

Investigation Report

Executive summary of
the independent investigation
into complaints of
homophobia against
officers from
Devon and Cornwall Constabulary

Introduction

Malcolm Lidbury complained against eight officers of Devon and Cornwall Constabulary to the Independent Police Complaints Commission in 2005. The complaints outlined separate instances of interaction between the complainant and each of the officers. Mr Lidbury alleged that he was treated poorly on these occasions solely because he is homosexual and that the incidents are examples of the inherently homophobic attitude of Devon and Cornwall Constabulary.

These allegations were deemed serious enough to warrant an independent investigation. The investigation was broad in scope and the terms of reference provided for the investigation to examine:

- the interaction between the complainant and the officers specified - leading to the complaints of poor treatment
- whether the actions of the officers were motivated by homophobia
- the wider action and interaction of Devon and Cornwall Constabulary with the gay community to identify any areas that will either support or negate the allegation that the force is inherently homophobic.

Complaints of poor treatment

All eight officers were investigated under the Police (Conduct) Regulations 2004. No criminal offences were considered.

The complaints are numerous and total 16 separate allegations over a time period of approximately 11 months from November 2004 – October 2005. Due to the number, complexity and sensitivity of the complaints this Executive Summary will not explore them in detail. Each allegation was investigated to determine whether the officers' actions fell below the standard expected of them. Each allegation was then considered again to establish whether there was any evidence that the officers' actions were homophobic.

During the IPCC investigation, each officer was served a written notice informing them that they were under investigation and the details of the allegations. Six officers responded to the allegations by submitting a detailed written response outlining their account of their actions and reasons for them. Two officers submitted a written response but were also formally interviewed by IPCC investigators. One declined to give answers.

Substantial documentary evidence, including crime files, Devon and Cornwall Constabulary policies and procedures, correspondence and other pertinent records and notes were obtained and examined by IPCC investigators. Witness statements from independent witnesses were also obtained.

Outcome

None of the 16 complaints of poor treatment made against the eight officers were found to be substantiated. However a total of nine recommendations arose from the investigation. These recommendations can be summarised into the following categories:

- recommendations concerning the efficient finalisation of cases, including completing all paperwork, informing parties of the conclusion of an investigation and returning all seized property quickly

- a recommendation concerning the importance of accurate recording of information on incident logs
- a recommendation concerning the correct procedure to be followed when serving a summons.

Complaints of inherent homophobia

Mr Lidbury has stated that his complaints against individual officers are examples of the homophobic attitudes of Devon and Cornwall police officers.

The investigation considered each officer's actions separately and applied the formula set out in the case of *King v Great Britain – China Centre* [1991] IRLR 513. This authority concerns race discrimination but can be applied to test other forms of discrimination, including on the grounds of sexuality.

The case provides a formula (3xD+E) which can be used by investigators in determining whether it is reasonable to draw inferences from the evidence. The formula is as follows:

- **D**ifference in treatment
- **D**ifference in race (sexuality)
- **D**etriment to complainant
- No **E**xplanation for these differences is available.

It should also be borne in mind that very little discrimination will be overt or deliberate and an investigating officer must look at the evidence surrounding a case - *Anya v University of Oxford and another* [2001] EXCA Civ, 405.

Outcome

Every officer stated, either in interview or in written response, that their actions were not motivated by homophobia. The careful consideration of each officers' actions and reasons behind those actions when assessed using the King formula do not reveal any evidence of homophobia.

Some officers were able to provide a legitimate policing reason for having initiated contact with the complainant. Others were contacted by the complainant. The officers' actions were thoroughly assessed and not found to be contrary to any Devon and Cornwall policies, or any legislation and to be reasonable in the context of each complaint. The totality of the evidence demonstrates that at all times the complainant was dealt with appropriately. The treatment received by the complainant was no different than that which would have been received by anybody in the same circumstances. The complainant was not treated differently because of his sexuality. The complaint of homophobia against each officer was therefore unsubstantiated.

Further Investigation

The terms of reference for the investigation also provided for the examination of Devon and Cornwall Constabulary action and interaction with the gay community, in order to either support or negate the allegation that Devon and Cornwall Constabulary is homophobic.

The complainant provided the IPCC with the names of 33 witnesses when he made his original complaints. Attempts to contact every witness were made, either by telephone, in writing, or in person.

When contact was made, each witness was asked the same three questions:

- have you any personal experience of treatment from the police which you feel was homophobic?
- have you witnessed any other person receiving treatment from the police which you or they felt was homophobic?
- have you heard about, but not witnessed, any treatment from the police falling into the same category?

The witnesses were informed that their account would not be investigated as part of this investigation.

Contact was established with 19 of the 33 witnesses. Most did not have anything to report, however some did relate their experiences.

In an attempt to reach as many people as possible, the IPCC held a public 'surgery' to enable anyone who felt they had an account which would contribute to the investigation to come forward and give it to IPCC investigators.

One witness stated that he had not reported domestic violence he had experienced at the hands of an ex-partner because he perceived that the police did not take gay domestic violence seriously. He also expressed dissatisfaction with police action following a complaint he made to them about threatening phone calls made to him. However, he stated that he did not believe the police's reaction was due to homophobia.

Another witness stated that he had witnessed two officers using abusive language towards a male in a small town in Cornwall.

The male in question was traced but was unable to corroborate the account of the witness. He stated that the police had not dealt very well with a burglary at his place of work recently, but he described this as being typical of a general lack of interest displayed by police in Cornwall.

A fourth witness stated that he had reported violent threats and intimidation directed towards him by another male as a result of jealousy concerning the male's partner. The witness stated he reported it to the police and commended the PC who dealt with him but overall was disappointed with the response, stating that he could not say it was definitely due to homophobia but that perhaps it was thought of as "just a gay domestic." He also stated that lots of gay people do not report homophobic incidents to the police because of a lack of confidence in the police.

Another witness stated that he went to a police station with the intention of making a complaint about homophobic threats made against him. He wanted to talk to the diversity officer but this was refused and he stated that he was told that unless actual violence occurred, nothing could be done. At the time of investigation there was one diversity officer for all of Cornwall and the Isles of Scilly.

The IPCC investigator met with the (then) force diversity inspector at Middlemoor headquarters to discuss the force's diversity strategy and how the force engages with the

gay community in Devon and Cornwall.

The diversity inspector stated that the force is aware of under reporting of homophobic incidents or crimes. He stated that in the past the force has dealt poorly with the gay community. A current initiative at basic command unit (BCU) level involves diversity officers holding 'surgeries' in [some] gay clubs and pubs, which has been reported as successful.

In Plymouth, there is a Gay Liaison Officer who works closely with the gay community, focussing on issues such as domestic violence.

However, in Cornwall and Isles of Scilly BCU, the Diversity Unit is understaffed, with just a diversity manager plus one additional member of staff. This has led the Unit to be reactive rather than proactive. Staffing is however currently subject to review. Since completion of the report staffing levels have been resolved and there is now one sergeant and the diversity officers in Cornwall and the Isles of Scilly BCU.

At a strategic level, the Lesbian and Gay Bi-sexual and Transgender Police Liaison Group meets every 6-8 weeks. It is the force's longest-running and best-attended Police Liaison Group (PLG). The group is made up of various community representatives but the diversity inspector stated that the PLG was not without limitation as it lacks representation from young people in Cornwall, who are an isolated group.

PLG members have also been consulted during critical incidents, including two homophobic motivated murders. In terms of increasing the force's profile and engaging with the gay community, the diversity inspector gave examples of articles and items included in the Pink Paper and Fyne Times and representation at Gay Pride events.

As a result of the two murders mentioned above, the diversity inspector commissioned a problem profile report. This is an analysis of crimes with a homophobic motive in the force area and looks at related issues such as under reporting and intelligence. The report makes 22 recommendations, all of which have been agreed either at strategic or BCU level.

As part of its annual policing plan for 2006/07, the force has a five-year Diversity Strategy which aims to develop an anti-discriminatory, human rights-led policing culture which recognises, respects and values diversity. This is to be achieved by bringing about organisational change. The main emphasis of this is on community engagement and working with LGBT community. The force is one of the 23 nationwide who fund the True Vision scheme, the aim of which is to increase reporting of hate crime.

The diversity inspector stated that the force can learn lessons about engagement with the LGBT community in the same way as it has done about engagement with minority ethnic communities. Reporting of racist crime in Devon and Cornwall is significantly higher than that of homophobic crimes and detection rates of racist crimes are good compared to similar sized forces.

At this stage of the IPCC investigation a policy decision was made not to investigate further the generalised homophobia allegation. In the absence of any evidence of any other alleged homophobic incidents experienced by a number of independent witnesses,

it was felt that it would be neither appropriate nor proportionate to investigate further.

Final Conclusions and Observations

A total of 16 complaints against eight officers have been thoroughly and independently investigated. None of the complaints are substantiated, however a total of nine recommendations have been made, relating to individual officers and to the force as a whole.

No evidence of homophobic motivation behind any police action has been uncovered.

Further investigation uncovered no evidence of homophobic treatment experienced by any witnesses and additional enquiries were deemed neither proportionate nor within the remit of the investigation.

It is noticeable however that the allegations of homophobia have been met with confusion by some officers. The Devon and Cornwall Constabulary LGBT policy states that an incident need only be perceived to be motivated by homophobia to be investigated as such. Mr Lidbury had clearly stated that he believed that the officers' actions were so motivated. However, there appeared to be a lack of understanding of this concept on the part of some officers, who initially showed reluctance to answer the allegation of homophobia, believing that they did not have to do so if there was no supporting evidence. The Constabulary may wish to consider further diversity training to address this.

This investigation is the second independent investigation arising from complaints of homophobic behaviour made against Devon and Cornwall police officers by the complainant. The previous investigation also uncovered no evidence of homophobia among individual officers.

Improvements in communication and an increase in trust between Devon and Cornwall Constabulary and minority groups can only be made by greater interaction and consultation, involving reasoned debate and wider participation. This must necessarily be a two-way process, requiring input from all interested parties.

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