

# 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 arise from the detention of his son in connection with a public disturbance.

Of the two complaints considered, the Commissioner found that one was dealt with reasonably while the other was not. The Commissioner made a single 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

On 29 March 2008 the applicant's son (Mr A), who was 15 years old at the time, was involved in a street disturbance involving a number of people. Part of the disturbance was captured on CCTV. The CCTV footage shows a male holding a knife and attempting to use it to injure another male. The male is then seen to throw the knife into the entrance to a block of flats. Another male (identified as Mr A) is seen immediately to make his way to the same flat entrance and pick up an object before walking to a nearby park where he puts an object into a bin.

Following the disturbance a search was conducted of the park and a knife recovered by Detective Sergeant B and Constable C from the bin in question. During the enquiry Constables D, E and F viewed the footage and identified Mr A as being part of the disturbance and as having disposed of the knife in the bin. A warrant was subsequently granted to facilitate a search of Mr A's home address.

On 4 April 2008 Constables F, G, H and J and Detective Constable K attended Mr A's address, where he lived with Mrs L, and detained him under section 14 of the Criminal Procedure (Scotland) Act 1995. Mr A was then taken to a police station where a short time later (it is not clear precisely when) the applicant and Mrs L arrived separately. While at the police station the applicant spoke with Detective Sergeant M, Constable G and Inspector N about the circumstances of Mr A's arrest and the planned interview with Mr A.

The applicant was allowed to be present during Mr A's interview as an appropriate adult. At the conclusion of the interview Mr A was charged with breach of the peace, a contravention of the Criminal Law Consolidation (Scotland) Act 1995 and an attempt to pervert the course of justice. Mr A attended later attended court where the charges against him were dropped.

## 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 the applicant was not provided with information he requested and officers were uncivil toward him, specifically:

- (a) the applicant was not told why Mr A was detained;
- (b) police officers were uncivil to the applicant;
- (c) Mrs L was not shown the warrant at her home;
- (d) the applicant was not shown the warrant at the police station;
- (e) the applicant was not spoken to about Mr A's interview until 9.30 am; and
- (f) a police officer did not address the applicant properly.

(2) that Mr A's detention was wrongful

## 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: Not provided with information and incivility

The applicant raised this complaint in his letter to Strathclyde Police dated 8 April 2008. On 6 May 2008 a statement was obtained from him in which he provided an account of the events that took place at the police station. According to the applicant he asked why Mr A had been detained but no one would tell him (complaint 1(a)). He also alleged that an officer had informed him that he was not going to tell him anything and also pointed at him, telling him that he (the officer) was in charge (complaint 1(b)). In addition to this, the applicant claimed that another officer "glared" at him. According to the applicant, despite asking to see the warrant used to gain entry to Mr A's home, he was not shown this (complaint 1(d)).

The applicant's statement concludes:

*"My complaint is that no one would tell me why my son was arrested.*

*I am also complaining about the two officers. The wee thin one because of his attitude and the big male because he kept glaring at me."*

The applicant concluded his statement by stating that he wished the officers to be spoken to and that the matter be "marked" against them.

### *Internal Handling*

The history of Strathclyde Police's handling of this complaint is long and relatively complex and is difficult to summarise succinctly. The events are set out below in chronological order.

Inspector P investigated this complaint and obtained statements from Detective Constable K, Constables F, G and H, Detective Sergeant M and Inspector N. In addition to that provided by the applicant, a statement was also obtained from Mrs L.

On 26 June 2008 Superintendent Q wrote to the applicant stating:

*"Firstly let me begin by way of an apology. It is always difficult for officers engaged on such duties, invariably in the early hours of the morning to do this in a manner which is acceptable to those persons affected by the intrusion on their privacy..."*

*When present at the uniform bar area of [police station] you were in an angry frame of mind, you were spoken to by two police officers and it was explained to you that an interview would be conducted with your son. You were informed that everything would be explained under tape recorded conditions. Your solicitor was notified of your son's detention. You were present throughout the interview during which you observed in silence..."*

*During tape recorded interviews the conduct of police officers is closely monitored. I can find no evidence to substantiate the claim made by you that the officers were aggressive or behaved in an uncivil manner towards you at this time."*

On 7 July 2008 the applicant wrote to Strathclyde Police stating:

*"Complaint No 1*

*I was at [police station] at 7.45 am I was not spoken to by any Police officers until 9.30 am about the Tape Recording being done. [complaint 1(e)]*

*2 Complaint*

*I asked the officer who raided the house at [address] to see the warrant he said he would show it to me. This was shouted from a distance. I was seated and he was at the door in Reception. 1/2 hour later I asked him about the warrant and he shouted again as he was going through reception that I could see it. This was again as I was seated. At no time did he come over and address me properly. [complaints 1(d) and (f)]*

*3 Complaint*

*He and another officer approach [sic] me at about 9.30 I ask them what was happening and what my son was in for. My son is a minor 15 years old. I was told to stop asking about my son and I would be told when they saw fit to do so. At 9.50 they came back and when I asked about my son they started saying to me that I wouldn't get into the interview and that they would get a Social Worker they was shouting at me" [sic]*

On 7 August 2008 Chief Superintendent R of what was then the Complaints and Discipline Branch wrote to the applicant stating that he had reviewed Inspector P's report and Superintendent Q's response dated 26 June 2008. Chief Superintendent R stated the following:

*"I will now move on to your complaint that on 4 April 2008, whilst at [police station], Officers refused to disclose to you the reasons for your son's detention and failed to address you*

*properly with information regards to your son's detention. I note that in the letter sent to you by Superintendent [Q] he offers you an apology with regards to the conduct of the Officers on this occasion.*

*Having reviewed the entire circumstances I am of the view that this was the correct decision by Superintendent [Q].*

*... I now turn to your complaint that Officers were uncivil and aggressive in their attitude towards you.*

*I have carefully reviewed the circumstances of your complaint and letter sent to you by Superintendent [Q].*

*I would conclude that Superintendent [Q] has taken the right course of action with regard to this complaint. I note that in your statement to Inspector [P] you indicate you wish the Officers spoken to and the complaint recorded.*

*I can confirm that Superintendent [Q] has indicated that the Officers will be spoken to and that this complaint has been recorded at Complaints and Discipline Branch."*

In August 2008 the applicant contacted the Commissioner's office seeking a review of the handling of his complaints. On 18 June 2009 the applicant wrote to Strathclyde Police raising a further complaint (complaint 2 above), and also wrote to the Commissioner's office stating that he wished the review of his complaints to be put on hold until he had learned the outcome of his fresh complaint.

On 11 August 2009, a statement was obtained from the applicant in which he raised complaint 2 and repeated complaints 1 (a) and (b). The applicant stated that Superintendent Q's letter of response had not addressed complaint 1(b); specifically, he remarked, "I did not say that the officer was uncivil to me during the interview it was prior to entering the interview room."

On 29 September 2009 Superintendent S wrote to the applicant stating:

*"As you have referred the original complaint to the Complaints Commissioner for Scotland, it would be inappropriate for me to comment on Superintendent [Q's] letter until their findings are known."*

In May 2010 the applicant contacted the Commissioner's office and the review was recommenced. In particular, the applicant sought a review of complaints 1 (a), (b), (c), and (d). At that time, however, there was no record of Strathclyde Police having dealt with complaints (c) and (d) and the applicant was therefore advised to pursue these directly. On 14 May 2010 the applicant wrote to Strathclyde Police stating that he wished to make a complaint against the police. His letter reads:

*'[The police] entered [Mr A's home] did not show a warrant and placed my son under arrest ...*

*... When [Mrs L ] and myself arrived at [police station] I asked the officer who was in charge of my sons arrest that [Mrs L ] and I wanted to see the warrant. He replied that he would show it to us. He went away he appeared later and told us he would get a room and show it to us. He later appeared and said he [unclear] but we would see the warrant. I asked did it permit 5 to enter his home for a 15 Boy [sic]. He said he could bring 50 if he wished.*

*... when I asked about the warrant he got angry and said I wouldn't be allowed in if I didn't keep quiet ...*

*... I want to know why no warrant was shown at [Mrs L's] home and why no warrant was shown to us in the [police station]."*

A further statement was obtained from the applicant on 23 June 2010. In the statement the applicant repeated the complaints contained in his letter of 14 May 2010 and added that he had not received a response to his complaint about the warrant not having been shown to Mrs L or himself. On this occasion a full statement was not obtained from the applicant as the interview apparently required to be terminated due to the applicant's verbal abuse.

Further statements were then obtained from Constables F, G, H and J, Detective Constable K and Inspector N.

On 12 July 2010 Superintendent S wrote to the applicant stating:

*"For the purposes of clarity the first part of your complaint concerned the Police Officers at the material time not showing a warrant. I have reviewed the paperwork relative to your original complaint and the statements from all the officers in attendance. I have also asked for clarification in relation to one statement that had not been attached to that paperwork. I am now in receipt of six statements from police officers in attendance at your son's detention stating that the officer in charge showed the warrant to both [Mr A and Mrs L] and read over its contents to them. I also note that the statements comment that they did not seem interested in it at the time.*

*... whilst I appreciate that [Mr A and Mrs L] do not agree with this information, I have no reason not to believe the officers involved.*

*The second part of your complaint concerns the fact that this issue had not been addressed in your previous correspondence regarding your original complaint. Again, from a review of the paperwork in relation to the incident it would appear that this matter was addressed in the letter sent to [Mrs L who had made a separate complaint] but not in the letter sent to you from Superintendent [Q]. I think this is because the officer that took the statement from you has not clarified that you wanted to make that part of your complaint. That said, your statement is quite clear that you were of the opinion the warrant had not been shown, and that you did not think that was right.*

*As you are aware this has been a long and complex complaint about the police and I think that this issue has become lost in the process. I do not think it has been simply ignored or not responded to out of malice. It has, of course, caused you considerable distress of the last two years and for that, I offer and unreserved apology."*

## Consideration

### Complaints 1 (a) - (d)

Complaints (a), (b) and (d) relate to the events that took place in the reception area of the police station. The evidence available in relation to these complaints consists of statements from the applicant and Mrs L and the officers who spoke to the applicant during this time (Detective Sergeant M and Constable G). The statements given by these officers offer no support for the applicant's position. Detective Sergeant M states that he attempted to explain to the applicant that he (the applicant) would be present during the interview where "everything would be fully explained to him". Detective Sergeant M also denied being uncivil towards the applicant.

Constable G states that he informed the applicant of the reason for Mr A's detention and denied being uncivil towards him. However, Constable G also states that the applicant wanted to take an active part in Mr A's interview. According to Constable G, Detective Sergeant M informed the applicant that if he maintained this position he would not allow him to be present at the interview

and an appropriate adult would instead be obtained from the local social work department. In the Commissioner's view, this advice was entirely correct and appropriate in the circumstances. However, Constable G's statement was not received by Inspector P before the conclusion of his enquiry and accordingly Superintendent Q's response was based solely on Detective Sergeant M's statement. In the Commissioner's view, the response ought not to have been issued until such time as Constable G's statement had been received and its content examined.

As noted above, the applicant subsequently complained that Superintendent Q's response to complaint (b) did not address his complaint. According to the applicant, Superintendent Q's response addressed alleged incivility during Mr A's interview, when in fact the applicant's complaint related to events prior to the interview.

The applicant's letter of 7 July 2008 makes clear that his concerns relate to his conversations with Detective Sergeant M and Constable G which took place prior to Mr A's interview. Despite this, Superintendent Q's letter focuses on there being no evidence of incivility during the interview itself. However, given the contents of Detective Sergeant M and Constable G's statements it is clear that there is no evidence to support complaint (b). The applicant has claimed in correspondence with Strathclyde Police that Inspector N reprimanded Detective Sergeant M and Constable G for their behaviour towards him. However, other than the applicant's account there is no evidence to support this version of events.

Complaints (c) and (d) were not addressed by Superintendent Q in his letter of 26 June 2008. The Commissioner would have expected Chief Superintendent R's review of Inspector P's report and Superintendent Q's response to have identified this.

On 14 May 2010 the applicant wrote to Strathclyde Police repeating complaints (c) and (d). In relation to complaint (c) the evidence consists of the accounts given by Mrs L and the applicant (who was not present during the police attendance at Mrs L's home); as well as those of five police officers who all state that the warrant was read out to Mr A and Mrs L at the time. Given the nature of the evidence, the Commissioner considers that Superintendent S's response to this complaint was entirely appropriate.

However, Superintendent S did not address complaint (d), which the applicant had raised in his letters dated 8 April and 7 July 2008 and 14 May 2010, and in his statements of 6 May 2008, 11 August 2009 and 23 June 2010. Despite receiving three written responses from Strathclyde Police to his various complaints, this particular complaint remains unaddressed. The available evidence in this connection consists of the accounts given by Detective Sergeant M, Constable G and those of the applicant and Mrs L. Constable G does not recall the applicant requesting to see the warrant, while Detective Sergeant M makes no mention in his statement of such a request. The Commissioner would have expected Detective Sergeant M to have been asked to comment specifically on whether or not the applicant had asked to see the warrant. In such circumstances the Commissioner would normally recommend that a further statement be obtained from Detective Sergeant M addressing the applicant's concern. However, the Commissioner notes that according to the applicant's statement of 23 June 2010, Superintendent T attended his home and showed him the warrant. In the light of this, the Commissioner does not consider it necessary to recommend further work to be undertaken in respect of this complaint.

#### Complaints 1 (e) and (f)

Chief Superintendent R's letter to the applicant of 7 August 2008 essentially concludes that the apology contained in Superintendent Q's letter of response to complaints (a), (b), (c) and (d) is equally applicable to complaint (f). Complaint (e) has not been addressed by Strathclyde Police in their correspondence with the applicant. In the Commissioner's view, the applicant ought to have been given specific responses to both these complaints.

In respect of complaint (e), the available evidence does not establish precisely when the applicant arrived at the police station or how long he waited before being spoken to about Mr A's interview. In such circumstances it is impossible to verify precisely when the interview was discussed with the applicant.

In relation to complaint (f), both Detective Sergeant M and Constable G deny being uncivil to the applicant at any time. Accordingly, there are two sources of evidence (the applicant and Mrs L's) in support of this complaint and two sources which dispute it. It is therefore not possible in these circumstances to prove one way or another whether Detective Sergeant M and Constable G were uncivil to the applicant.

### The overall handling of complaint 1

In the Commissioner's view, there have been a number of failings in the handling of these complaints. Complaints (a) and (b) were responded to without all the available evidence having been considered (i.e. Constable G's statement). Although it transpired that Superintendent Q's response was supported by the evidence, from Strathclyde Police's perspective this was more a matter of good fortune than good complaint handling.

In addition, complaint (c) was not addressed by Strathclyde Police until it had been made by the applicant on more than one occasion, while complaints (d), (e) and (f) went unanswered. For these reasons the Commissioner does not consider that any these complaints were handled reasonably.

Despite these failings, the Commissioner considers the content of this review to be sufficient to provide the applicant with responses to his outstanding complaints. Accordingly, Strathclyde Police need not undertake any further enquiries. However, the Commissioner recommends that Strathclyde Police writes to the applicant and apologises for the inadequacies in its handling of complaints (d), (e) and (f).

### **Complaint 2: Wrongful arrest**

The applicant stated the following in his letter of 18 June 2009:

*"[Mr A] never at anytime had a knife or weapon did not commit a Breach of the Peace [sic]. These were malicious charges that the officer's laid against him. The tape clearly shows that my son did not so what the officers allege."*

#### *Internal Handling*

Inspector U attended the applicant's home in order to obtain a statement in relation to this complaint. However, according to Inspector U the applicant refused to discuss the matter with him as he had no faith in "local officers". Following several phone calls from Inspector U the applicant agreed to provide a statement, and did so on 11 August 2008.

Inspector V carried out enquiries into the complaint. Specifically, Inspector V recovered the CCTV footage of the disturbance and arranged for a further statement to be obtained from the applicant, as well as statements from Constables C, D, E and F, and Detective Sergeant B.

On 10 November 2009 Superintendent T wrote to the applicant, stating:

*"Inspector [V] has reviewed the statements made by the identifying officers and also viewed this tape. Your son can be seen committing the acts the officers describe in their statements. I have subsequently viewed this tape and could see your son forming part of the disturbance and recovering the knife. I also viewed him dispose of this weapon. I would be happy for you to view this tape."*

### *Consideration*

In the Commissioner's view, given the content of the CCTV footage it is entirely understandable that Mr A was detained. It is worth highlighting in this connection that simply because the Procurator Fiscal did not proceed against Mr A does not imply that his detention was unlawful.

Accordingly the Commissioner considers that this complaint was dealt with in a reasonable manner.

## **Conclusions, Recommendations and Learning**

### **Complaints 1 (a) - (f)**

In the Commissioner's view, the manner in which these complaints were dealt with by Strathclyde Police was not reasonable. The Commissioner recommends that Strathclyde Police writes to the applicant and apologises for the inadequacies in its handling of complaints (d), (e) and (f).

### **Complaint 2: Wrongful arrest**

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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