

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 his alleged involvement in altercations with several individuals.

Of the two complaints considered, the Commissioner considered that both were dealt with in a reasonable manner. The Commissioner made no recommendations.

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

Between 2007 and 2009 the applicant was reported to Strathclyde Police for 6 separate incidents in which he was alleged to have assaulted, threatened or behaved aggressively towards Mr A, Mr B, Mrs C, Mr D, Mr E and Mrs F. In each case the incidents were alleged to have occurred on or near to a path within a nature reserve.

On 15 June 2009 the applicant was interviewed by Constable G in relation to an allegation made against him by Mr D. During the interview the applicant claimed that Mr D was the aggressor during the incident. When asked if he had been involved in "any other altercations with other persons using that land", the applicant replied "no".

On 25 January 2010 the applicant was charged with three instances of assault and five instances of breach of the peace following the allegations made against him. A report was sent to the Procurator Fiscal.

On 24 March 2010 the applicant alleged that Mr H (the husband of Mrs C) had attended his home and threatened him in the presence of Mrs C. The applicant alleged that this incident had occurred in January 2010. According to the crime report the applicant did not make the allegation at the time as he did not know who Mr H was. However, after being charged for his alleged role in the incidents involving Mr A, Mr B, Mrs C, Mr D, Mr E and Mrs F, the applicant became aware of Mr H's identity and reported the matter to the police.

Constable J interviewed Mr H, who accepted being at the applicant's home but made no further admission. An update to the crime report states that due to insufficient evidence the matter was not reported to the Procurator Fiscal.

During March 2010 the applicant passed to the police a typed sheet of counter-allegations which contained his version of events regarding the incidents involving himself, Mr A, Mr B, Mrs C, Mr D and Mr H.

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 Constable G failed to act on evidence supplied in the applicant's statement and failed to pursue the applicant's counter-charges; and
- (2) that Constable G failed to conduct an impartial enquiry.

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: Failure to act on evidence and pursue counter charges

In an email received by Strathclyde Police on 6 May 2010 the applicant described this complaint as follows:

"[Constable G] failed to act upon evidence I supplied during my statement and corroborated by the other parties where counter charges were applicable."

Internal Handling

On 5 July 2010 Superintendent K provided the following response to the element of the complaint alleging that Constable G had failed to act upon the evidence provided by the applicant:

"I also note that the allegations made by you against Mr [D] are reflected in full in [Constable G's] report to the Procurator Fiscal."

In relation to the alleged failure to pursue counter-charges against the various other individuals Superintendent K stated:

"The documentation you have submitted, although more expansive than your account provided at the time, affords nothing more of evidential value than was available during the original investigation by [Constable G]..."

The allegations made by you in respect of Mr [H] were investigated by Officers other than [Constable G] and the matter was not reported to the Procurator Fiscal due to lack of evidence.

The full circumstances in respect of your encounter with Mr [B] have been reported to the Procurator Fiscal by [Constable G].

... in the interests of transparency and accountability, I have instructed that the documents provided by you are to be forwarded for the information of the Procurator Fiscal ...”

Consideration

The applicant’s complaint raises two issues, namely that Constable G failed to act on evidence supplied by him in his statement; and also that he failed to act upon the applicant’s counter-allegations.

As regards the evidence supplied by the applicant to Constable G, the information available to the Commissioner suggests that the applicant did not provide a statement as such. Rather, the applicant was interviewed by Constable G in relation to an allegation of assault against him by Mr D. The details provided by the applicant during this interview amounted to a counter-allegation that Mr D had antagonised him and struck him with a stick. During questioning by Constable G, the applicant denied that he had been involved in any other altercation with people on the area of land in question.

It is clear that all of the evidence provided by the applicant at his interview with Constable G was forwarded the Procurator Fiscal. In these circumstances, the Commissioner considers that this element of the complaint was dealt with by Strathclyde Police in a reasonable manner.

In relation to the second element of the complaint, as noted above the applicant’s typed sheet of counter-allegations contains his account of the incidents involving Mr A, Mr B, Mrs C, Mr D and Mr H. Contrary to his account to Constable G, however, the applicant admitted in this document his involvement in the incidents, albeit he claimed that the other parties were the aggressors on each occasion.

The document in which the applicant raises the counter-allegations is confusing and difficult to understand and appears to provide his version of events in response to the charges against him. Strathclyde Police took the view that the document represented nothing more than the applicant’s potential defence to these charges and accordingly no action was initially taken in relation to this. In the Commissioner’s view, this was an error as, at the very least, the document provided evidence of the applicant’s involvement in incidents of which he had previously claimed to have no knowledge. However, following the applicant’s complaint the document he provided was supplied to the Procurator Fiscal and as a result of this the Procurator Fiscal was given full details of all the counter-allegations.

In light of this, the Commissioner considers that this element of the complaint was also dealt with in a reasonable manner.

Complaint 2: Failure to conduct an impartial enquiry

The applicant stated the following in respect of this complaint:

“[Constable G] failed to provide an impartial investigation and failed to act upon and forward all evidence to the procurator fiscal.”

Internal Handling

Superintendent K responded to this complaint as follows:

“I further note that you did not intimate a desire to raise ‘counter charges’ until several weeks after your initial interview by [Constable G] and after the case had been reported to the Procurator Fiscal by him. I can confirm therefore that having considered the whole

circumstances, I am satisfied that [Constable G's] investigation has been thorough and impartial and that the Officer's decision making and reasoning in thus regard have been sound."

Consideration

As noted above, a report regarding the allegations against the applicant was sent to the Procurator Fiscal on 27 January 2010. The report contained all the evidence provided by the applicant to Constable G at that time. Specifically, the report included the applicant's allegation that Mr D had in fact assaulted him and also his assertion that he had not been involved in any other altercation on the area of land in question. Accordingly, there can be no question that Constable G failed to conduct an impartial investigation into these incidents.

It was not until March 2010 that the applicant provided further information regarding the incidents involving Mr A, Mr B, Mrs C, Mr D and Mr H, which contradicted that which he had given to Constable G at interview.

As noted above, the Commissioner considers that the document containing the counter-allegations should have been forwarded to the Procurator Fiscal after it was received by Strathclyde Police. In the Commissioner's view, however, the initial failure to send the document to the Procurator Fiscal does not suggest that Constable G failed to conduct an impartial investigation. As noted above, there was some doubt as to the purpose of the document submitted by the applicant, which perhaps explains why it was not supplied to the Procurator Fiscal in the first instance. In any event, it is clear that the document was submitted to the Procurator Fiscal following the applicant's complaint.

In these circumstances, the Commissioner considers the response to this complaint to be reasonable.

Conclusions, Recommendations and Learning

Complaint 1: Failure to act on evidence and pursue counter charges

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: Failure to conduct an impartial enquiry

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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