

Report of a Complaint Handling Review in relation to Central Scotland Police

under section 35(1) of the Police Public Order
and Criminal Justice (Scotland) Act 2006

Summary and Key Findings

The complaints dealt with in this report arise from allegations made by the applicant in 1997 that between 1955 and 1963 she was subjected to sexual abuse. Central Scotland Police conducted enquiries which resulted in no proceedings being taken against the alleged perpetrator. In 2008, the applicant approached Central Scotland Police with information which she felt was relevant to the enquiry. A second enquiry was thereafter carried out by Central Scotland Police.

The applicant subsequently complained about the standard of both enquiries and the service she had received from Central Scotland Police in this connection.

Of the five complaints dealt with in this report, the Commissioner found that two were dealt with reasonably while three were not. The Commissioner made one recommendation and also identified a learning point.

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

The applicant states that, between 1955 and 1963, she was the victim of sexual abuse by an officer of the Salvation Army, Mrs A, with whom she resided at the time. According to the applicant, she was not aware that she had been sexually abused until she received a telephone call from Mrs B in 1996. The applicant subsequently reported her allegation to Central Scotland Police where it was investigated by the family unit. The investigation did not find any evidence to substantiate the allegations. A report of the circumstances was submitted to the Procurator Fiscal.

According to the applicant, the officer who investigated her allegations was Detective Constable C. The applicant claims that Detective Constable C did not investigate her allegations properly. According to the applicant, she then pursued civil proceedings against Mrs A but was unsuccessful and had to sell her home to pay for the legal costs incurred by her in this connection. The applicant feels that if her allegations had been investigated properly by the police, she would not have lost her home and savings.

On 14 April 2008, the applicant contacted Central Scotland Police claiming that she had further information in relation to her allegations and asked that the police re-open its enquiry. The matter was thereafter referred to Central Scotland Police's Historic Abuse Unit for further investigation.

On 30 April 2008, the applicant attended a police station to provide a further statement. In her statement she complained that individuals who had been interviewed in respect of the initial enquiry had lied to the police. According to the police report, during the interview the applicant produced two copies of a questionnaire which her lawyers had asked witnesses to complete in pursuance of the civil action in 2000. These questionnaires contained the following questions:

- “(1) Did [Mrs A] say that [the applicant] was her daughter?
(2) Did [Mrs A] tell you that she had sexually abused [the applicant]?
(3) If [Mrs A] did tell you, can you advise us when this was ... and how this information was conveyed ... ?”*

The two questionnaires produced by the applicant, which were purported to have been completed by Mr D and Ms E answered “yes” to the first two questions. The applicant also named other individuals who she claimed had information confirming that she had been abused by Mrs A.

It was decided that the witnesses in the original investigation should be re-interviewed and that statements be obtained from the other, additional witnesses named by the applicant. On 18 November 2008, a review of the police enquiry to date was carried out by Detective Inspector F, Detective Sergeant G and Detective Constable C. On 24 December 2008, Detective Constable C submitted a report to Detective Inspector F detailing the evidence gathered thus far.

On 19 December 2008, the applicant wrote a letter of complaint detailing her dissatisfaction with the investigation which had been carried out by Central Scotland Police.

The Complaints

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

- (1) that the applicant was never advised of the outcome of the police investigation into her allegations;
- (2) that Detective Constable C informed the applicant that a witness had provided a statement corroborating her allegations, and that this had influenced the applicant in deciding to continue with the civil action;
- (3) that, in April 2008, Detective Constable C gave the applicant the impression “she could not have cared less” about her allegations;
- (4) that Detective Inspector F did not properly update or supply the applicant with information; and
- (5) that Detective Constable C did not undertake a proper investigation into the applicant’s allegations.

Following receipt of the applicant’s letter of 19 December 2008, Detective Chief Inspector H was tasked with investigating the complaints. On 9 January 2009, Detective Chief Inspector H wrote to the applicant advising that, as the nature of her complaint was unclear, it was necessary for him to obtain a statement from her.

It appears that the applicant was not satisfied with the choice of officer appointed to investigate her complaints. On 14 January 2009 Detective Superintendent J wrote to the applicant explaining that he was satisfied that Detective Chief Inspector H would conduct an impartial investigation.

On 19 January 2009 Detective Chief Inspector H obtained a statement from the applicant and on 21 January 2009 he wrote to the applicant with a copy of the statement confirming what he understood her complaints to be. Detective Chief Inspector H’s letter concluded that he hoped to have his investigation completed and an update given to the applicant by 6 March 2009.

During his investigation, Detective Chief Inspector H obtained a report from Detective Constable C detailing the actions taken during the two investigations into the applicant's allegations of sexual abuse. Detective Chief Inspector H also reviewed the paperwork relating to both of these investigations.

On 23 June 2009, Detective Chief Inspector H submitted a report to Detective Superintendent J containing the findings of his investigation. On 24 June 2009 Detective Superintendent J responded to the applicant's complaints.

The Commissioner's Review

This section sets out the Commissioner's views on the manner in which the complaints were handled by Central Scotland Police. Each complaint is set out in turn and is followed by details of Central Scotland Police's handling of it and the Commissioner's views on this.

Complaint 1: Failure to inform the applicant of the outcome

In her statement the applicant claims that had Detective Constable C updated her in 1999/2000 she would not have raised civil proceedings against the Salvation Army.

Internal Handling

As part of his enquiries, Detective Chief Inspector H contacted the Procurator Fiscal's office and established that the only record held in relation to the applicant was the decision to take no proceedings against Mrs A. On 31 March 2009, Detective Chief Inspector H wrote to the solicitor who represented the applicant during her civil action in 1998 asking if she had a copy of any correspondence received from the Procurator Fiscal confirming that no proceedings would be taken against Mrs A. It was confirmed that on 8 February 2009 the Procurator Fiscal had advised the applicant's solicitor that no criminal proceedings would be taken against Mrs A.

Detective Superintendent J responded to the complaint as follows:

"I am satisfied that your complaint was investigated in a professional and diligent manner and that your financial loss is a result of your own decision to take civil proceedings against the Salvation Army against the advice of your solicitor."

Consideration

In terms of the files received from Central Scotland Police, in 1999 Detective Constable C submitted a report to the Procurator Fiscal detailing the allegations against Mrs A and the evidence gathered during her investigation. The applicant was informed by letter dated 19 December 1999 that this had been done. In the Commissioner's view, it was a matter for the Procurator Fiscal, not Central Scotland Police, to inform the applicant as to whether proceedings were to be taken against Mrs A. As noted above, Detective Chief Inspector H's enquiry established that the applicant, through her solicitor, was informed by the Procurator Fiscal that no such proceedings would be taken. In addition, the police file shows that the applicant was aware of the Procurator Fiscal's decision before she decided to pursue her civil action against the Salvation Army. The Commissioner also notes that the applicant pursued the civil action contrary to legal advice she had been given.

In the Commissioner's view, however, Detective Superintendent J's response was minimal and ought to have reflected more the enquiries carried out by Detective Chief Inspector H. As additional information has been given above, the Commissioner makes no recommendation in this connection.

The applicant was also not informed that once a report is submitted to the Procurator Fiscal it is not the responsibility of Central Scotland Police to advise alleged victims as to whether proceedings are to be taken against an accused. In July 2010, the Commissioner published a complaint handling review (reference PCCS/654/09/PF-TP) in which he recommended to Tayside Police that it review the content of the standard letter it issues to alleged victims of crime. The purpose of this recommendation was to ensure that alleged victims knew from whom they could expect updates regarding the progress of cases in which they were involved. The Commissioner understands that Tayside Police is currently engaged in this process and that the issue is to be raised at a national level. In the Commissioner's view, such changes will assist in clarifying for alleged victims the circumstances in which they can expect to receive a progress update from the police officers, and when such information may be provided by the Procurator Fiscal.

Complaint 2: Alleged corroboration of allegation

In her statement the applicant claims that Detective Constable C told her that an individual, Mrs K, had provided a statement confirming that the applicant had been sexually abused. The applicant complains that this influenced her in her decision to continue with her civil action against Mrs A.

Internal Handling

As part of his enquiries, Detective Chief Inspector H made reference to the statement given by Mrs K during the original police investigation into the applicant's allegation of abuse. Detective Chief Inspector H's report contains the following comments:

"In a statement dated 11 November 1998, [Mrs K] stated that she had no knowledge of the complainer having been abused by [Mrs A] ...

There is nothing to support her claim that [Detective Constable C] told her that [Mrs K] had provided a statement confirming her allegation. The evidence is such that a comprehensive investigation has been undertaken and I am satisfied that both [Detective Constable C] and [Detective Inspector F] have investigated the allegations thoroughly and professionally."

Detective Superintendent J's response stated:

"There is no evidence that Detective Constable [C] informed you that a witness had supported your allegation."

Consideration

The Commissioner can confirm that, according to her original statement, Mrs K had no knowledge of the applicant having been sexually abused by Mrs A. As part of Detective Constable C's subsequent investigation in 2008, Mrs K reaffirmed the contents of her original statement.

However, the issue raised by this complaint is what Detective Constable C may have told the applicant about there being support for her allegations against Mrs A. Although in his response Detective Superintendent J claims that there is no evidence that Detective Constable C did so, there is nothing in Central Scotland Police's file to indicate that Detective Constable C was asked for her position on the matter. Ordinarily, the Commissioner would have recommended that Central Scotland Police obtain a statement from Detective Constable C in this connection. However, given the contents of Mrs K's statements, it seems to the Commissioner unlikely that Detective Constable C would have advised the applicant that Mrs K supported her allegations.

Accordingly while, for the reason given, the Commissioner does not consider that this complaint was dealt with in a reasonable manner, he makes no recommendation in this connection.

Complaint 3: Alleged attitude of Detective Constable C

In her statement, the applicant complains that Detective Constable C was not interested in her allegations and “could not have cared less” about the matter.

Internal Handling

As part of his enquiries, Detective Chief Inspector H made reference to the further enquiries which had been carried out following the applicant’s contact in 2008. Detective Chief Inspector H’s report contains the following comments:

“... it is apparent that the allegations required information from other forces and agencies and that these have been progressed diligently and professionally. The investigation has been properly recorded with records maintained of progress and that the complainer had been updated regularly. [Detective Constable C] is to be commended on her record keeping.”

Detective Superintendent J’s response stated:

“I am satisfied that Detective Constable [C] professionally investigated your complaint.”

Consideration

In April 2008, the applicant informed Central Scotland Police of three additional witnesses who she claimed could confirm that she had been sexually abused by Mrs A. During the course of its enquiries, Central Scotland Police made attempts to obtain statements from these witnesses. One of these individuals was physically unable to provide a statement and the remaining two categorically denied having any knowledge of the alleged abuse.

Central Scotland Police also made efforts to obtain further statements from all the witnesses who provided statements during the initial investigation in 1997/98. Again, none of the statements obtained provided any support for the applicants allegations. Overall, Central Scotland Police liaised with six different police forces across the UK in order to obtain this information.

Given this, it is clear that a thorough investigation was undertaken following the applicant’s contact with Central Scotland Police in April 2008. The Commissioner therefore considers that the conclusion reached by Detective Chief Inspector H and Detective Superintendent J is correct.

Notwithstanding this, the Commissioner does not consider that the response provided by Detective Superintendent J properly conveyed to the applicant the depth of enquiry undertaken by Central Scotland Police. For this reason, the Commissioner does not consider this complaint to have been dealt with reasonably. However, the Commissioner considers that the information given above is sufficient to provide the applicant with a reasonable response to the complaint and therefore makes no recommendation in this connection.

Complaint 4: Alleged failure to update or supply information

The applicant complains that Detective Inspector F failed to keep the applicant informed. The applicant also complains that Detective Inspector F failed to provide her with information in writing, to provide copies of information received from the Salvation Army, and also failed to return a file provided by her.

Internal Handling

Detective Chief Inspector H made the following comments in his report:

“The investigation has been properly recorded with records maintained of progress and that the complainer had been updated regularly...”

The information that the complainer wanted from Detective Inspector [F] is copies of correspondence from the Salvation Army. Much of this contains private information about the witnesses none of whom want the complainer to get their details for fear of intimidation. Detective Inspector [F] did not receive this information requested from the Salvation [Army’s] solicitors until December 2008 by which time the complainer had disengaged with him.

Detective Inspector [F] has been advised that he should have written to the complainer to detail the reasons why he was not providing information and not relied upon speaking with her by telephone.”

Detective Superintendent J’s response stated:

“Detective Inspector [F] has shown that he called you on numerous occasions but has been advised that he should have written to you to explain the delay in obtaining information from the Salvation Army Solicitors and that this information contains confidential details of witnesses addresses that you are not entitled to.”

Consideration

Having had regard to the file supplied by Central Scotland Police, the Commissioner is satisfied that the applicant was suitably updated during the 2008 police enquiry. Accordingly, the Commissioner considers that this complaint was dealt with in a reasonable manner.

With regard to the alleged failure to provide the applicant with documentation obtained during police enquiries, the Commissioner does not consider that this aspect of the applicant’s complaint falls within his statutory remit. Such complaints should be made to the UK Information Commissioner or Scottish Information Commissioner, depending on the nature of the information which the applicant seeks. Accordingly, the Commissioner has not dealt with this aspect of the applicant’s complaint.

Complaint 5: Alleged deficiencies in investigation

In her statement the applicant complains that, had Detective Constable C “done her job properly in 1999/2000 the people would have told her the truth.” The applicant also suggests that Detective Constable C did not interview all relevant witnesses.

In addition, the applicant believes that, had Detective Constable C carried out her duties properly, the Procurator Fiscal would have raised proceedings against Mrs A and that there would have been no need for her to have pursued the civil action against the Salvation Army.

Internal Handling

Detective Chief Inspector H had regard to both investigations carried out by Central Scotland Police and commented:

“Twelve witnesses, whom the complainer states have direct knowledge of her being abused have been interviewed over the two investigations, most of whom are now very old and quite vulnerable. Many of these persons have also been interviewed in 2001 by solicitors acting on behalf of the Salvation Army in their defence against her civil suit. None of these persons have provided any supportive information or corroboration of her allegations ...

There is absolutely no evidence to support her allegations that she has been sexually abused by [Mrs A] or that she lived with her ... in 1958/59."

Detective Superintendent J's response stated:

"I am satisfied that your original allegations of criminality are wholly uncorroborated by any witness or documentary production and have been denied by those whom you cited in support of your claims."

Consideration

Despite having obtained statements from all persons named by the applicant, Central Scotland Police found no evidence to support the applicant's allegations. Central Scotland Police has also carried out further enquiries which have cast doubt on those allegations.

The applicant believes that the witnesses in question have lied and that Detective Constable C is somehow responsible for this. However, Detective Constable C cannot be held accountable for the quality or veracity of the information given by these witnesses. In light of this, the Commissioner considers that this complaint was dealt with in a reasonable manner.

Conclusions, Recommendations and Learning

Complaint 1: Failure to inform the applicant of the outcome

For the reasons given, the Commissioner does not consider that this complaint was dealt with in a reasonable manner. However, the Commissioner makes no recommendation in this connection.

Complaint 2: Alleged corroboration of allegation

For the reasons given, the Commissioner does not consider that this complaint was dealt with in a reasonable manner. However, the Commissioner makes no recommendation in this connection.

Complaint 3: Alleged attitude of Detective Constable C

For the reasons given, the Commissioner does not consider that this complaint was dealt with in a reasonable manner. However, the Commissioner makes no recommendation in this connection.

Complaint 4: Alleged failure to update or supply information

For the reasons given, the Commissioner considers that this complaint was dealt with in a reasonable manner. Accordingly, no further action is required in this connection.

Complaint 5: Alleged deficiencies in investigation

For the reasons given, the Commissioner considers that this complaint was dealt with in a reasonable manner. Accordingly, no further action is required in this connection.

A substantial amount of resources has been expended by Central Scotland Police in dealing both with the applicant's allegations of sexual abuse and the complaints which she subsequently made. In the Commissioner's view, nothing further is to be gained from Central Scotland Police dealing with any further complaints the applicant may make which are directed related to those previously made. The Commissioner therefore recommends that Central Scotland Police no longer considers or responds to any complaint made by the applicant which is directly related to those listed in this

report. The Commissioner does not make this recommendation lightly, but for the reasons stated considers it necessary to do so.

Learning Point

In the Commissioner's view, the otherwise good handling of some of these complaints was let down by the minimal nature of the response issued to the applicant. In the Commissioner's view, complainers require to be given sufficient information to inform them as to how key conclusions in the response to their complaints were reached. The Commissioner does not consider that this standard was achieved in the response to a number of the applicant's complaints.

John McNeill
Police Complaints Commissioner for Scotland

Hamilton House
Caird Park
Hamilton
ML3 0QA