

# 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 a dispute over the personal belongings of her late brother.

Of the three complaints reviewed, the Commissioner found that all were dealt with in a reasonable manner. However, for the reasons given in the report, the Commissioner made a single recommendation.

The Commissioner upheld a fourth complaint concerning the manner in which the other complaints had been dealt with. However, no recommendation was made 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

Following the death of the applicant's brother (Mr A) there has been a dispute over the ownership of Mr A's possessions, in particular a vehicle and a television. The parties to the dispute are the applicant's family and Mr A's former partner, Ms B.

The applicant states that she reported to Strathclyde Police that Ms B had taken items from Mr A's flat that did not belong to her. According to the applicant, she was told by Strathclyde Police that this was a civil matter and that she should contact a solicitor in order to pursue the issue.

On 5 March 2011, Ms B visited a police station where she reported to Inspector C that Mr D and Ms E (the applicant's brother and sister) had made offensive comments about her on a website. Inspector C allocated the enquiry into this matter to Constable F.

Constable F states that he spoke to Ms B who informed him that she "only wanted [Mr D] to stop posting the items on Facebook that refer to her and not to contact her in any way." Ms B also informed Constable F that she had received an email from the applicant that was not offensive, but that she did not wish any contact with the applicant. According to Constable F, he subsequently received an email from Ms B containing contact details for the applicant and the postings from the website. It appears that Ms B did not have contact details for Mr D and Ms E.

Constable F states that on 14 March 2011 he contacted the applicant with the apparent intention of obtaining contact details for Mr D and Ms E. According to the applicant, however, at no point did Constable F ask her for Mr D or Ms E's contact details. Constable F states that during the conversation he advised the applicant not to contact Ms B and asked that the applicant pass on the same message to Mr D and Ms E. According to Constable F he also advised the applicant that

the comments posted on the website could lead to persons being reported to the Procurator Fiscal “under the Communications Act” but that Ms B did not wish to take this course of action. The applicant disputes this and states that Constable F called her only to ask her to pass on a message that Mr D and Ms E “could or would” be facing charges under the Communication Act 2003.

On 18 March 2011 the applicant wrote to Strathclyde Police complaining about Constable F’s actions. Inspector C was appointed to investigate the complaints. As part of the investigation, Constable F was asked for his position on the applicant’s complaints. No record of this conversation exists. On 26 March 2011, Inspector C submitted his findings to Chief Superintendent G. On 26 April 2011, Superintendent H wrote to the applicant in response to eight specific areas of concern.

Following the Commissioner’s request for its complaints file, Strathclyde Police’s Professional Standards Department conducted a review of the paperwork. According to the Professional Standards Department “a number of lines of enquiry and additional actions” were identified in respect of the complaints. Sergeant J was appointed to carry out these actions. Statements were thereafter obtained from Constable F, Ms B and Inspector C. Sergeant J also established that no crime report was raised regarding Ms B’s allegation, nor was there any STORM incident created. On 14 June 2011, Sergeant J submitted a report detailing the outcome of his further enquiries.

On 8 July 2011, Superintendent H sent a further response to the applicant reiterating his earlier position in respect of the complaints.

## 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 F telephoned the applicant, asked her to pass on information and commented on personal matters;
- (2) that the phone call from Constable F was not carried out in an official capacity;
- (3) that Strathclyde Police dealt with the applicant’s allegation differently from that of Ms B; and
- (4) that Inspector C did not carry out a full and impartial investigation.

## The Commissioner’s Review

This section sets out the Commissioner’s views on the manner in which the complaints were handled by Strathclyde Police. .

### Complaint 1: Constable F’s phone call and comments

In her letter of 18 March 2011 the applicant detailed the following concerns regarding her telephone conversation with Constable F. The relevant passages from her letter are quoted below.

#### (a) The request to pass on information to Mr D and Ms E

*“After clarifying his name and what police station he was calling from I asked him what the complaint was about. He informed me it was in relation to comments written about [Ms B]*

*on Facebook. I immediately informed him I did not have a Facebook and had never been on Facebook. He then advised me it was [Mr D] and [Ms E] who had written comments on Facebook. I immediately asked him why he was phoning me. He said my telephone number was the only number he had (it was my mobile number so I am assuming it was given to him by [Ms B]) and asked me to pass a message on to my brother and sister informing them they could or would be facing charges under the communications act.”*

(b) Constable F’s comments on personal issues

*“During this telephone conversation Constable [F] then went on to make remarks of a more personal nature. When I informed him [Ms B] went into my brothers flat 2 days after he died and took all his things, he replied ‘I would think [Ms B] had more right to go into [Mr A’s] flat than any of you.’ When I told him she took his TV and gave it to her friend, he replied ‘Your Mum was paid £60 for the TV’. When I said she was keeping the car which didn’t belong to her, he informed me she was the registered keeper of the car. I informed him this was not proof of ownership and she had never paid one penny for the car, my dad paid for the car. He also said ‘she just wants to be left in peace to grieve for [Mr A]’.”*

(c) The fact that Constable F telephoned the applicant

*“I also informed him that I was actually really annoyed that he had phoned me, if the complaint was against [Mr D] and [Ms E] then it should be them he was contacting. He again reiterated that my number was the only contact number he had. At no point did Constable [F] ask me to provide any contact details for [Mr D] or [Ms E].”*

*Internal Handling*

Inspector C stated the following in his report:

*“[The applicant] wrote a letter (attached) in which she complained regarding a telephone conversation she had with [Constable F] on 14 March 2011, alleging that the officer asked her to pass on a warning of possible criminal charges to her brother relating to postings on Facebook, which she deemed inappropriate. [Constable F] has acknowledged this and an apology has been made to [the applicant], via myself.”*

Superintendent G stated the following in his letter of response of 26 April 2011:

(a) The request to pass on information to Mr D and Ms E

*“[Constable F] had been given details of the Facebook postings and your personal mobile telephone number by the original complainer, [Ms B]. I understand that the postings were particularly offensive in nature, and were adding to the grief which she was experiencing following the death of her partner. Clearly that grief was being felt by all family members. [Constable F] was trying to have the postings stopped at the earliest possible opportunity and telephoned you as he had no contact details for [Mr D or Ms E].*

*While accepting that asking you to pass a warning to your siblings was inappropriate, it was intended to be a plea to stop exacerbating the emotional burden being felt by [Ms B], which is not without merit, given the circumstances. [Constable F] has been advised regarding the need to ensure that possible suspects are advised personally rather than through third parties, which he fully accepts.”*

(b) Constable F's comments on personal issues

*"In your discussions with Inspector [C], you spoke about matters relating to items of property, in particular a television and a car, which appear to be particularly sensitive issue. As you correctly state, this is Civil and not a police matter which can only be dealt with through a solicitor. You commented on [Ms B's] apparent lack of grieving by virtue of her allegedly attending [Mr A's] flat two days after his death and removing property. While this was due to a comment by [Constable F] regarding [Ms B] only wanting to be left alone to grieve, it would not be appropriate for me to make any comment here. People deal with grief in different ways.*

*In either case, it does not seem inappropriate for [Constable F], who had spoken to [Ms B], to seek some space for her in which to grieve in her own way, by stating that she simply wanted to be left alone. Issues regarding the property involved can be pursued through civil litigation and his alleged comments regarding who has the greater right to property were ill-judged and as you rightly stated, clearly not based on all the facts.*

[Constable F] accepts that he was wrong to comment as he did."

(c) The fact that Constable F telephoned the applicant

*"As covered in your discussion with Inspector [C], [Constable F] was trying to put a stop to the offensive postings on Facebook, as quickly and effectively as possible. In doing so, having been given your mobile number by [Mrs B], he contacted you with the intention of obtaining a contact number for [Mr D and Mrs E]. Due to the nature of your conversation that night, he not only failed in that objective, but also became involved in matters of a sensitive nature, which clearly affected you deeply. That was never his intention.*

*... It is evident from the circumstances that [Constable F] made contact with you as your telephone number was the only one that he had possession of and he called you for the reasons outlined above. I am satisfied that given the circumstances, that this constitutes a legitimate and viable reason to call you.*

*I can understand how this may seem inappropriate, however I am satisfied that he was taking all reasonable steps to bring the postings to a stop, and that he called you to get a number for your brother. Clearly he did not do so, and made some comments which you feel he was not well placed to make regarding rights to property. I can find no evidence of intimidation in the actions of [Constable F]."*

Superintendent G's response concluded by reiterating the apology provided by Inspector C.

*Consideration*

In respect of the decision to contact the applicant, Constable F states that the reason for doing so was simply to establish contact details for Mr D and Ms E. The applicant states that she was never asked to provide these details and believes that Constable F was acting in an unofficial capacity (an aspect considered under complaint 2 below). It is not possible to establish the precise content of the call. However, given it was suspected that Mr D and Ms E had allegedly committed a breach of the Communications Act 2003, the Commissioner finds nothing objectionable in the account provided by Constable F and finds Superintendent G's response in this connection reasonable.

In respect of the decision to ask the applicant to pass on information to Mr D and Ms E, Constable F states that he became "sidetracked" during his call with the applicant and decided to warn her not to contact Ms B and ask her to pass on the same message to Mr D and Mrs E. The applicant

disputes this and states that she was only asked to pass on the fact that Mr D and Ms E could face charges under the Communications Act 2003.

In the Commissioner's view, whichever account is accurate, it was inappropriate for Constable F to have asked the applicant to pass on the warning and to have disclosed such details to her. However, it is clear that Strathclyde Police has acknowledged this and apologised to the applicant.

In respect of the personal issues which Constable F discussed, given the matter was essentially civil in nature, the Commissioner agrees that it was inappropriate for Constable F to have become involved. Again, however, Superintendent G acknowledged this issued the applicant with an apology.

In these circumstances, the Commissioner considers that Superintendent K's response represents a reasonable outcome in respect of this complaint.

The Commissioner notes, however, that within Constable F's statement (produced after Superintendent G's response was issued), he states that the applicant's allegations are "totally without foundation". It therefore appears that Superintendent G's response may be incorrect in stating that Constable F accepted the shortcomings identified. The Commissioner therefore recommends that the position is clarified with Constable F and that, if necessary, a further response is issued to the applicant reflecting the true position.

## **Complaint 2: Constable F not acting officially**

The applicant stated the following in her letter of 18 March 2011:

*"... I informed [Inspector C] the person making the complaint had friends in the police force and I suspected the call from the officer was not carried out in an official capacity (I had also expressed these concerns during my initial complaint and during my conversation with [Inspector K]). I also expressed concerns there was possibly an element of intimidation intended within the call (although I did inform him I did not want to blow things out of proportion). At this point [Inspector C] informed me that [Ms B] actually worked in [police station]. He informed me that as far as he was aware [Constable F] and [Ms B] did not know each other prior to this complaint being raised."*

### *Internal Handling*

Inspector C stated the following in his report:

*"[The applicant] further alleged that [Constable F] made the call because the original complainer re the Facebook postings worked along with the Police, and he was showing favouritism towards her by making the call.*

*Having spoken to [Constable F], and with [the applicant] both on the telephone and personally, I am unable to substantiate this allegation. [The applicant] has a deeply held view that there is more to this, and despite a lengthy discussion with her, we parted having agreed to differ."*

Superintendent G provided the following response:

*"Despite the belief which I know you hold, [Ms B] received no different attentions or assistance from ourselves than would have been afforded to any other member of the public. This was discussed at length with [Inspector C], and I understand that he has been unable to dissuade you from that view. I have no intention of rehearsing all the points discussed in this area, but would ask that you take [Inspector C] at his word that there was*

*nothing untoward in the motivation which led to that call being made. [Ms B] works within the office for a partner agency, but was not known to [Constable F] until that night."*

### *Consideration*

As can be seen from Inspector C's report, having spoken to Constable F and the applicant, he was "unable to substantiate" the complaint. However, Inspector C did not detail the reasons as to how he reached this conclusion.

Whilst not formally recorded, it appears that Constable F told Inspector C that he did not know Ms B before she reported Mr D and Ms E. It appears that is the basis upon which Inspector C found the complaint to be unsubstantiated. In the Commissioner's view, however, it was not possible to reach this conclusion reliably without first having asked Ms B if she had prior knowledge of Constable F.

The Commissioner notes, however, that following the involvement of the Professional Standards Department, Ms B confirmed that she did not know Constable F. Accordingly, there is no evidence to support the applicant's position that Constable F's actions were influenced by any relationship he had with Ms B.

In respect of the applicant's concern that there may have been an "element of intimidation" to Constable F's call, Constable F is clear that his decision to make contact was well intentioned. As detailed in respect of complaint 1, although the decision to ask the applicant to pass on the warning was ill-conceived, there is no evidence to suggest that Constable F was acting other than in good faith.

In these circumstances, the Commissioner considers that this complaint was ultimately dealt with in a reasonable manner.

### **Complaint 3: Differing responses**

The applicant stated the following in her letter of 18 March 2011:

*"There is a major difference between the response I received from the police in relation to a complaint which was classed as civil action and the response [Ms B] received from the police in relation to a complaint classed as civil action. Although I did remind Inspector [C] that Constable [F] had informed me that my brother and sister could or would be facing charges under the Communications Act. So he had in fact intimated to me that a criminal act had occurred."*

### *Internal Handling*

Inspector C made no reference to this complaint in his report. However, Superintendent G stated the following in his letter of 26 April 2011:

*"You were given appropriate information when you sought advice regarding the return of the car etc - namely to contact a solicitor. [Ms B] was similarly advised of how to progress her civil issues. The difference occurs when the criminal aspect of the postings on Facebook are considered, since it is this matter which was the motivation behind [Constable F's] call to you. The civil matters were dealt with in the same way, but with the criminal matter providing the crucial difference."*

### *Consideration*

In respect of the dispute concerning the ownership of Mr A's belongings, the applicant and Ms M have been provided with the same response – that the matter is civil in nature. It is clear that Strathclyde Police became involved as a result of Ms B's criminal allegations against Mr D and Ms E, something it was duty-bound to do. It is also clear that Strathclyde Police's involvement had nothing to do with the ongoing civil dispute over Mr A's belongings.

The Commissioner therefore does not agree that the applicant has been treated differently from Ms B in this connection. In these circumstances the Commissioner considers that this complaint was dealt with in a reasonable manner.

### **Complaint 4: Nature of Inspector C's investigation**

The applicant complained to the Commissioner's office that Inspector C did not conduct a full and impartial investigation into her complaints. The applicant believes that as Inspector C noted Ms B's allegations against Mr D and Mrs E, and allocated the enquiry to Constable F, he was not suitably impartial to investigate her complaints. The applicant is also dissatisfied with the "tone" of the responses provided to her by Strathclyde Police.

### *Consideration*

In respect of Inspector C's impartiality, it appears that Inspector C's only involvement in Ms B's allegations was to arrange for Constable F to make enquiries in this connection. In the Commissioner's view, such limited "involvement" did not, in itself, preclude Inspector C from dealing with the applicant's subsequent complaints.

In respect of the tone of Strathclyde Police's responses to the complaints, viewed objectively Superintendent G's letters adopt a conciliatory tone, offering apologies where appropriate. The Commissioner therefore does not agree that the tone of the response was objectionable.

In respect of the thoroughness of Inspector C's investigation, the Commissioner notes that Superintendent G's initial response is based upon a single conversation which Inspector C had with Constable F, a record of which was not kept. Furthermore, the fact that the Professional Standards Department identified "a number of lines of enquiry and additional actions" confirms that Inspector C's investigation was not as thorough as it should have been. The Commissioner therefore considers that this aspect of the complaint should be upheld; however, as the deficiencies were remedied by the Professional Standards Department, it is not necessary to recommend further action in this connection.

### **Conclusions, Recommendations and Learning**

The guidance issued by the Commissioner in April 2011 on the handling of police complaints emphasises the need for local complaint handling, where appropriate. The main attraction of local complaint handling is its capacity for swift action and resolution and improvement through learning.

The handling of the complaints in the present case was initially conducted at local level but, following the applicant taking his case to the Commissioner, a review was undertaken by the Professional Standards Department. This led to the identification and remedying of various deficiencies in the initial handling of the complaints. Clearly, however, it would have been preferable if the complaints had been handled appropriately without the involvement of the Professional Standards Department. The Commissioner is aware that Strathclyde Police is already taking measures to improve the standard of local complaint handling, by the establishment of a complaints assurance group. The Commissioner welcomes this development and, as part of

his statutory obligation to secure efficient and effective complaints handling, will in due course seek details of the progress being made by the group.

A further issue identified during this review concerns the manner in which the complaints were recorded. According to the Complaint about the Police (CAP) form, Strathclyde Police recorded only one complaint. Given the number of allegations made by the applicant it is clear that Strathclyde Police's records require to be corrected. Accordingly, the Commissioner recommends that Strathclyde Police reviews the manner in which the applicant's complaint allegations were recorded and takes steps to correct its records in this connection.

#### **Complaint 1: Constable F's phone call and comments**

In the Commissioner's view, this complaint was ultimately dealt with in a reasonable manner. However, the Commissioner recommends that the position is clarified with Constable F and that, if necessary, a further response is issued to the applicant reflecting the true position.

#### **Complaint 2: Constable F not acting officially**

In the Commissioner's view, this complaint was ultimately dealt with in a reasonable manner. Accordingly, no further action is required in this connection.

#### **Complaint 3: Differing responses**

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

#### **Complaint 4: Nature of Inspector C's investigation**

The Commissioner upholds this complaint; however, as the deficiencies in the investigation were remedied by the Professional Standards Department no recommendation is made in this connection.

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