

26 July 2004.

**To All Members of Strathclyde Joint Police Board**

Dear

**Shirley McKie v Chief Constable Strathclyde**  
**Shirley McKie v The Scottish Ministers and others**

I am Shirley McKie's father and write to you following recent publicity in the Herald that included a letter from Councillor Jean McFadden.

As you will be aware on 24 June the Joint Police Board voted that a claim against Shirley in respect of Police legal expenses should be enforced.

It should be noted that before being made aware of the Board's decision, to avoid further trauma, the expenses were paid in full via Shirley's legal representatives.

While your claim had legal standing the way it was enforced and subsequently publicised by Councillor McFadden displayed few signs of morality and integrity.

It has been drawn to my attention that a joint report, dated June 2004, prepared by the "Clerk and Chief Constable" was made available to the Board to assist their expenses decision. I consider it to be an extremely biased document that contains a number of errors of fact and at no stage does it fully or properly represent Shirley's position.

I am also concerned that neither my daughter nor her legal representatives were allowed to make representations to the board before such an important decision was made.

The action that she raised against the Chief Constable for £100,000 (not £750,000 as indicated in the joint report) was in respect of the heavy handed nature of the arrest that was effected upon her. It was always accepted that the arrest was legal, but Shirley's suggestion was that to arrest her in an aggressive manner, early in the morning, to watch her dress and shower, to handcuff her, to force her to undress in a police station, to repeatedly refer to her as "a prisoner" in a loud and intimidating way and to lock her up in a police cell was unnecessary and indicative of malice.

It is known that previously when Police officers, and many other accused, have been charged with perjury arrangements were made for them to attend at a police office with their solicitor thus avoiding the humiliation and terror experienced by Shirley and reducing the administrative costs.

The civil action and subsequent appeal were dismissed without the evidence being tested in a court. At no time was there any denial of the arrest facts above. It should be clearly understood that the action against the Chief Constable did not result in a finding that those things did not happen, and exoneration of the officers in question. The case was dismissed on the basis that the judges considered that there was not sufficient in the stated facts to infer malice on the part of the officers in question. I have no doubt that members of the public would have come to a different view had they heard the full evidence.

The claim in respect of the harm done to my daughter as a result of that arrest is now incorporated into the damages claim against the Scottish Executive.

The authors of the report correctly state that the action against the Executive was originally raised against the Joint Police Board. The reason for that approach was that in pre litigation correspondence the Executive suggested that the Board was in fact responsible for the wrongdoing of the individual officers. The Board stated that it was the Executive that was so responsible. Lengthy, detailed and frustrating correspondence was entered into and because of impending time bar issues my daughter's legal team were forced to raise an action against all possible employers.

The action continued until a late stage without any party accepting responsibility. When the Executive finally accepted that responsibility, they were found liable to meet all expenses of the abortive proceedings against other defenders. Accordingly, it cannot be in any way suggested that the decision to sue the Board was a fault of Shirley's legal team. Any complaint about this matter should be raised with the Executive.

The action against the Executive is on the basis that the fingerprint officers in question acted in a criminal manner. Although an independent high level Police enquiry concluded that there was indeed criminal activity by the fingerprint officers the Lord Advocate did not proceed to prosecute those officers. The Lord Advocate has never explained why he rejected the recommendation to prosecute.

The jury in my daughter's 1999 trial for perjury in the High Court, Her Majesty's Inspector of Constabulary's report in 2000 and a major police enquiry in 2000 unequivocally accepted that the print was not hers. This finding has subsequently been endorsed by experts throughout the world. The Executive, through the Lord Advocate and the Justice Minister, have also accepted that to be the position. Accordingly, it is now accepted at the highest level that Shirley was not guilty of perjury.

I and Shirley's legal representatives continue to contest the validity of the findings of the secret internal report which is referred to on page 4-5 of the report to you by the "Clerk and Chief Constable". Shirley's legal team was never consulted in its preparation and it has never been made public. I am deeply suspicious of the findings of an enquiry carried out by non fingerprint experts in such secrecy.

I suggest that if this report affected your decision in any way you should insist that it is made public, subjected to public scrutiny and that Shirley's legal team be allowed to challenge it.

I also find it hard to understand why it is being suggested she has somehow benefited from payment of £130,000 in legal expenses so far. I had understood it to be the policy of the Board and indeed the Chief Constable to support his officers especially if wrongly accused of a crime.

The sum was not, as is stated in the report, paid to my daughter but was paid to her legal advisers. Should the amount be thought to be excessive, then no doubt the recipients can be questioned about it.

The report and Mrs McFadden's 'Herald' letter appear to imply that my daughter should count herself lucky in some way to have received this funding. I am sure that it will be understood that she would far rather not have been prosecuted wrongfully, but that having been prosecuted it was her right to have her defence paid for by her employers.

If the drain on the public purse is an issue then those responsible for the over £1 million spent on prosecuting her and the subsequent enquiries should be identified and called to account. They should also be challenged on continuing this expenditure by refusing to award Shirley a just and fair settlement for her loss of health and career.

Similarly, there is an implication that the award of pension is generous to Shirley.

The simple fact is that she applied for that award despite objections by Strathclyde Police. By independent assessment she was found to have suffered illness as a result of her carrying out her duties. It has been held that she is medically unfit to work and was injured on duty. These assessments were carried out by reputable independent experts, and I am surprised at the implication that she has benefited enough from public funds. I find it difficult to imagine what the reason is for those factors being mentioned other than to invite that implication.

It is also suggested that her action against the Chief Constable could have been funded by the Police Federation. That funding may or may not have been provided. However, the Federation stated that Shirley would have to employ a firm of solicitors who had initially advised her to plead guilty to the charges originally brought. It will be understood that she had little or no faith in that firm, and she chose not to accept this unreasonable demand as a prerequisite to funding being provided.

It is true that any litigant should consider whether they have the means to meet an award of expenses if they lose litigation. This rather short point ignores the realities of life, whereby in any litigation there is a winner and a loser. I hardly need point out that the Chief Constable in Strathclyde has been the loser in a number of actions against him, so cannot be accused of always having the ability to predict the outcome of any case.

Within a few hours of the decision being taken by the Joint Police Board, a Notice of Inhibition was served on Shirley. This was despite the fact that our legal team had no notification this decision, and had understood responsibly that the matter was to be considered. Shirley had publicly stated her intention of making the payment should the decision of the Board go against her. She is domiciled in Scotland, and owns property here. She is in receipt of her pension. Hence there was no need to adopt this swift and heavy handed approach. All that was required was the courtesy of an indication that the decision of the Board was as it turned out to be, and the funds would have been paid by return.

This continued attitude of aggression is deeply distressing to my daughter and our family, who consider that this is simply a continuation of the bullying tactics displayed from the moment of her arrest.

I apologise for this necessarily lengthy explanation but as the decisions regarding Shirley were carried out in your name I felt you were entitled to understand my daughter's position.

I have also attached a 'Statement of Facts' concerning her case for your information.

Verification of the facts contained in this letter can be obtained from our legal representatives or by contacting me at the above address.

Yours sincerely,

**Iain A J McKie**

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