

Virdi Inquiry (Draft Report)

Part 2

(November 2004)

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B. Chair's Foreword

**Len Duvall, OBE, AM
Chairman
Metropolitan Police Authority
10 Dean Farrar Street
London SW1H 0NY**

23 July 2004

Dear Len (in script)

I am pleased to report the conclusion of the Virdi Inquiry (Part 2) I was appointed to chair in August 2000. The reasons for the delay are detailed in my report and a number of lessons can be learned about the need for early resolution strategies in police discipline and complaints as a proper object of efficiency and effectiveness in the service.

The complexities of the case and the review, for the Police Complaints Authority, of the investigation have, undoubtedly, contributed significantly to the delay of completing our task nearly three years after we recommended (Recommendation 14) that the Panel 'should be invited to hear the submission from PS Gurpal Virdi and to publish a report' on conclusion of matters between Gurpal Virdi and the MPS.

I am pleased that Gurpal Virdi is back at work; I am also extremely impressed with his determination and commitment to continue to serve as an officer in the Metropolitan Police Service.

DS Virdi was given a copy of the draft report on the 26 July and whilst he advised the Inquiry that it did not reflect all the events accurately he did not provide his reasons for this comment.

It was a cause of great sadness to the Inquiry that DS Virdi responded in this way as the Panel Members believed that they had dealt with this difficult matter in a fair and sympathetic manner which fully recognised his determination and commitment to return to his work as an operational police officer and progress with his career within the MPS.

Notwithstanding this considerable disappointment my task as Chairman of the inquiry has been made less onerous by the insight, expertise and judicious temperament of experienced Panel members.

I want to acknowledge our indebtedness to Sue Harper, Senior Policy Adviser to the Inquiry, and to Patricia Coney, Administrator, for their tremendous contribution.

**Yours truly,
David (in script)
R. David Muir
Chairman**

C. Executive Summary

The Virdi Inquiry Report was published in December 2001. PS Virdi was unable to present his submission in person to the Inquiry as he had lodged a second Employment Tribunal claim against the MPS on the 7 June 2000. This claim was in respect of the disciplinary process used by the MPS. This claim remained live during the time that evidence was being gathered by the Inquiry. Panel members received legal advice to the effect that the presentation of evidence could be detrimental to the parties involved in the process.

In the final report Panel Members sought to address this difficulty in a recommendation to the Metropolitan Police Authority (Recommendation 14).

Recommendation 14: On conclusion of matters between PS Virdi and the MPS, the Inquiry Panel should be invited to hear the submission from PS Virdi and to publish a supplementary report.

The Inquiry was unable to re-convene until May 2004 as enquiries were still ongoing. In the intervening period Mr David Gilbertson QPM, a former Commander in the MPS and a senior officer involved in the original investigation, wrote to the MPA expressing reservations over the fairness and conduct of the original Inquiry.

Between May and July 2004 the Inquiry considered the personal submission made by DS Virdi and the written submission of Mr Gilbertson. The issues raised were considered by the Panel and enquiries were made. The Panel also examined the response of the MPS, the Home Office and the Commission for Racial Equality to the recommendations made in the original Report.

The Panel concluded that DS Virdi had demonstrated considerable courage in his decision to return to work and determination to succeed in his career as an officer within the MPS. They were impressed by his desire to put the past behind him and as such this report does not seek to re-examine matters which originated in 1998.

The Panel noted the progress of the MPS and the CRE in responding to the recommendations made in the Virdi Inquiry Report – Part 1.

With the benefit of information passed to the Inquiry by DS Virdi the Inquiry was able to recommend a number of changes to the MPS in regard to their dealing with the future return and re-integration of staff who have been absent for a considerable period by the introduction of mentors, sufficiently confident and skilled, with access to the organisation.

The recommendations also included a requirement to carry out an audit of personal records and sensitive data.

D. The Virdi Inquiry – Part 2

1. Recommendation 14 of the Virdi Inquiry Part 1

The Virdi Inquiry Report was published in December 2001. The Inquiry was constrained by overlapping processes that were ongoing at the time. See table 1 ‘The case: Chronology of 4 years’ extracted from the original report.

Table 1

MPA Inquiry		01.09.00	12.00	25.10.01	12.01
		MPA inquiry announced	Terms of Reference agreed	MPS receives findings	Report published
Employment Tribunal (second claim)		07.06.00			
		Form IT1 lodged			
Employment Tribunal (first claim)	28.06.98		23.08.00	08.12.00	
	Form IT1 lodged		MPS found guilty of discriminating against PS Virdi on grounds of race	Award of £151,688 to PS Virdi	
Disciplinary		22.03.99		30.11.00	
		MPS Solicitors receive file in respect of discipline charges		Discipline Appeal Tribunal	
PS Virdi	15.04.98		03.03.00	30.11.00	
	Suspended		Dismissed	Reinstated	
Initial Investigation	29.12.97		09.02.99		
	2 Area Complaints Unit launches investigation		CPS decides There are no criminal charges		
	Dec 1997	Dec 1998	Dec 1999	Dec 2000	Dec 2001

PS Virdi was unable to present his submission in person to the Inquiry as he had lodged a second Employment Tribunal claim against the MPS on the 7 June 2000. This claim was in respect of the disciplinary process used by the MPS. The claim remained live during the time that evidence was being gathered by the Inquiry. Panel

members received legal advice to the effect that the presentation of evidence could be detrimental to the parties involved in the process.

In the final report Panel Members sought to address this legal difficulty in a recommendation to the Metropolitan Police Authority.

Recommendation 14

On conclusion of matters between PS Virdi and the MPS, the Inquiry Panel should be invited to hear the submission from PS Virdi and to publish a supplementary report.

2. The Reconvened Inquiry

2.1 Panel Membership

The original Panel Members were contacted by the MPA during late spring 2004. All members were committed to the recommendations made in the original report and agreed that the Inquiry should be reconvened.

One of the original panel members had commenced full time employment with the Police Complaints Authority (CPA) in the intervening period and considered that her personal involvement would be inappropriate. One of the observers had commitments during the summer of 2004 that were not possible to rearrange. The Panel membership was therefore confirmed as:

Dr. R. David Muir – Chair
Angela Slaven – Deputy Chair
Sir Geoffrey Dear – Panel Member
Radhika Bynon – Panel Member
Lord Navnit Dholakia – Expert Advisor
Ahmed Ramiz – Observer

Biographical details of the panel are at appendix 1

The roles and responsibilities of the Panel members is in appendix 2

2.2 Terms of Reference

Panel Members agreed that their Terms of Reference should reflect the requirements placed on the MPA in recommendations 14-16 of the Virdi Inquiry Report.

Terms of Reference of the Virdi Inquiry Part 2

- 1) To hear the submission from PS Virdi;
- 2) To review the reports provided by the MPS on PS Virdi's return to duty;

- 3) To review Action Plans and periodic reports from the MPS on how they are progressing with recommendations of the Inquiry, including the need to ensure that ET cases are being monitored;
- 4) To consider the written submission from Mr. Gilbertson.

E. December 2001 to May 2004

1. Reasons for the Delay in Reconvening

Table 2 has been updated to indicate the processes ongoing after publication of the Viridi Inquiry Report.

Table 2

		Viridi Inquiry Report Published			Viridi Inquiry Part 2 Commenced	Viridi Inquiry Supplementa ry Report
Employment Tribunal (second claim)	Jun-00 Form IT1 Lodged		Feb-02 Claim settled out of court			
Employment Tribunal (first claim)	Aug-00 MPS found guilty of discriminating against PS Viridi on the grounds of race					
Disciplinary	Nov-00 Discipline Appeal Tribunal					
South Wales Inquiry			Feb-02 Meeting with PCA re Terms of Reference	Jun-03 Report handed to PCA	Dec-03 Interim Certificate PCA Satisfied Findings not published	
PS Viridi	Nov-00 PS Viridi Reinstated as an officer of the MPS			26-Feb-02 PS Viridi Return to work at the MPS		
	August 2000	August 2001	August 2002	August 2003	August 2004	

(This table clearly indicates that processes have been ongoing throughout the entire period and explain the reason for delay in re convening Viridi Part 2)

Recommendation 10 of the Virdi Inquiry Report stated:

‘On conclusion of the investigation into PS Virdi’s case, (to be supervised by the PCA) any officers deemed to have acted inappropriately should face disciplinary action.’

On 14 February 2002 the MPS approached South Wales Police to ascertain their willingness to allow an officer to conduct a review of the investigation into PS Gurpal Virdi’s case. On 20 February 2002 South Wales Police met with the Police Complaints Authority to agree Terms of Reference. These were subsequently agreed as:

1. To conduct a review of the investigation which led to discipline action against Mr Gurpal Virdi and, if necessary service requisite discipline papers in support of that review for evidential purposes;
2. To identify and disseminate learning from the investigative review in order to develop professional standards on behalf of the MPS;
3. To consider the implementation of any immediate remedial action, in regard of the policy and practices of the Directorate of Professional Standards;
4. To establish and maintain the support of this process with the Virdi family and/or their representatives;
5. To review the written material submitted by Mr Virdi to establish the viability of re-investigating the original crime of sending race hate material. The PCA will review the evidence provided by the reinvestigation and recommend or direct appropriate disciplinary action.

The Inquiry was completed by South Wales Police on the 20 June 2003 and subsequently passed to Police Complaints Authority.

On 16 December the PCA issued their ‘interim certificate’ confirming that they were satisfied with the investigation conducted by South Wales.

This matter is now in the hands of the Independent Police Complaints Commission (IPCC), who have taken over responsibility for the matter as no formal closure will take place until after completion of the Morris Inquiry.¹

Given the difficulties experienced in hearing Gurpal Virdi’s evidence during the initial inquiry it was agreed that the inquiry would not be reconvened until all inquiries were complete.

2. Mr. Gurpal Virdi

¹ This inquiry was set up by the MPA in January 2004 to inquire into professional standards and employment matters in the Metropolitan Police Service.

The table at E.1 indicates that PS Virdi did not return to work until February 2002. During 2001 a number of jobs were offered by the MPS and considered by PS Virdi but were turned down because they did not offer the opportunity to return to a policing environment where he would gain the necessary experience to progress in his career. (Details provided to the Panel)

In February 2002 PS Virdi returned to work at the MPS and after a period of induction commenced duty within the Community Partnership Branch PRS5 (2) with specific responsibility for the interface between the MPA and the business community across London.

In January 2003 he moved to the Specialist Crime Directorate (SCD). Between March 2002 and May 2004 he was involved in many project groups within the MPS and a number externally. He wrote the research specification for the study of minority ethnic businesses and retail crime. This report is currently being conducted by the Jill Dando Institute (JDI) that is jointly funded by the MPS and Government Office for London (GoL). PS Virdi is one of ten members of the steering group.

During this period PS Virdi achieved the following:

8th November 2001 - The National Black Police Association (NBPA) award in recognition for courage and tenacity in fighting for justice in the police service.

20th February 2002 - Assistant Commissioner's commendation - for outstanding professionalism and dedication to duty in the manner in which he dealt with the relatives and victims of a serious assault with racial overtones on 21st March 1998 in Studland Road, Hanwell, W7. AC Hogan-Howe presented the commendation.

6th June 2002 - OCU Commanders' commendation for courage and devotion to duty in disarming a youth armed with a handgun.

21st June 2002 - Windrush Award - Gold Standard winner - General Occupation

9th July 2002 - Asian Voice Asian Achievers Award 2002 - Uniformed Public Services award, presented by the High Commissioner of India in presence of Rt. Hon. Patricia Hewitt MP, Secretary of State for Trade and Industry.

August 2002 - Gained LLB (Hons) from Thames Valley University.

October 2002 - Elected Fellow of the Royal Society for the encouragement of Arts, Manufactures & Commerce (RSA). FRSA

In his spare time PS Virdi has also worked for the Black Police Association. PS Virdi was nominated and elected to serve as an executive member on the BPA. Throughout his service he has supported several of his colleagues. This work is voluntary.

PS Virdi has also been a school governor and worked with charities. In 2003 the Southall Day Centre sent a letter to the Commissioner regarding his work with them.

3. Submission by Mr D. Gilbertson QPM

On 8 February 2002, solicitors acting on behalf of Mr David Gilbertson QPM, formerly T/DAC in the MPS until his retirement in April 2001, and an Assistant Inspector of Constabulary with HMIC, wrote to the Chairman of the Inquiry setting out the concerns of their client in regard to the fairness and conduct of the Inquiry process.

In a response the MPA advised Mr Gilbertson that there was a probability that the Inquiry would be reconvened to hear the evidence of PS Viridi. For reasons stated at E.1 the Inquiry was not reconvened for a further two years. Mr Gilbertson was contacted prior to the Inquiry Part 2 and asked how he wished to present his concerns to the Panel.

On 30 April 2004 Mr. Gilbertson produced a written submission which was presented to the Panel at its first meeting in May 2004. The following is a summary of the key issues raised by Mr. Gilbertson:

- Mr Gilbertson was not invited as a witness to Part 1 of the Inquiry;
- Relevant information provided by Mr. Gilbertson to the MPS Solicitor on the 25 August 2000 may not have been passed to the Viridi Inquiry;
- The assumption and conclusion made by the Panel in respect of the POLSA search of Mr. Viridi's house was fundamentally flawed;
- Mr Gilbertson and the Federation Representative held a contrary view about the 'appointment' of a Federation Representative for Mr Viridi compared to that presented in the Report;
- Mr Gilbertson invited the Inquiry to comment on the outcome of the South Wales Inquiry in terms of its findings.

F. Submission by Mr. Gurpal Virdi

On 19 May 2004 DS² Gurpal Virdi attended the Panel Meeting of the reconvened Inquiry, accompanied by his wife, Mrs. Sathat Virdi and his friend Insp. Diljit Bahra. DS Virdi was invited by the Panel to present his submission which was tape recorded. The subsequent transcript totalled 92 pages. A summary of the key themes that the Panel considered fell within their Terms of Reference is presented below.

Summary of the submission by DS Gurpal Virdi Presented to the Virdi Inquiry Part 2 on the 19 May 2004

Introduction

In accordance with recommendation 14 of the Virdi Inquiry Report 2001 DS Virdi was invited to present his submission to the reconvened Inquiry.

The Panel was grateful for the detailed submission provided by DS Virdi as this prompted much debate and further enquiries.

This summary picks out the key themes that the Panel considered fell within their Terms of Reference.

Submission Overview

DS Virdi was welcomed by the Chair R. David Muir and was invited to raise matters that may not have been adequately addressed previously by the lack of critical evidence and to identify where there may still be blockages. It was confirmed that Panel Members had access to the previous written submission by DS Virdi.

The South Wales Inquiry

DS Virdi referred to the investigation carried out by South Wales Police which was supervised by the Police Complaints Authority. It was noted that Panel Members had not seen copy of this report and were unaware of its findings.

² Mr Gurpal Virdi was appointed as Detective Sergeant following his successful completion of a detective training course.

Blockages to progression

a) Inappropriate Postings

DS Virdi advised the Panel that on his return to work at the MPS he had initially been given menial tasks.

b) CID Course

DS Virdi had anticipated being able to attend a CID course which had been the subject of discussion and reassurances (in the presence of Insp. Bahra) prior to his return. He was advised by his supervisor that he had to apply to go on a course. He subsequently prepared an application which was amended by his supervisor. The application was turned down. During this process DS Virdi submitted a grievance which went to appeal. DS Virdi believes this matter remains unresolved. Approval was finally granted by an Assistant Commissioner for his attendance on a CID course.

Prior to his attendance DS Virdi sought delegate details. On attending the course, he was most distressed to find an officer who had given evidence against him sitting in front of him. This officer's name had not been on the list of officers due to attend. This officer was subsequently moved to another course. DS Virdi subsequently passed the CID course being one of 40% successful on the course. He later received phone calls alleging that because of his attendance a higher proportion of officers had failed as they had been required to run the course 'by the book'.

c) Promotion Examination

Officers moving from the rank of Sgt to that of Inspector are required to have passed a promotion examination. DS Virdi passed his promotion exam in 1995. He stated that he had been advised that he is now required to resit this examination as it is no longer valid. He claimed that another officer who passed his examination in 1988 has just been promoted.

d) The SO6 Report

A senior officer approached DS Virdi and advised him that he had been 'blocked because an internal report was floating around'. He supplied a copy of the report which was a restricted document prepared by SO6 – Specialist Crime OCU and was completed in October 2000. DS Virdi claims that a number of senior officers in the MPS have read this document and he is still being treated as a suspect.

DS Virdi went to see the Assistant Commissioner about the existence of this report and its availability within the MPS. He was advised that the matter would be examined. He later received a letter from the staff

officer advising that the matter is with the Deputy Commissioner. He is still awaiting a response from the Assistant Commissioner.

Other Issues

Two reports have been prepared by the MPS on the return to work of DS Viridi. The first report submitted in November 2000 was not seen by him prior to its receipt by the MPA. The second report comprised a meeting with a member of the MPS staff to discuss the process for resolution of Employment Tribunal issues. There was no discussion about DS Viridi as an individual. A third report is due in June 2004 but as yet no contact has been made with him.

DS Viridi raised a number of other matters as enumerated below:

- 1) The grievance procedure does not provide officers with adequate support to raise their concerns. Some officers regardless of their ethnicity are not getting justice within the MPS;*
- 2) If a staff member challenges inappropriate behaviour (which they are encouraged to do) they are ostracised and targeted; (DS Viridi gave an example of a matter that he raised within the HR Forum which resulted in him receiving hate mail. The hate mail was investigated by white officers within the DPS. DS Viridi felt he was treated as a suspect rather than a victim throughout this process);*
- 3) He is given staff to supervise who have made allegations of racism;*
- 4) He feels that his managers undermine him, check his work unnecessarily and watch him (including an occasion when he was due to attend a meeting with Occupational Health);*
- 5) An application made for a bonus payment in respect of the work undertaken by DS Viridi on behalf of the Black Police Association (in accordance with new conditions introduced by the police reform process) was deliberated on at AC level which was not in accordance with MPS procedures or that used for an application made by the Police Federation;*
- 6) DS Viridi is presently serving in a role that he considers 'quite reasonable' looking at community issues and partnerships.*

Concern expressed by Insp. Bahra and Mrs Viridi

Both parties expressed concern over the apparent blockages experienced by DS Viridi; they were both worried about his health.

Insp. Bahra advised that the Commissioner and Deputy Commissioner had issued letters of apology but that these were not on his personal file and had not been seen by his managers. A line has been drawn under the matter at the top of the organisation but this had not been filtered down through the organisation.

Closing Remarks

DS Virdi confirmed that he wished ‘to move on and progress from where he left off.’ Panel Members complimented him on his work in the Sikh Community which has been formally recognised. He was complimented on his persistence in challenging inequality as institutions only improve when they are challenged and become responsive to those challenges. Panel Members expressed concerns over many of the issues raised by DS Virdi and gave an undertaking that these would be thoroughly examined and that he along with other named individuals would receive a draft of the second report prior to its publication.

2. Further Information provided to the Inquiry by DS Virdi

During the following month DS Virdi provided other documentation to the inquiry to address specific enquiries raised by Panel Members. The Panel were also provided with details of DS Virdi’s submission to the Morris Inquiry³. DS Virdi shared the findings of a consultant’s report analysing the original investigation of 1998 which was prepared for the Morris Inquiry. DS Virdi considered that the findings of this report were ‘a step in the right direction’.

3. Follow up action

Panel Members were concerned by many of the issues raised by DS Virdi. Members carried out a detailed examination of the correspondence presented by DS Virdi at the Panel Meeting and during the following month.

Correspondence was forwarded to the MPS seeking clarification in respect of issues raised by DS Virdi and the Chairman met with the Commissioner to discuss some of these.

³ This Inquiry does not seek to comment on the work of the Morris Inquiry although it is recognised that this is ongoing at the same time. The submission of DS Virdi to this Inquiry together with the submissions of MPS officers including Sir Ian Blair who comments on the Virdi Inquiry can be viewed on the Morris Inquiry website at www.morrisinquiry.gov.uk

G. Findings

1. Issues Raised By DS Gurpal Virdi

1.1 The South Wales Inquiry

As stated in E.1. an investigation was carried out by the South Wales Police into the original investigation in 1998. The report has received its 'interim certificate' from the PCA confirming their satisfaction. Publication now rests with the IPCC. No formal release will be made until after the Morris Inquiry has reported.

The Panel were not in a position to comment on the findings of this Inquiry as the report was not presented as a Paper to Virdi part 2.

1.2 Blockages to Progression

1.2.1 Inappropriate Postings

In his submission DS Virdi referred to being given 'sickening out'⁴ jobs. He later described these to Panel Members. During the period March 2001 and May 2001 DS Virdi was offered five different jobs. None of these jobs offered DS Virdi the opportunity to work within mainstream policing which would have afforded him the opportunity to study for his promotion examinations and attend courses to update his policing skills.

DS Virdi also advised Panel Members that following his return to work he had been made responsible for supervising the return to work of other officers who had challenged the MPS for unfair treatment on the grounds of their race.

1.2.2 CID Course

The Panel Members examined the documentation provided by DS Virdi which revealed that following a return to work in April 2002 DS Virdi had a Personal Development Plan prepared with his manager. During this process DS Virdi indicated that agreement had been reached that he should attend a Detective Training Course. His manager investigated this proposal and was unable to determine that approval had been granted for this.

DS Virdi was not happy about this position and he was advised to take out a grievance by his manager. The grievance was resolved with a decision that DS Virdi would apply to become a DS through the normal route and that the process would be overseen by an Assistant Commissioner. Both DS Virdi and his manager signed a form to indicate that the grievance was satisfactorily resolved. The application was subsequently completed by DS Virdi but was rewritten by his manager who believed evidence had not been presented in the best way.

⁴ The term used by DS Virdi to describe posts suitable for officers returning to work on light duties following sickness absence.

The application was subsequently submitted and considered by a Selection Panel in accordance with the MPS procedures on the 30 July 2002. The Selection Panel concluded that the evidence presented was below the required standard in several areas.

DS Viridi was not happy with the outcome of this process as he believed he had been given reassurances that the outcome would be a place on Detective Training Course. The grievance submitted by DS Viridi was subsequently reviewed by another senior officer. He found that

‘there had been several examples of a breakdown in communication between PS Viridi and his manager...However there is no evidence to suggest that (he)...failed to deal with PS Viridi’s grievance correctly or that he deliberately misled him into signing the resolution based on false promises.’

In his submission to Panel Members DS Viridi expressed his concerns about this process which he considered had still not been resolved to his satisfaction.

1.2.3 Promotion Examination: Sergeant to Inspector

In his submission DS Viridi advised the Panel that he

...passed his promotion exam in 1995 and asked “Can this be reused?” And they said, “No, it can’t be because of time lapsed”...In the same office as me there’s another sergeant, he passes his exam in 1989 and he’s now been made an Inspector and I’m sitting here...

Panel Members later sought clarification of this position and were advised by DS Viridi that he had passed part 1 of the Inspectors examination in 1995.

The Examinations Manager of the Police Promotions Examinations Unit was contacted. She advised that because of changes to the examination process introduced under OSPRE DS Viridi was required to resit Part 1 again because he had not passed Part 2 within the required number of attempts. This was not due to any absence from work or discrimination on the part of the MPS.

1.2.4 The SO6 Report

During his submission to the Panel DS Viridi advised that a senior officer had approached him and advised him that he had been ‘blocked because an internal report was floating around’.

This officer subsequently supplied a copy of the report which was a restricted document prepared by SO6 – Specialist Crime OCU and was completed in October 2000. DS Viridi believes that a number of senior officers in the MPS have read this document and he is still being treated as a suspect.

DS Virdi went to see the Assistant Commissioner about the existence of this report and its availability within the MPS. He was advised that the matter would be examined. He later received a letter from the staff officer advising that the matter is with the Deputy Commissioner. DS Virdi later received a response but remains unhappy about the wording and this matter is still ongoing.

The Panel was concerned about the availability of this report and wrote to the Commissioner. A reply from the Deputy Commissioner dated 10 June 2004 is attached as appendix 3.

In this letter Sir Ian Blair confirms that a report was commissioned in October 2000 to 'seek a review of the case and identify corporate witnesses...'

Only 5 copies of the report were prepared and were distributed to Legal Services, Professional Standards, Diversity Directorate. The other 2 remained with the author and the Assistant Commissioner who requested the review.

The Deputy Commissioner confirmed that the report would not, as a matter of routine, be available to managers and will be rendered obsolete by publication of the Virdi Inquiry Part 2 Report.

1.3 Concerns

1.3.1 The MPS Grievance Procedure

a) Concerns of DS Virdi

During his submission DS Virdi advised that:

The grievance procedure does not provide officers with adequate support to raise their issues. Some officers regardless of their ethnicity are not getting justice within the MPS.

DS Virdi had raised a grievance himself in 2002 (see 1.2.3.). He stated that he had no confidence in the procedure. He also stated:

If a staff member challenges inappropriate behaviour (which they are encouraged to do) they are ostracised and targeted.

b) The MPS Grievance Procedure

The grievance procedure used by the MPS was the subject of concern in the Virdi Inquiry Report in October 2001. At the time of publishing the MPS had already undertaken to review the process.

A new Fairness at Work Procedure was introduced on 5 May 2003. See section G4.

1.3.2 Different Treatment in a Bonus Payment

Ds Viridi advised Panel Members that an application for a bonus payment had been made in accordance with the provisions of the police reform process. The application had been made in respect of work undertaken by the Black Police Association (BPA). He advised that the application had been referred to the Assistant Commissioner. An application made by the Police Federation had been granted at local level in accordance with MPS procedures.

This matter was raised formally with the Deputy Commissioner who advised that the application had been countersigned by the Chair of the BPA rather than the line manager (as the process demands). The application subsequently took a different route and was eventually assessed by an Assistant Commissioner 'to enable greater objectivity'.

Findings

2. Issues Raised by Mr. Gilbertson

2.1 Access to the Panel

Mr Gilbertson stated in his submission that

‘it seems extraordinary that Mr Gilbertson, who was closely involved in the investigation and whose conduct was subsequently criticised in the report was seemingly excluded from making any contribution whatsoever’.

He quite rightly refers to letters sent out to officers involved in the case inviting them to contribute to the Inquiry. It is acknowledged that no such letter was sent to Mr Gilbertson.

The Panel reviewed the process for gathering of information. An item was placed in the MPS police notices and the ‘Job’ (internal newspaper). Specific letters (as shown in the appendix of the Viridi Inquiry Report) were sent to officers of federated ranks to encourage them to come forward, via the Observer to the Inquiry, who was a Federation Sgt. This generated a number of submissions from staff who were directly or indirectly involved from all ranks including senior officers. It has been established that not all officers were contacted (except via the open invitation in the Job and police notices).

2.2 Memorandum dated 25 August 2000.

Following the decision of the Employment Tribunal *Gurpal Singh Viridi v The Commissioner*, Mr Gilbertson (then Assistant Inspector of Constabulary) was sent sight of the judgement by the MPS Solicitors Department. In a reply to the MPS Solicitor on the 25 August 2000 Mr Gilbertson raised a number of issues that he considered may have relevance in any subsequent review. The letter concludes that it should be retained on file and

‘should be disclosed to any subsequent review of the case, as envisaged by the Deputy Commissioner’.

The Viridi Inquiry documentation was reviewed. (A log of all documentation received was maintained.) Members could not recall sight of this document. The MPS Solicitor was asked for his views on release of the document. In a letter to the Inquiry dated 28 May 2004 the Director of Legal Services advised:

‘To the best of his recollection, however, he does not think that the memorandum was supplied to the Inquiry but cannot recall if this was intended or was an oversight.’

The Panel considered that this document would have prompted specific contact with Mr Gilbertson especially in regard to the section on the Employment Tribunal Findings.

2.3 The POLSA Search

Mr Gilbertson submitted that “claims in the original Viridi Inquiry Report that POLSA teams are never used to search residential premises except in cases of terrorism offences were ‘substantially in error’.”

The Viridi Inquiry Report Part 1 did not make this assertion. The Panel concurred with the view of the Employment Tribunal that ‘the use of the POLSA team was excessive and unwarranted.’ The report did publish a comment from a police inspector who made a submission to the Panel at that time in which he referred to the use of POLSA teams.

The original Inquiry went to some lengths to find evidence of the use of POLSA within the MPS at and around 1998. As records were not retained by the MPS in respect of the use of POLSA at this time it was and is still not possible to establish accurate data in respect of POLSA deployment.

2.4 Representation

The Viridi Inquiry Report referred to a comment made by PS Viridi that

‘my federation representative was chosen for me by Commander Gilbertson’.

This assertion was again made by DS Viridi in his submission to the Panel on 19 May 2004 but is categorically denied by Mr Gilbertson in his written submission.

The original report included the following comment from DS Viridi

The Police Federation gave me minimal support. My Federation representative was chosen for me by Commander Gilbertson who was in charge of the inquiry.

The Sgt who had acted as Federation representative to PS Viridi was contacted by the Panel. In a letter dated 28 May 2004 he set out his full recollection of the events.

‘On the morning of Sgt Viridi’s arrest I was at a meeting of Police Federation representatives when I was paged to contact Commander Gilbertson...He said that he believed that Sgt Viridi should be given every opportunity to defend himself against the allegations. He asked me to arrange to have Sgt Viridi represented through the police federation and gave me Sgt Viridi’s home number...

I spoke with Sgt Virdi and introduced myself as the Area Secretary. I asked him how he was and he replied that he was a bit shocked and angry. I asked if he had anyone he wanted to assist him. He said no because he didn't like his local Sgt Fed. Rep. I explained that I was an experienced... representative and asked him if he wanted me to help him. He said 'Yes please.'

This officer did not come forward to the original Inquiry but the Panel were grateful for his prompt and full response to the specific questions asked of him.

2.5 The South Wales Inquiry

Mr Gilbertson invited the Panel to make comment on the South Wales Inquiry. The Panel did not consider the South Wales Report as it was not considered as an Agenda Paper to the Virdi Inquiry Part 2 and was therefore not in a position to comment on its findings.

Findings

3. Response of the MPS to the Recommendations made in the Virdi Inquiry Report

In the Virdi Inquiry Report 11 recommendations were made in respect of the Metropolitan Police Service.

Recommendation 16 stated

The MPA should receive an action plan and periodic reports of how the MPS are implementing the recommendations of this Inquiry.

On 21 March 2002 a report was considered by the MPA entitled Virdi Inquiry MPS Response and Action. This was followed on 26 September 2002 and 20 June 2003 by further reports. No later reports were submitted.

An analysis of the position as of June 20, 2003 revealed:

No	Recommendation	Position as at 20 June 2003
1	Regulations, particularly in regard to discipline, should be interpreted with common sense and reasonableness in an attempt to eliminate unnecessary bureaucracy and unjustified cost both financially and in personal terms.	Action completed
2	The grievance machinery should be reviewed (as the MPS has already undertaken to do) to: <ul style="list-style-type: none"> • ensure that the procedure includes the informal stage of normal managerial action; • provide training to managers and supervisors in use 	Action completed

	<ul style="list-style-type: none"> • of the process and their obligations to address issues at an early stage; • support the decisions of managers and supervisors where appropriate; • re-launch the process and give senior officer assurance that staff who use the procedure will not be punished or victimised. 	
3	<p>That consideration be given to a review of administration of Employment Tribunals within the MPS to encourage:</p> <ul style="list-style-type: none"> • setting up a monitoring and good practice unit capable of early intervention and for alerting chief officers to highly sensitive cases; • removal of some of the responsibility for case management to suitably trained Personnel Managers who will work in close liaison with Borough Commanders; • direct contact between Borough Commanders, Personnel Managers and MPS solicitors to encourage local management responsibility and the possibility for earlier resolution of cases. 	Still ongoing
4	<p>Notwithstanding the constraints of the existing Regulations, the MPS should address the perceived blame culture, recognising that an early apology may be the only desired outcome and should support staff who admit to honest mistakes.</p>	Action completed
5	<p>That appropriate actions arising from these recommendations should be included in the requisite action plan to comply with requirements of the Race Relations (Amendment) Act 2000 and that the MPS should produce a strategy to reassure the community of its commitment to comply with the legislation.</p>	Action completed
6	<p>The MPS should seek to address the perceived difficulties associated with the Directorate of Legal Services, namely:</p> <ul style="list-style-type: none"> • the use of early intervention strategies to limit the number of cases going to employment tribunal; • to ensure that the structure of decision-making, where legal advice is a critical consideration but not the final arbiter, is transparent to the MPA. 	Action completed

7	The MPS should maintain the ongoing progress and good practice identified in the last HMIC Inspection of Professional Standards Department, ensuring that all staff regardless of their background have confidence in the grievance procedures.	Action completed
8	A press strategy should be adopted that: <ul style="list-style-type: none"> • explains how to deal effectively with race-specific and high profile cases, using the learning from <i>critical incident training</i>; • includes the principles contained in the National Union of Journalists Guidelines on Race Reporting; • does not compromise the principles of natural justice. 	Action completed
9	Senior officers should regularly monitor and review how effectively middle and junior managers implement the organisation's policies and commitments to equality.	Action adopted and ongoing
10	On conclusion of the re-investigation into PS Virdi's case, (to be supervised by the PCA) any officers deemed to have acted inappropriately should face disciplinary action.	Action completed
11	The MPS should monitor the composition of Representatives of the Police Federation's Joint Branch Board, ensuring that concrete measures are taken to address under-representation, especially from ethnic minority groups.	No statistical details provided to the MPA on the diversity of Representatives.

Recommendation 15

The MPA to require the MPS to provide progress report on PS Virdi's return to duty.

On 21 March 2002 the MPA considered a report prepared by the MPS. This report contained the following information.

AC Ghaffur publicly welcomed PS Virdi back to duty on Tuesday 26 February. There then followed an intensive induction process for a week where PS Virdi was acquainted with the role of each part of the Policy, Review and Standards Directorate and how this contributed to the work of the MPS. On Wednesday 6 March 2002 PS Virdi commenced duty within the Community Partnership Branch PRS5 (2) with specific responsibility for the interface between the MPA and the business community across London.

No further reports were provided.

Findings

4. Fairness at Work

During his submission DS Virdi raised concerns about trust and confidence in the MPS grievance Procedure (see G.1.3.1.).

The Grievance Procedure used by the MPS was the subject of concern in the Virdi Inquiry Report in October 2001. At the time of publishing the MPS had already undertaken to review the process.

On 5 May 2003 the MPS introduced a Fairness at Work Procedure which replaced the Grievance Procedure. The new procedure (copy at Appendix 4) introduced the role of Fairness at Work Coordinator who has an overview of all matters formally raised under the procedure and is involved in the appointment of managers involved in the process.

On 6 November 2003 the Metropolitan Police Authority considered a report by the Commissioner providing an early assessment of its operation.

The report indicated that between the period 5 May 2004 and 31 August 2004 the Fairness at Work Procedure was used on 58 occasions as follows:

	Men	Women
White	36	15
Mixed		
Asian or Asian British	2	1
Black or Black British		2
Chinese or other	1	1
Unknown		
Total	39	19

In a letter to the Virdi Inquiry dated 6 July 2004 the Deputy Commissioner advised that during the financial year 2003/4 the Fairness at Work Procedure had been initiated on 261 occasions. (During the preceding year the old grievance procedure had only been used on 78 occasions).

The Deputy Commissioner stated that

‘there is a greater willingness for staff to use the new procedure across all ranks and grades.’

He indicated that the timescales for resolution ‘are challenging’ but that almost 70% of cases are resolved. He recognised that the timescales for resolution ‘are not yet in accordance with our aims’.

In May 2004 the Home Office introduced a Fairness at Work procedure. The principles set out in the procedural document provide guidance to forces on how to deal with workplace grievances.

The Home Office document requires forces to ensure that the principles are adopted into grievance procedures for all police officers, police staff and special constables.

Findings

6. Response of the Commission for Racial Equality to the Recommendations made in the Viridi Inquiry Report Part 1

In the Viridi Inquiry Report Part 1, one recommendation was made to the Commission for Racial Equality.

Recommendation 18

To review quality assurance mechanisms and management practices around caseload, auditing and delivery of an effective and professional service

On the 12 August 2004 the Commission for Racial Equality wrote to the Inquiry to provide an update on this recommendation. The response attached as Appendix 8 confirms that

‘Most if not all of the workings of the directorate have been examined in detail and changes made where it was felt necessary. This includes the introduction of an electronic case management system, the production of an office Procedures Manual and a more rigorous file keeping and post handling procedures.’

7. Response of the Home Office to the Recommendations made in the Viridi Inquiry Report Part 1

In the Viridi Inquiry Report Part 1, two recommendations were made to the Home Office.

Recommendation 12

That the Regulatory Framework for police officers, (including terms and conditions, grievance and disciplinary procedures) should be reviewed to reflect best employment practice and the use of 'reasonableness' in eliminating unnecessary bureaucracy as well as cost in both financial and personal terms.

Recommendation 13

The regulations in respect of the Police Federation should be reviewed to incorporate a requirement for the constitution of Joint Branch Boards to reflect the diversity of staff within the service.

The Home Office forwarded an update in response to Recommendation 12 which is attached as appendix 9.

This letter detailed the changes to the police Grievance Procedure which is now the Fairness at Work Procedure. It also explained that the Home Secretary has set in train a fundamental review of the police disciplinary system which is due to report to the in December 2004.

An update on recommendation 13 was not received before publication of this report.

H. Conclusions

1. Issues Raised By DS Viridi

The Panel were pleased to be able to meet with DS Viridi at last and to listen to his submission. They were impressed by his determination and commitment to serve as an officer within the MPS.

DS Viridi made it clear that he wished to put the past behind him and to move on with his career. Panel Members were clear from their Terms of Reference that this part of the Inquiry was not to reinvestigate matters that took place in 1998.

DS Viridi did however raise a number of issues that caused the Panel to believe that the lack of a mentor sufficiently skilled and empowered to deal with matters as they arose caused DS Viridi to feel hampered in his ability to progress with his career and to feel that he was being treated differently. These include:

- A lack of clear guidelines and understanding of the return to work arrangements including those in respect of his selection for a Detective Training Course;
- Uncertainty over the contents of his personal file and the possible circulation of a confidential document (SO6 Report);
- A lack of clear guidance and explanation regarding the police promotion examination;
- The Bonus Payment had not followed normal MPS procedures.

2. The MPS Fairness at Work Procedure

The MPS had introduced a new grievance procedure on May 2003 entitled Fairness at Work

In examining the statistics provided by the MPS on the first years application of this procedure the Panel concluded that there appeared to be a growing confidence within the MPS to raise issues through this process compared to use of the old grievance procedure. It was not possible to assess whether this confidence was growing across minority groups from the information provided. The Panel Members were pleased to note that the Deputy Commissioner was continuing to examine ways in which timescales for resolution may be improved

The Home Office issued a Fairness at Work Procedure in May 2004. This document requires all forces to ensure that the principles are incorporated into their grievance handling processes.

The MPS Fairness at Work Policy was examined against the new Home Office guidance and found to contain all the necessary requirements. The only observation made by the Panel was in regard to timescales. The Home Office principles suggest a timescale of 14 days as being reasonable to address issues raised at stage 1. The MPS procedure requires that this be completed within 10 days. Actual use of this procedure has revealed that the timescales are not presently being met.

3. Response of the MPS to the recommendations made in the Viridi Inquiry Report.

The MPS had produced an Action Plan and had reported progress to the MPA in March 2002, June 2003 and September 2003. Analysis of achievements against the recommendations as at G.3. reveals that 2 recommendations remain outstanding:

Recommendation 3.

That consideration be given to a review of administration of Employment Tribunals within the MPS to encourage:

- **setting up a monitoring and good practice unit capable of early intervention and for alerting chief officers to highly sensitive cases;**
- **removal of some of the responsibility for case management to suitably trained Personnel Managers who will work in close liaison with Borough Commanders;**
- **direct contact between Borough Commanders, Personnel Managers and MPS solicitors to encourage local management responsibility and the possibility for earlier resolution of cases.**

The Panel recognised that work had taken place in this regard but the areas for development as reported to the MPA in October 2002 remained an outstanding item.

Recommendation 11

The MPS should monitor the composition of Representatives of the Police Federation's Joint Branch Board, ensuring that concrete measures are taken to address under-representation, especially from ethnic minority groups.

The Panel recognised the good progress made by the MPS in setting up groups to support under represented staff and to include them in the consultative process. It also recognised that members of the Federation are elected by their peers and colleagues and that interference in this process would be seen as a challenge to the independent position the Federation holds. The Panel were however concerned that the MPS had failed to report on the ethnicity of the Police Federation's Joint Branch Board. The diversity of this staff association with specific powers divested in it by Police Regulations was seen as most important in progressing cultural change, trust and confidence within the MPS. The Panel hoped that the Federation will remain mindful of the need to be seen as an organisation that is truly representative of the workforce.

4. The Submission from Mr. Gilbertson

The Panel were concerned that Mr. Gilbertson held reservations about the fairness and conduct of the original Inquiry. Having considered the specific matters raised in the written submission the Panel concluded that:

- 1) Personal letters were sent to all officers of federated rank involved in the original investigation. Unfortunately, Mr Gilbertson did not receive a personal letter and the Panel would like to apologise for this oversight. A personal letter was not sent to Mr Gilbertson. However the Panel was clear that contact would have been made with Mr Gilbertson if they had received a copy of his memorandum dated 25 August 2000 which was not provided to the original Inquiry by the MPS;
- 2) The recollections of DS Viridi in regard to the appointment of his federation representative were different from the views held by Mr Gilbertson and the appointed representative;
- 3) As the MPS holds no records in regard to the deployment of POLSA teams in 1998 it was not possible to examine this matter further. However, the Panel concurred with the view of the Employment Tribunal that *'the use of POLSA was excessive and unwarranted'*. This position has not changed.

I. Recommendations

The Metropolitan Police Service

- 1) Successful reintegration requires careful management. Consideration should be given to the use of mentors to oversee the integration of staff who have been absent for some time. The following issues may be considered:
 - a. The mentor⁵ should possess sufficient confidence and access to the organisation to ensure that they would be listened to in the event of difficulty (This process should not interfere with normal managerial/supervisory responsibility);
 - b. The requirements of the mentor in individual cases. Whilst there is a need to be sympathetic to cultural differences it is important to recognise that the use of 'black on black' mentors will not necessarily address personal and professional difficulties to the reintegration process;
 - c. Use of a clear return to work action plan which should be drawn up in writing stating the responsibilities of the individual, the mentor and the organisation;
 - d. The position regarding time limits on, for example, promotion examination (OSPPE) passes should be made clear from the outset;
 - e. The provision of positive action to prepare the individual for applications/training but this should not override the normal MPS entry requirements and the equal opportunities policy;
 - f. The process should not become bureaucratic in its implementation.
- 2) A copy of this report should be provided to the MPS Police Federation in order that they may be aware of the different perceptions held in respect of the appointment of Federation representatives and the need to ensure it strives to embrace the MPS commitment to achieve fairness and equality especially in regard to the representation of minority groups;
- 3) The personal file of DS Viridi should contain no mention of the SO6 report but should contain a copy of the letters of apology from the Deputy Commissioner dated 30 November 2000 and the Commissioner dated 5 February 2002 (attached as appendices 5 & 6 to this report)⁶
- 4) An audit should be carried out within the MPS to assess compliance with the requirements of the Data Protection 1998 and the Information Commissioner's Codes of Practice in relation to the retention of personal records and sensitive data. A report to be submitted to the MPA on the findings.
- 5) The remaining outstanding recommendation from The Viridi Report (Part 1) in relation to employment tribunals should be incorporated as part of the Morris Inquiry as this is the type of issue that the Inquiry was set up to examine.

⁵ During the period that Viridi Part 2 was re convened the MPS advised that a mentoring process has been introduced by DOIT within DCC4.

⁶ The MPS has confirmed that this is now the case.

The Metropolitan Police Authority

- 6) The MPA should require the MPS to provide a report on progress with the recommendations 1-4

J. Acknowledgements

DS Gurpal S Viridi
Mrs Sathat S Viridi
Mr. David Gilbertson

From the Metropolitan Police Service

Dep. Commissioner Sir Ian Blair
Inspector Diljit Bahra
Mr. David Hamilton, Director of Legal Services
Sergeant Laurie Dodd

From the Metropolitan Police Authority

Mrs. Catherine Crawford – Clerk of the MPA
Mr. Philip Powell
Mr. Keith Dickinson
Ms. Patricia Coney

Other

Dr. Richard Cullen
Ms Moira Hunt – Police Promotions Examination Unit
Mr Anthony Robinson Director of Legal Services Commission for Racial Equality
Ms I Sutcliffe Police Integrity and Community Confidence The Home Office

H. Appendices

- 1. Biographical details of Panel Members**
- 2. Roles and Responsibilities of Panel Members**
- 3. Letter from the Deputy Commissioner 10 June 2004**
- 4. The MPS Fairness at Work Policy**
- 5. Letter of apology to PS Viridi from the Deputy Commissioner dated 30 November 2000**
- 6. Letter of apology to PS Viridi from the Commissioner dated 5 February 2002**
- 7. Letter from DS Viridi dated 27 July 2004**
- 8. Letter from the Commission for Racial Equality dated 12 August 2004.**
- 9. Letter from the Home Office dated 25 August 2004**