution due to the heavy volume of traffic which was backing up onto the [road]. I noted that the offside verge had tyre markings on the grass/ mud however no vehicles left the carriageway. I [contacted Sergeant G] and made him aware of my observations. I recommended that this white kerb shy line be removed and the off slip split into two lanes and then continued to monitor the traffic ...*

*About 0845 hours I noted that a [car] drove down the offside of the slip road passing the queuing traffic which was all waiting to turn left. The driver then stopped about three car lengths back from the give way, indicated left and was stopped beside a green Volkswagen. Other vehicles which were behind this [car] could not pass. I then observed this driver move closer to the green Volkswagen as they were crawling forward. The [car] was forcing his way over and forced the Volkswagen driver to stop to prevent any collision between both vehicles. The driver of the [car] carried out this action knowing that I was*

*there and he was gesturing to me at the same time. He then forced his way in front of the Volkswagen and turned left ...*

*The members of the public were all gesturing to me regarding this male and I decided to speak to this male regarding his conduct.”*

Constable C stated that on stopping the applicant

*“I warned him that he cannot force his way from one lane to another and that if he found himself in a similar position again he should either go round the roundabout or wait until he was allowed in by another person.”*

Constable D stated that he too had observed the general manner of driving at the junction as being “a common sense approach by the motorists” and that traffic was running well until about 0845. He continued:

*“The driver of the [car] continued to move towards the green Volkswagen in what I would consider to be an aggressive and dangerous manner. This action resulted in the driver of the green Volkswagen having to stop and allow the [car] in front thus avoiding a collision. [Constable C] then informed me that he was going to go after the driver of the [car] and warn him of his poor and sub-standard driving.”*

Inspector E noted the following in his report:

*“... it is evident that the actions and driving of the [applicant] at the entrance to this junction, no matter that he is in the confines of the dedicated lane, is in itself confrontational and aggressive in its nature. He appears to have forced his vehicle into the ‘unofficial’ line of traffic already established to turn left ... this is a clear case of two wrongs do not make a right.*

*Indeed it is the case that he was perfectly entitled to turn left from his offside position. Similarly, the drivers in the line of vehicles straddling/ crossing the kerb shy/ edge line have also committed no specific offence. There are no direct instructions contained within the Highway Code or in any Road Traffic legislation regarding kerb shy lines. A common sense ‘give and go’ system appears to have worked well over a considerable period of time without any apparent confrontation or complaint ...*

*It is my opinion, from the circumstances intimated to me, that the officers are right to form the opinion that the [applicant]’s actions were aggressive and potentially dangerous and that the [applicant] is wrong to assume that lane markings automatically supersede any road etiquette allowing him to proceed at will regardless of the movements or position of other road users. Whilst the other road users are not totally absolved of any impropriety, it is evident that a general common sense approach is adopted by the majority of road users at this locus on a daily basis.”*

In his response dated 10 March 2010, Superintendent B stated the following:

*“... the officers ... state that they were fully briefed regarding the issues at the junction prior to their deployment there and that they took up observations at the junction at about 0800 hours that day. They state that the traffic had created a second lane as previously described and confirmed the official view that this was a common sense approach to a badly marked junction. Notwithstanding, from 0800 hrs to 0845 hrs that day the traffic flowed without issue.*

*About 0845 hours, that morning, both officers state that they became aware of a [car] travelling down the offside of the line of traffic waiting to turn left ... and saw that it stopped*

*about 3 car lengths from the give way lines where it indicated to turn left. It is their opinion that [the car] thereafter began to force its way into the nearside lane of cars alongside a green Volkswagen Golf motor car. They state that the driver of [the car] began sounding his horn and gesticulating towards them and that the driver of the green Volkswagen Golf was forced to stop and allow the driver of [the car] to make his manoeuvre. Both officers considered the action of the driver of [the car] to be both aggressive and potentially dangerous. This was the only occasion that day when they were required to take action at the junction.*

*As a consequence, one of the officers decided to follow the driver of [the car] and warn him regarding his actions ... It was only at this point that he learned that you were the driver of [the car] and that you had initiated the police action at the roundabout. Having informed you of the reason for the stop and issuing a warning to you about your driving standard, the officer states that he offered to assist you to turn about and continue your journey but this was declined ...*

*It is clear that, as the instigator of the complaint, you believed you were taking appropriate action in drawing what you believed to be anti-social driving to the attention of the officers who had been sent to that location for just that purpose. In actual fact, given that they did not know who you were your actions appeared to them to be the type of activity that they were there to monitor and they took what they believed to be the correct course of action. Accordingly, I regret to inform you that I find your complaint to be unsubstantiated ...*

*This is clearly a subject about which you are passionate. Indeed I believe that you have been both persistent and correct in your attempts to have this junction improved. This has resulted in an undertaking from the roads authority that this action will be progressed. In the interim period, we can only act on this situation that presents itself and I can confirm that the motorists who are creating the extra lane of traffic are not committing any offence.*

*In this situation we must refer to the Highway Code [which] gives clear advice and instruction regarding roundabouts. Rule 187 states as part of several pieces of general advice –*

*'In all cases watch out for and give plenty of room to traffic which may be straddling lanes or positioned incorrectly.'*

*Thereafter Rule 184 states as part of several pieces of general advice –*

*'On approaching a roundabout take notice and act on all the information available to you including traffic signs, traffic lights and lane markings which direct you into the current lane. You should adjust your speed and position to fit with traffic conditions, be aware of the speed and position of other road users around you.'*

*Accordingly, in all the circumstances, it is the investigating officer's opinion that your actions and driving at the entrance to this junction on the date in question, no matter that you might be in the confines of the dedicated lane, was in itself confrontational and aggressive in nature, effectively changing direction and position whilst forcing your vehicle into the line of traffic which was already established to turn left onto [the road]. He therefore is of the opinion that the officers were correct in their decision to speak to you regarding your manner of driving."*

## **Consideration**

In the Commissioner's view, Superintendent B's response was helpful and informative, and acknowledged the positive role played by the applicant in bringing the conditions at junction Z (and junction X) to the attention of the authorities. The Commissioner also considers that the

conclusions reached by Inspector E and by Superintendent B are reasonable and are fully supported by the evidence established by the enquiry. As noted above, it had also already been explained to the applicant prior to the incident on 26 February 2010 that the effective creation by road users of a third traffic lane under the conditions specified at peak times was not an offence, and indeed was considered to be a factor preventing accidents at the junction.

For the reasons given, the Commissioner considers that this complaint was dealt with in a reasonable manner by Strathclyde Police. Indeed, the Commissioner commends Superintendent B for the thoroughness of his response to this complaint.

## Conclusions, Recommendations and Learning

### Complaint 1: Failure to deal with a traffic problem

In the Commissioner's view, the manner in which this complaint was dealt with by Strathclyde Police was reasonable. Accordingly, no further action is required in this connection.

### Complaint 2: The incident of 26 February 2010

In the Commissioner's view, the manner in which this complaint was dealt with by Strathclyde Police was reasonable. Accordingly, no further action is required in this connection.

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