

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 a fire at her home following a search conducted by officers of Strathclyde Police. The applicant alleges that the fire was caused by the officers.

The Commissioner found that this complaint was dealt with in a reasonable manner. The Commissioner did not uphold a further complaint regarding the attitude of the officers involved in dealing with the primary complaint.

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

At around 8 am on 17 February 2010, police officers from Strathclyde Police executed search and arrest warrants at the applicant's home. The applicant's son, Mr K, was apprehended at this time. The applicant's home was thereafter searched and a number of items seized by police. The police officers left the applicant's house at around 10 am.

At around 12 pm that day, the applicant called the fire service to report a fire within Mr K's bedroom. The applicant claims that the fire was caused by the officers who searched Mr K's bedroom. Strathclyde Police ultimately denied responsibility for causing the fire.

The Complaints

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

- (1) that Strathclyde Police caused the fire the applicant's house yet denied responsibility;
- (2) that Strathclyde Police failed to deal with the applicant's original complaint in a professional manner.

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: The fire in applicant's home

The applicant stated the following in her statement of 23 February 2010:

"I woke up and could smell a burning smell. I checked downstairs of the house for a fire. I then thought it was outside so I went up the stairs into my son's bedroom and I was hit by a wall of smoke. I closed the door as I thought I was dreaming and I tried to open a window but I didn't get to the window as the smoke was so thick. The room was completely filled with smoke.

... I got out the room and closed the door behind me and came down the stairs and phoned for the fire brigade ... They were here for ten minutes or fifteen minutes. One of the firemen told me that the smoke had been caused by the quilt and pillows at the bottom of the heater.

I phoned the police to tell them that the police had moved the clothing from the bed and put it all next to the electric fire. [Inspector A] then phoned me and discussed this over the phone. I then phoned Pitt Street on the Thursday and reported the damage to them.

I believe that the officers who stripped my son's bed are responsible for the damage to my son's bedroom."

Internal Handling

Inspector A was appointed to investigate the applicant's complaints and produced a report dated 11 April 2010.

As part of his investigation, Inspector A obtained statements from the applicant as well as from the officers involved in the search and arrest. The following is a summary of their accounts:

- Detective Constable B explained that the quilt and pillows which had been removed from Mr K's bed were placed back on the bed by Detective Constable C at the end of the search.
- Detective Constable C explained that following the search the bedding was placed back on the bed.
- Constable D stated that following the search "the room was returned to its original state with all items of clothing, bedding and drawers being returned to their original place." Constable E provided a similar account.
- Detective Sergeant F explained that he did not enter any of the bedrooms in the applicant's home and did not observe the presence of an electric heater.
- Detective Constable G stated that at no time during the search did she enter any of the bedrooms in the applicant's home and therefore could make no comment in respect of the complaint.
- Detective Constable H explained that the duvet was placed back on the bed by Detective Constable C at the end of the search.

A statement was also sought from Mr L, one of the fire officers who attended the applicant's home. Mr L stated the following:

"The cause of the fire, in my opinion, was the heater being smothered by the bedding which ignited a plastic part of the heater. The quilt has been hanging over the side vents on the heater ... I am unable to establish a time of the fire starting."

Based on this evidence, Inspector A found the complaint to be unsubstantiated. The following response was issued to the applicant by Chief Inspector J:

"You told us that police officers had attended your home to arrest your son, following which they searched his bedroom before leaving the premises. A short time later, you state you discovered a fire in that room which, in your view, was caused by officers leaving bedding in such a position near a heater that it was set alight, resulting in damage to your property. However, you should be aware that the officers concerned have all stated that they carried out a systematic search of this room, at the conclusion of which the bedding referred to was returned to the centre of the bed. Consequently, they are clear that this bedding was not left in such a position that it would come into contact with any heater in the room. Notwithstanding, you should be aware that the officers do not recall seeing any such appliance within this bedroom throughout the time they were present."

The applicant was also sent a letter from Strathclyde Police's Legal Services Department informing her that Strathclyde Police denied responsibility for causing the fire and would be making no offer of compensation.

Consideration

Inspector A conducted a thorough investigation of this complaint, obtaining statements from, among others, the applicant and all police officers who searched her home on 16 February 2010.

All the officers who entered Mr K's bedroom maintained that the bedding was put back on the bed at the conclusion of the search. There is accordingly a substantial body of evidence to support Strathclyde Police's position that it was not responsible for the fire which occurred. The only evidence to the contrary is that of the applicant who, according to her own statement, was not a witness to the search of the bedroom.

The weight of the evidence therefore clearly supports Strathclyde Police's position. In the Commissioner's view, the written response issued to the applicant adequately conveyed the findings of the investigation.

In light of this, the Commissioner considers that Strathclyde Police dealt with this complaint in a reasonable manner. It is clear that the applicant does not accept the evidence of the officers concerned; however, her only possible remedy in such circumstances is to seek legal advice with a view to raising proceedings in the civil courts.

Complaint 2: The handling of the applicant's complaint

In her application to the Commissioner's office the applicant expressed concern about the attitude shown towards her by officers of Strathclyde Police. However, the applicant does not specify the nature of her concerns. Although not clear from her application, it appears that this complaint is directed towards those officers who dealt with complaint (1).

Consideration

Strathclyde Police's complaints file has been examined in detail during the course of this review. No evidence has been found of a lack of professionalism on the part of the officers involved in dealing with the applicant's complaint. As noted above, the complaint was investigated thoroughly and the findings adequately conveyed to the applicant.

The Commissioner therefore does not uphold this complaint.

Conclusions, Recommendations and Learning

Complaint 1: The fire in applicant's home

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 handling of the applicant's complaint

The Commissioner does not uphold this complaint. Accordingly no further action is required in this connection.

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