

Report to the Thames Valley Police & Crime Panel Complaints Sub-Committee

Title: Complaint 2

Date: 10 June 2013

Author: Reece Bowman, Scrutiny Officer,
Thames Valley Police & Crime
Panel



Details of Complaint

Name of complainant:	Ms. Fiona Mactaggart MP
Date received from OPCC:	20/5/13

Below are:

- The initial complaint, dated 15/5/13, received from OPCC on 20/5/13 (Item 1A)
- The complainant's supporting statement, dated and received 4/6/13 (Item 1B)
- Letter from Chief Executive of OPCC to complainant, dated 20/5/13 (Item 2A)
- The Chief Executive of the OPCC's written statement on behalf of the PCC, received from OPCC on 3/6/13 (Item 2B)
- The Police & Crime Commissioner's 'Statement in response to the conclusion of the Operation Bullfinch trial' (Item 2C)

Recommendation

To follow

Item 1A: The Initial Complaint

Fiona Mactaggart, Member of Parliament for Slough



HOUSE OF COMMONS
LONDON SW1A 0AA

The Chief Executive
Office of the Thames Valley Police and Crime Commissioner
Police Headquarters
Oxford Road
Kidlington
OX5 2NX

15 May 2013

Dear Chief Executive,

I am writing to complain about the statement by Police and Crime Commissioner Antony Stansfeld, that the Oxford abuse of children took place because "apparently the human rights of these young children are considered more important than safe guarding them. Under the current rules it is almost impossible to safeguard these children whose human rights allow them to go endlessly missing or absent from their care homes".

He is wrong, this is propaganda which mis-states the law and in a person who is responsible for how the law is enforced in our area, the potential consequences of this are significant.

The prime articles of the Human Rights Act guarantee Right to life, Prohibition of torture, Prohibition of slavery and forced labour, all of which should have protected these girls.

Other rights such as Right to respect for private and family life and Freedom of assembly and association are conditional, meaning that they can be interfered with, in the words of the convention if it "is necessary... for the prevention of disorder or crime, for the protection of health or morals" which was clearly the case in relation to the children in Oxford.

Whatever may have gone wrong in this case, human rights laws had nothing to do with it. Indeed the United Nations Convention on the Rights of the Child actually demands that the state properly protects children.

I want to complain that this statement will do harm by implying to people who may be entrusted with the care of vulnerable children that there is legal justification for failing to prevent them mixing with people who pose a risk to their health or morals, let alone who may criminally assault them. I want to know what evidence this statement is based on and what action is being taken in the Thames Valley to prevent such a wilful misinterpretation of the Human Rights Act in future.

It is not acceptable for politicians and bureaucrats to blame human rights for their failings. These tragic cases require us all to be more vigilant for the human rights of children in our care, not less.

Yours ever,

A handwritten signature in black ink, appearing to read 'Fiona Mactaggart'.

Fiona Mactaggart
Member of Parliament for Slough

Item 1B: The Complainant's Supporting Statement

Fiona Mactaggart Member of Parliament for Slough



HOUSE OF COMMONS

LONDON SW1A 0AA

Reece Bowman
Scrutiny Policy Officer
Police & Crime Panel
Buckingham County Council
G9, New County Offices, Walton Street
Aylesbury
HP20 1UA

04 June 2013

Dear Mr Bowman,

You have invited me to provide further comments to support my complaint about the recent statement Anthony Stansfeld made in the wake of the Oxford sex abuse cases and Operation Bullfinch. Mr Stansfeld, the Police and Crime Commissioner for Thames Valley, made the following comment which I regard as both dangerous and contrary to the law;

"We have a rulebook in which apparently the human rights of these young children are considered more important than safeguarding them. Under the current rules it is almost impossible to safeguard these children whose human rights allow them to go endlessly missing or absent from their care homes."

The legislation establishing the role of police and crime commissioner requires that the PCC must, in particular, hold the chief constable to account for 8 separate matters. One of which is "the exercise of duties in relation to the safeguarding of children and the promotion of child welfare that are imposed on the chief constable by sections 10 and 11 of the Children Act 2004."

I suggest that these remarks potentially inhibit the safeguarding of children in the Thames Valley and work against effective collaboration with other agencies to protect children.

In the first response to my complaint sent by Paul Hammond on 20 May he suggested that the word "apparently" in the statement above mitigates its impact. But for it to be apparent there must be some evidence to support it, and in the very short time you have given me to provide further information I have found no such evidence. If in the next sentence Mr Stansfeld had said that this interpretation of "the current rules" is wrong I would not be making this complaint, which is that because someone in authority over the police service in the Thames Valley is promoting a wrong understanding of the law there is a significant risk that this misapplication of the law could occur in other places as well as Oxford (if indeed it ever did occur there).

Fiona Mactaggart Member of Parliament for Slough



In the same letter Mr Hammond suggests that Mr Stansfeld and I should discuss the matter and resolve it informally when he visits Slough (at my invitation) on 22 May. We did discuss it but were unable to resolve the matter. During that discussion Mr Stansfeld told me that this was a conclusion also of the Laming report in the Victoria Climbié enquiry in 2003. I have since reread that report and in its many recommendations I find nothing which suggests that the failure to protect Victoria was because people thought that human rights principles prevented it.

I know of no director of social services or director of children's services who would agree that safeguarding children is less important than their "human rights". But I have been seeking information about what happened in Oxford. I asked Oxfordshire County Council's Adult and Social Care team if they believe human rights legislation makes protecting children as difficult as Mr Stansfeld suggests. I have also asked the Thames Valley Chief Constable's office if, at any point during their investigations, they were informed by social workers that problems related to human rights had contributed to an inability to protect the victims in the case. I have yet to receive responses to these questions. It should also be noted that the presiding judge in this case has yet to sentence the defendants and give his sentencing remarks which may or may not support the allegations which Mr Stansfeld makes.

However, it is not I who should be providing evidence to support my complaint in this matter. It is the duty of the Police and Crime Commissioner to evidence his incorrect comments that human rights legislation makes it almost impossible to safeguard children who go missing from care. In a briefing he gave to several MPs including me he made similar assertions about human rights preventing effective social care for children. On that occasion I privately told him that this is wrong in law and arguably has the opposite effect of that which he intends in terms of assisting the safeguarding of children, I was therefore particularly disappointed that he repeated the same claim publically, still without citing the evidence on which he bases his conclusion after the perpetrators of this outrage had been found guilty.

Has Mr Stansfeld raised his concerns with Oxfordshire County Council's Adult and Social Care team? If not, why not? If, as he claims, human rights legislation is allowing large numbers of children to be subjected to sexual abuse by organised criminal gangs, then surely this should be the most important issue he faces in his post? What other steps has he taken to address the problem? The attorney general is an MP in the Thames Valley area and has a particular responsibility for human rights legislation and its impact, has Mr Stansfeld provided him with evidence which has led him to this conclusion?

Mr Stansfeld's comments are dangerous. I have made my complaint because I believe that the consequences of claiming that human rights hinder child protection are very serious. In my view when someone holding a position of authority says that "the rules" prevent effective protection it inevitably makes people who are charged with such matters fear that this is so and begin to behave as if it is. By saying social workers cannot do their job he is creating a potentially perilous environment within the child social care provisions that are vital to protecting our children.

Fiona Mactaggart Member of Parliament for Slough



In my view the best way to resolve this complaint would be for Mr Stansfeld to issue a public statement which makes it quite clear that such an interpretation of the law and rules is wrong and would put children at risk. I think it would also be useful if he could initiate a discussion with directors of children's services and social services to promote more effective collaboration between the police and them to improve the protection of children in our area.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Fiona Mactaggart'.

Fiona Mactaggart MP

Item 2A: Letter from Chief Executive of OPCC to complainant



Fiona Mactaggart MP
Member of Parliament for Slough
House of Commons
London
SW1A 0AA

Paul Hammond CPFA
Chief Executive
Office of the Police & Crime Commissioner
for Thames Valley

Tel: 01865 846771
E Mail: paul.hammond@thamesvalley.pnn.police.uk
Our Ref: PH/Complaints/PCC/Mactaggart
Your Ref:
Date: 20th May 2013

Dear Ms. Mactaggart

Re: Complaint dated 15th May against Anthony Stansfeld, Police and Crime Commissioner for Thames Valley regarding his statement in response to the conclusion of the outcome of the 'Operation Bullfinch' Old Bailey trial

With regard to your above complaint (in respect of which a copy of the PCC's statement is attached), as it is made against the Police and Crime Commissioner for Thames Valley (the PCC), the relevant legislation (the Police Reform and Social Responsibility Act 2011) and Regulations (The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012) require it to be dealt with by the Thames Valley Police and Crime Panel (the Panel). In accordance with the provisions of the relevant legislation, the Panel has delegated the responsibility for the initial handling of complaints against the PCC to me, as the Chief Executive of the Office of the PCC.

In respect of this complaint, as it does not constitute a serious complaint or a conduct matter that would otherwise require referral to the Independent Police Complaints Commission (IPCC) for investigation, I must record the complaint against the PCC and refer it to the independent Thames Valley Police and Crime Panel for investigation.

Notwithstanding the above requirement, the relevant regulations do provide for police and crime panels to engage in informal resolution of such complaints.

In respect of your complaint against the PCC, I would like to suggest that an attempt be made to resolve it informally. The reason I propose this as a preferred way forward is because I am aware that you are due to accompany Mr Stansfeld on a visit to your Slough constituency on Wednesday, 22nd May, which may provide an opportunity for your concerns to be addressed and, hopefully, resolved informally rather than through a formal investigation conducted by the Police and Crime Panel.

More importantly, I suspect that the PCC's statement may have been misinterpreted. Mr Stansfeld expressed forthright views on the role, responsibilities and failures of those persons and bodies who were entrusted with the care of these vulnerable children. However, his statement includes no direct reference to the Human Rights Act or any other legislation; rather, it expresses a concern over the perception gained from the evidence presented in the trial by those in responsibility that *"We have a rulebook in which **apparently** the human rights of these young children are considered more important than safeguarding them. Under the current rules it is almost impossible to*

safeguard these children whose human rights allow them to go endlessly missing or absent from their care homes" (my italics added).

I note that elsewhere in his statement Mr Stansfeld makes the following points, that *"The state can never be an ideal replacement for good parenting, but when it has to step in it must do so kindly, and with firmness, the two are not mutually incompatible"*; that *"Councils and their social services have a duty of corporate parenthood"*, and that *"Safeguarding is the responsibility of each and every one of us and not just those in authority"*.

Mr Stansfeld's statement also calls for a public inquiry into safeguarding of children nationally, including the making of recommendations as to how the law and guidelines applicable to those in positions of responsibility can be altered to make it easier to protect children from this abuse happening again in the future.

I would be grateful if you could let me know whether this proposed way forward (i.e. to seek an informal resolution to your complaint) is considered acceptable to you and, if yes, what the outcome of your discussions are with Mr Stansfeld, i.e.

- a) whether you have successfully resolved your complaint informally and therefore wish to withdraw it / discontinue further formal investigation by the Panel, or
- b) you have not resolved it informally and you wish the Panel to investigate it formally, and I will advise the Police and Crime Panel accordingly.

Similarly, if this proposed way forward is not considered acceptable to you, please let me know and I will refer your recorded complaint to the Panel for formal investigation.

If you have any queries, please do not hesitate to contact me.

Yours sincerely,



Paul Hammond

Chief Executive

Office of the Police and Crime Commissioner for Thames Valley

cc Reece Bowman (Scrutiny Policy Officer – Thames Valley Police and Crime Panel)
Anthony Stansfeld (Police and Crime Commissioner for Thames Valley)

Item 2B: Chief Executive of the OPCC's written statement on behalf of the PCC

With regard to your invitation to the PCC to submit a written statement to the Panel in response to the complaint received from Fiona Mactaggart MP, may I respond on behalf of the PCC.

Mr Stansfeld did not attempt to present an opinion on the Human Rights Act legislation, whether good or bad, and certainly did not seek to give a "wilful misinterpretation" of the Act in the manner indicated, i.e. that the Act was responsible for the failings in the protection of children,

Rather, what Mr Stansfeld was commenting on in his statement was the *impression* given by some of those officials in positions of responsibility, as borne out by their evidence presented in the Bullfinch case, that their evident inability to protect young children supposedly in their care was somehow *apparently* caused by their conflicting need to take into account the human rights of these children (e.g. their right to leave the care home and mix with adults when it was clear that they were at risk from these very individuals and repeatedly going missing). On occasion it was clear from the trial evidence that the officials responsible for the protection of these abused children had introduced inappropriate, flawed, operating rules reflecting an incorrect interpretation of the children's 'human rights' that were afforded a higher priority than their proper responsibility to protect and safeguard the children in their care when it was obvious that they were at risk of abuse and/or were being abused.

Mr Stansfeld's statement on the Bullfinch case makes it clear that everyone, including Councils, Social Services and officials, are responsible for safeguarding children in our collective care and that this should be the first priority for all - and those officials or bodies with a responsibility for protecting and safeguarding young children should not be designing or operating a flawed rule book that affords, inappropriately, a higher priority to the 'human rights' of children at risk based on some misinterpretation of the legislation.

Finally, and notwithstanding the above explanation, Mr Stansfeld also considers the complaint received from Ms Mactaggart to be misconceived.

This is because, as an elected crown servant, he has the right to hold and to express opinions on topical relevant matters concerning policing and crime matters – these are opinions that the public will have an interest in as he is their elected representative. This is a right shared and actively exercised by all elected persons, including MPs. Arguably, it would be considered more unusual if he did not express an opinion in a statement on an issue of such importance.

Item 2C: PCC's Statement in response to the conclusion of the Operation Bullfinch trial

[Published on the OPCC website at: <http://www.thamesvalley-pcc.gov.uk/News-and-Events/News-Archive/2013/Bullfinch-Statement-from-the-Police-and-Crime-Commissioner.aspx>
Statement also delivered orally to the Police & Crime Panel meeting of 17th May 2013]

This must be one of the most unpleasant and difficult cases Thames Valley Police have ever had to conduct.

It involved the molestation, rape and torture of very underage girls, on a large scale. We are fortunate it did not include murder. It would appear to have been a serious organised crime business that has extended well beyond Oxford.

The court case has been conducted in full public view in the Old Bailey. The evidence has been so harrowing that we have had both members of the jury and hardened reporters in tears.

I am not going to be an apologist for anyone or any organisation. What I will say is that we have brought this case to justice in the Thames Valley. It may well still be happening elsewhere. This case opens up a number of disturbing questions as to how we look after children in care, and how we conduct our criminal justice system. Both have clearly failed the children. At the moment it almost seems to actively look the other way. This has to stop. The state can never be an ideal replacement for good parenting, but when it has to step in it must do so kindly, and with firmness, the two are not incompatible.

I am calling for a full public inquiry into how we safeguard children nationally.

No organisation comes out of this well. However the victims were brave enough to give evidence which was crucial in bringing this to court and securing a conviction. Firstly schools. Some of these children were often absent from school. Who was this reported to and what action was taken? No one within the education system seems to have woken up to what was happening.

Secondly the NHS. Some of these girls went to Sexual Health Clinics. Did no one notice how young they were? Did the easy excuse of patient confidentiality take precedence over common sense? Why was nothing done?

Social Services. Most of these children were meant to be looked after by Social Services. They were obviously not being looked after properly. Councils and their social services have a duty of corporate parenthood. These girls were constantly going missing, in one girl's case a considerable amount of times. The system was looking the other way while these young girls were being exploited and abused. We have a rulebook in which apparently the human rights of these young children are considered more important than safe guarding them. Under the current rules it is almost impossible to safeguard these children whose human rights allow them to go endlessly missing or absent from their care homes.

The police. This should have been picked up earlier. The indications were there. The police did try on several occasions to bring cases to court but without much success. What has been learned from this case is how to collect the necessary evidence, and I hope this knowledge will now be widely disseminated throughout the UK police forces.

The criminal justice system. It is extremely difficult to bring a case of this nature to court. Not only is it difficult to produce the evidence in a form that will be accepted by the Crown Prosecution Service, but the confrontational system of giving evidence in court to a aggressive inquisitorial legal system is damaging to young witnesses. It is very intimidating for young girls to give evidence like this in court, and that is why prosecutions so often fail.

This case is by no means over. There are other victims. There are also other abusers within our community who I hope can be brought to justice. We need our communities to work with us and our partners. If anyone has suspicions about child sexual exploitation happening in their communities they have a duty to report it to the police. Safeguarding is the responsibility of each and every one of us and not just those in authority. The perpetrators who are still at liberty should not sleep easy; we will not be giving up on the follow up of this case, which will extend well beyond Oxford.

There are immediate actions that all agencies involved in this need to take. There will be an independent Serious Case Review, however it will take time. This is not an isolated case. There are likely to be similar cases going on in all our major cities, and indeed in many towns. It needs to be stopped now, and social services, the police, the NHS, schools and the criminal justice system all need to take immediate action to totally satisfy themselves that this is not going on in their area. We have a finite number of police available to investigate this sort of abuse. However, this year I have been able to significantly increase the number of officers in the Thames Valley dealing with child protection. I believe that to be necessary.

I have nothing but praise for how this very difficult and sensitive investigation was carried out by a team of well led police officers, and which has led to a successful result. However, it begs the question of why did it take so long for all agencies involved to respond to the scale of what was happening. That will be at the heart of the Serious Case Review that is now being undertaken. I am also asking for a full public inquiry into safe guarding of children nationally. Not only about the failings but also to make recommendations as to how the law and guidelines can be altered to make it far easier to protect children from this happening in the future.

Anthony Stansfeld

Police and Crime Commissioner for Thames Valley