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independent
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Dear Sirs

Re: Ms Ella Draper

This letter is about your appeal about Metropolitan Police Service, which we received on 21 July 2015.

We are independent of the police. Our role is to look at the way the police investigated your complaint, not to re-investigate it.

I take this opportunity to clarify the role of the IPCC and the limitations of our involvement at the appeal stage. My role is to review the Investigator Officer's report outlining his investigation into Ms Draper's complaint. It is not within my role to review or assess the original criminal allegation and the IPCC is not able to make any comment as to the thoroughness of the criminal investigation. My role is to assess whether the Investigating Officer has properly investigated complaints against officers and to establish if any criminal or disciplinary action is appropriate.

I have decided to uphold your appeal. When making my decision I considered:

- your appeal letter dated 21 July 2015;
- the report by the police investigator, Detective Inspector Anthony McKeown, dated 8 July 2015;
- the evidence referred to in the report; and
- the rules and standards for how the police should investigate complaints.

Our legal duties are set out in paragraph 25 of Schedule 3 of the Police Reform Act 2002 or Regulation 77 of the contractor regulations if your complaint is about a contractor working for the police. We have to see:

1. if the findings need to be reconsidered, either by us or the police;
2. if any person has a case to answer for misconduct or gross misconduct or whether a person's performance is unsatisfactory;
3. if the proposed police action is appropriate, for example if there needs to be any disciplinary action or other actions;
4. if the Crown Prosecution Service should be involved so that they can decide whether a crime might have been committed by someone working for the police; and
5. if the information you were provided with was sufficient?

My letter to you will consider each point:

1. Do the findings need to be reconsidered, either by us or the police?

To make a decision I have to see:

- if the investigation dealt with all of your complaint(s);
- if the investigation was carried out in a proportionate manner and if enough evidence was gathered; and
- if the right decisions have been made about the complaint(s) which have been investigated.

It is my opinion that the investigation report in this matter is inadequate. The letter of complaint dated 15 May 2015 is 25 pages long and very thorough and comprehensive. The IO report is five pages long however, over half of this is the background of the matter. I therefore find that there is insufficient explanation and rationale to show that the complaint has been investigated sufficiently. I understand that the initial complaint was made on 6 October 2014 and that the issues outlined in the second complaint letter were provided to the investigating officer as part of the ongoing complaint because the information supplied was directly linked. This is confirmed in an email from Wendy Newell-Gosling of the DPS dated 25 June 2015. As far as I can see the issues raised in the second letter have not been considered.

I cannot see from the IO report that there is sufficient explanation as to what the officers investigating the criminal allegations did and why, or justification for what they did not do. It is clear an investigation has been carried out however; the extent of the investigation has not been set out within the investigation report. It is also of concern that the IO has added several paragraphs to his report which have no bearing on the complaint and which only serve to undermine the complaint.

There are various issues raised within Ms Draper's complaint that have not been satisfactorily covered in the IO report. The issues that have been covered are not explained sufficiently.

The IO report does not explore the aspect of Mrs Draper's complaint relating to the physical examination results of the children. I understand that Dr Hodes was instructed by the police but there is little explanation as to why her findings were not pursued and why they were not put to Mr Dearman despite the police being in receipt of them when he was questioned under caution.

Mrs Draper complained that Mr Dearman was not arrested despite the arrest criteria apparently being satisfied. There is insufficient explanation as to why it was decided not to arrest him and why he was only questioned regarding the incident at Finchley Swimming Pool. Nor is there any rationale as to why none of the other sexual abuse allegations were put to him.

The retraction statement was obtained during the third Achieving Best Evidence interview. Ms Draper's solicitors allege that the questioning during this interview was leading and the retraction was '*subtly coerced and only after heavy prompting.*' This has not been explored by the IO.

The IO has stated that '*police enquiries found no corroborative evidence for the allegations*', however the complaint details numerous lines of enquiries which appear to have been missed. There is no rationale provided for decisions not to carry out specific lines of enquiry or forensic investigation/IT investigation (Mr Dearman phone/computer) by the officers conducting the criminal investigation.

The IO has referred to the fact that no other victims have come forward however, the IO has not clarified, in relation to the complaint made by Mrs Draper, why this is of significance.

Within the complaint letter are issues regarding breaches of PACE Code G and breaches of the childrens' rights under Article 3 ECHR. The IO has not dealt with these issues.

The IO report states that '*The officers who took the children into PP described the children as becoming relaxed and happy, and showing a complete change in attitude, when told they were being taken into care. The officers believed that this was as a result of fear and dislike they had of Mr Christie.*' Given the nature of the allegations that had been made and not retracted at that point, there is no rationale for this belief. The officer has not explored the reasoning behind these comments/beliefs/assumptions, or explored the possible alternatives and no satisfactory explanation has been provided for this in order to address the complaint.

The IO has not referred in any detail to the complaint that there were procedural irregularities within the police investigation. The complaint states that vital evidence was not secured and was possibly allowed, deliberately or negligently, to have been concealed or destroyed and this is not covered in the IO report. The IO has also failed to make any reference to the fact that the complainant alleged that policy had not been followed.

This is not an exhaustive list.

It is my opinion that this matter needs to go back to the appropriate authority and be re-investigated. The appropriate authority will need to carefully consider all points of complaint made in both letters (6 October 2014 and 15 May 2015). I would ask the force to consider whether this investigation should

be subject to special requirements. I say this because the outcome letter clearly states that '*The IPCC are the correct appeal body for your complaint as the initial information provided was such that criminal or misconduct proceedings are justified, where a complaint of this nature is proven.*' If this is indeed the case, then the investigation should have been subject to special requirements and the officers subject of the complaint should have been served notices prior to being interviewed.

The appropriate authority should conduct a severity assessment and if they do not believe this matter should be subject to special requirements then they will need to provide their rationale for that decision.

2. Does any person have a case to answer for misconduct or gross misconduct or was any person's performance unsatisfactory?

It is not appropriate for me comment on this aspect of your appeal until the re-investigation is complete.

3. Are the appropriate authority's proposed actions following the investigation appropriate?

It is not appropriate for me comment on this aspect of your appeal until the re-investigation is complete.

4. Should the Crown Prosecution Service (CPS) be involved?

It is not appropriate for me comment on this aspect of your appeal until the re-investigation is complete.

5. If the information you were provided with was sufficient?

It is not appropriate for me comment on this aspect of your appeal until the re-investigation is complete.

Action(s) to be taken by the appropriate authority

The appropriate authority are directed to re-investigate the complaint taking into consideration all points of complaints made by the complainant in the two letters submitted to DPS. The appropriate authority will need to follow correct procedure and consider whether this investigation should be subject to special requirements.

The Metropolitan Police Service may contact you about the actions they need to take. Please contact them directly if you do not hear from them within 28 days.

You are unable to appeal about the assessment of your appeal. I hope my decision and the reasons for it are clear. If you have any questions or need more information about the way we have looked at your appeal please contact me using the details at the end of this letter.

We are committed to providing the highest possible standard of customer service, but are aware that sometimes things might go wrong. If you are unhappy with the service you have received from us, please tell us and we will do our best to put things right. We will listen to you and try to resolve issues quickly.

Yours sincerely

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You appealed following a police investigation into your complaint

These questions and answers explain how I reached a decision on your appeal.

- **How was my appeal assessed?**

When I looked at your appeal I considered some or all of the following five questions (these questions are also called 'grounds').

1. *Are the appropriate authority's¹ investigation findings appropriate/proportionate to the complaint?*

It is important that you receive a full explanation about what the investigation into your complaint found. I have looked at the findings of the investigation, taking into account the evidence, and decided whether the findings of the investigation should be reconsidered, either by us or the police.

When we tell you whether an appeal is upheld, we will explain how we came to this decision. For example:

- if the investigation dealt with all of your complaint(s)
- if the investigation was carried out in a proportionate manner and if enough evidence was gathered
- if the right decisions were made about the complaints that were investigated.

2. *Is the appropriate authority's decision accurate about whether any police officer/staff member has a case to answer for misconduct or gross misconduct, or whether their performance is unsatisfactory?*

I looked at the decision that the appropriate authority made about whether the police officer/staff member involved acted within the Standards of Professional Behaviour. I also looked at the decision about whether the police officer/staff member's performance may have been unsatisfactory. If I do not agree with the findings of the investigation into your complaint, I have to decide whether there is a case to answer (meaning the police officer may have breached the standards), and if the matter should go to disciplinary proceedings. If I agree that there is no case to answer, I have to decide whether a person's performance was unsatisfactory.

3. *Are the actions that the appropriate authority proposes to take following the investigation adequate?*

In this part of your appeal I considered how appropriate the proposed action is. My decision takes into account:

¹ i.e. police or equivalent body that made the decision about your complaint

If you made more than one complaint, it may be that some matters were upheld for one reason, and others upheld for a different reason.

The decision refers to 'proportionality' – what does this mean?

'Proportionality' means that each investigation should be proportionate to:

- the seriousness of the matter being investigated
- the prospects of a criminal trial, misconduct proceedings or unsatisfactory performance proceedings
- the public interest
- an investigation that results in learning for the individual who was complained about or for their organisation.

We consider proportionality when looking at whether lines of enquiry may have been missed or consciously not followed by an investigator. If any lines of enquiry have been omitted from the investigation the appropriate authority should have explained why this was.

The decision refers to 'a case to answer'. What does this mean?

Where an investigation finds that there is a possibility that a person serving with the police has committed an offence, or behaved in a manner that would justify disciplinary proceedings, the IPCC can only express an opinion about whether there is a 'case to answer' for misconduct or gross misconduct. This means whether there is enough evidence that may allow a misconduct meeting or hearing to find, on the balance of probabilities, that misconduct or gross misconduct has been committed.

Can the IPCC make the police apologise to me?

No. However, the IPCC expects appropriate authorities to apologise where a complaint is upheld. Who makes this apology depends on the situation.

My appeal has been upheld, what will happen now?

The letter you have received explains what will happen next. If we have told the appropriate authority that it must take certain actions (called **directions**) then it has to do this. In addition to the disciplinary actions and other actions mentioned above, we may also direct the appropriate authority to reinvestigate some or all of your complaint, or provide you with further information. If a reinvestigation is necessary – perhaps because the original investigation did not look at all of the evidence – you will have a further right of appeal, but only in relation to those parts of your complaint that required reinvestigation.

If we have made **recommendations** to the appropriate authority then they must consider these and respond to us about them. Recommendations may involve the people you complained about learning from what has happened so that it doesn't happen again. They could be about a police force changing its policies or changing the training that it provides to police officers/staff. The appropriate authority should also tell you what it is going to do in response to our recommendations. If you do not hear from them within a reasonable time, you can contact them to ask for this information. We will keep in touch with the appropriate authority to monitor its