



House of Commons
Northern Ireland Affairs
Committee

**The Functions of the Office of
the Police Ombudsman for
Northern Ireland: Responses by
the Government and the Office
of the Police Ombudsman for
Northern Ireland to the
Committee's Fifth Report of
Session 2004–05**

**Second Special Report of Session
2005–2006**

*Ordered by The House of Commons
to be printed 19 July 2005*

The Northern Ireland Affairs Committee

The Northern Ireland Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Northern Ireland Office (but excluding individual cases and advice given by the Crown Solicitor); and other matters within the responsibilities of the Secretary of State for Northern Ireland (but excluding the expenditure, administration and policy of the Office of the Director of Public Prosecutions, Northern Ireland and the drafting of legislation by the Office of the Legislative Counsel).

Current membership

Sir Patrick Cormack, MP (*Conservative, South Staffordshire*) (Chairman)
Mr David Anderson, MP (*Labour, Blaydon*)
Gordon Banks, MP (*Labour, Ochil and South Perthshire*)
Mr Gregory Campbell, MP (*Democratic Unionist Party, East Londonderry*)
Rosie Cooper, MP (*Labour, West Lancashire*)
Mr Christopher Fraser, MP (*Conservative, South West Norfolk*)
Mr John Grogan, MP (*Labour, Selby*)
Mr Stephen Hepburn, MP (*Labour, Jarrow*)
Lady Hermon, MP (*Ulster Unionist Party, North Down*)
Meg Hillier, MP (*Labour/Co-op, Hackney South and Shoreditch*)
Dr Alasdair McDonnell, MP (*SDLP, Belfast South*)
Stephen Pound, MP (*Labour, Ealing North*)
Sammy Wilson, MP (*Democratic Unionist Party, East Antrim*)

Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the Internet via www.parliament.uk.

Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at:

www.parliament.uk/parliamentary_committees/northern_ireland_affairs.cfm

Committee staff

The current staff of the Committee are Dr John Patterson (Clerk), Hugh Farren (Attached Second Clerk), Dr Aileen O'Neill (Committee Specialist), Tony Catinella (Committee Assistant), Julia Kalogerides (Secretary), Jessica Bridges Palmer (Media Officer), Jim Lawford (Senior Office Clerk).

Contacts

All correspondence should be addressed to the Clerk of the Northern Ireland Affairs Committee, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 2172/3; the Committee's email address is northircom@parliament.uk

Second Special Report

The Committee published its Fifth Report of Session 2004-05 on 23 February 2005. The Government's response from the Ian Pearson MP, Parliamentary Under Secretary of State for Northern Ireland, was received in the form of a Memorandum on 7 April 2005. The response from the Police Ombudsman for Northern Ireland was received in the form of a Memorandum dated 25 April 2005. The responses are published as appendices to this report.

Appendix 1

GOVERNMENT RESPONSE

For six months after the establishment of the Office, the Ombudsman had to operate without formal guidance from the Government. Mr Ian Pearson, the Minister, said that he was not aware of difficulties which had arisen as a result, but the Ombudsman noted the absence of the guidance in her evidence to us. At the point at which maximum support was required to ensure the successful launch of a key part of the new policing framework for Northern Ireland, the Government should have had formal guidance in place. In its response to this report we would like the Government to explain why the guidance was not available to the Ombudsman on time. (Paragraph 19).

The Government accepts that it would have been desirable to have the guidance available in November 2000 when the Ombudsman began her work. However, it should be remembered that a significant amount of work was needed to ensure that this unique office was opened on time.

The guidance referred to is the "Guidance on Police Unsatisfactory Performance, Complaints and Misconduct Procedures" issued in May 2001. This guidance sets out "the procedures for dealing with unsatisfactory performance, complaints from the public, misconduct matters, Chief Constable's review and appeals to the Police Appeals Tribunals".

The guidance was not specific to the operation of the Ombudsman's office. It set out guidance on the overall procedures for handling police complaints and misconduct, which included the Ombudsman's office. A wide range of issues were still at that time in the process of being addressed in November 2000 and it would not have been possible to issue the guidance at that point. The preparation of the guidance involved working with wide range of interested parties – NIO, RUC, police representative bodies, Director of Public Prosecutions as well as the Ombudsman herself. Given the complexity of some of the issues, this consultation did take longer than expected. In preparing guidance we had considered it important to take account of all relevant views, rather than produce a document which might have to be revisited with amendments or be the

source of dispute. The view of the Government was that it was more important for the Ombudsman to begin her work than to wait for the Guidance to be completed.

At no time in the past five years have we been made aware of any adverse impact the delay in issuing the guidance may have had on the operation of the new police complaints system or the performance of the Ombudsman's office.

The Office of the Police Ombudsman has made significant progress in consolidating its role, and its contribution to developing policing policy and practice has been positive. We were told about improvements in the PSNI's working practices, including reductions in police use of batons, and live fire. This has been achieved within a relatively short period of time and in difficult political circumstances. We welcome the constructive working relationship that has developed between the top managements of the PSNI and the Ombudsman. (Paragraph 27).

The Government welcomes the constructive working relationship between the top managements of the PSNI and the Ombudsman.

The Ombudsman and the Northern Ireland Policing Board must ensure that they are taking all steps necessary to maintain full cooperation at all levels. There is clearly a difference of opinion between the Board and the Ombudsman over what constitutes appropriate frequency of contact. The Board said that the present frequency of meetings appears sufficient, although it made clear that this would be kept under review. However, such fundamental differences ought never to occur. We expect to see a structure of communication put in place quickly which is fully acceptable to both the Ombudsman and the Board. (Paragraph 28).

The Government recognises that both the Policing Board and the Ombudsman's office are important parts of the new policing arrangements in Northern Ireland. It is important that the respective role of each is recognised and valued by the other and a protocol setting out new arrangements is in the process of being agreed by the Board and the Ombudsman.

We are surprised that the Office's present "case management system" has failed completely and is having to be scrapped so soon after its installation at the considerable replacement cost of over £2.4 million over seven years. While we appreciate the difficulties involved in anticipating how such systems will operate in practice, we note that, despite expenditure of £72,000 on consultancy advice and the experience of the "IT strand team", the project implementation team failed to identify an IT system capable of functioning satisfactorily. The new "case handling system" must be made to operate effectively over a much longer period. (Paragraph 32).

The Government accepts that the new system must operate effectively over a longer period than the current system.

The Government notes the Committee's concern about the need to replace the Ombudsman's "case handling system" after only four years in operation. We do not accept that the system "failed completely". The present system has adequately supported the Ombudsman's work for four years, coping with some 18,000 allegations. The experience gained in those years has identified the improvements required to support the Ombudsman's future workload.

We do not agree that the project implementation team failed to identify an IT system capable of functioning satisfactorily. We believe that the IT Strand Team and consultants identified a system which fully met the requirements asked of it in 2000. Mrs O'Loan, who was Police Ombudsman designate leading up to the establishment of the office, was a member of the Project Board which gave the final approval to the system.

The new system will take account of software and other developments and changes since 2000, and its introduction will ensure that the Ombudsman is better placed to address the current and projected needs of the office and external stakeholders.

The Ombudsman's office is following the correct procedures and practices in considering a new system. As well as following HMT guidance it has set up an internal Project Team reporting to a Project Implementation Board which consults with the Ombudsman's Senior Management Team. This Project Implementation Board sets the objectives, approves required specifications at all stages to completion including business cases. In addition the project has been given Gateway 1 Review (business justification) by an external reviewer and has been considered by the NIO's Financial Services Division. It is currently involved in a Gateway 2 Review process (specifically about a procurement strategy). These measures, together with the research and work carried out by the Ombudsman's office itself, show the commitment and efforts in place to ensure that the new case handling system is the most effective and efficient available.

It is crucial to the credibility of the Office that the Ombudsman's formal presentation of her performance in the Annual Report should be of the very highest quality. It must be comprehensive, fully transparent, easily comprehensible, and should track progress on key targets year on year in a consistent format. There is some way to go before this standard of rigour is achieved. We expect to see an improvement in the presentation of the Annual Report in future years. (Paragraph 35).

The Government believes that for all bodies the presentation of a comprehensive, transparent and easily comprehensible annual report, which tracks progress towards key targets, is important for the organisation itself and to the general observer.

Securing the confidence of both the public and police is crucial to the credibility of the new police complaints system. We were told that the Ombudsman has actively engaged with the public, securing a high level of confidence in both communities in Northern Ireland. (Paragraph 44).

The Government welcomes the fact that the Ombudsman's office, and the new police complaints system, enjoys substantial support in the community.

Developing trust on the part of the police in Northern Ireland in the Office of the Police Ombudsman depends on a positive and proactive approach by the top managements of the police and the Office, and we are satisfied that substantial efforts are being made by both in this direction. While we acknowledge the particular difficulty of the Ombudsman's task in securing the trust of rank and file police officers, we are concerned about the low level of confidence which police officers appear to have in the Ombudsman and, in particular, their perception that the system is neither impartial nor fair. Everything possible must be done to improve officers' confidence in the present system of complaints. We warmly welcome the agreement between the PSNI, police staff associations, and Ombudsman to work jointly to improve confidence. This is a solid start on which we expect all parties to build. (Paragraph 45).

The Government recognises that often the relationships between a complaints investigation body and the people it investigates will generate tensions and suspicions. In noting that a complaints investigation system is there to help ensure the highest standards of conduct the Police Ombudsman's investigations can, and often do, vindicate the actions of officers. The Government hopes that the decision to set up a joint Working Committee between the Ombudsman's office and the police representative bodies will assist in explaining and resolving suspicions and misunderstandings about the complaints system and the Ombudsman's role.

While the outcome of investigations conducted by the Ombudsman are a matter for her Office, it is vital that in all respects the manner in which these investigations are conducted represent the highest professional standards, and it appears that she is seeking to achieve this goal. We warmly support such an approach and, in particular, commend the Office for seeking to keep complainants and officers fully informed as work progresses. We have heard complaints in other inquiries that this is not done sufficiently in police investigations, and a punctilious adherence to this practice will enable the Ombudsman to set a 'gold standard' for procedure in this area. (Paragraph 48).

The Government welcomes the work of the Ombudsman's office to ensure that the handling of complaints is carried through in a professional way and that the relevant staff are fully trained for this purpose.

We were surprised to learn from the Department that complaints referred to it for examination, are considered not at Ministerial level, but by officials only. Mr Ian Pearson, the Minister, appeared not to have been fully briefed on how such complaints were handled, but said that the present arrangements were not satisfactory. After we finished taking the evidence for this inquiry, Mr Pearson confirmed that the Department had put in place arrangements to ensure that complaints of maladministration made against the Ombudsman will be seen invariably, and in detail, by a Minister. (Paragraph 50).

Maurice Hayes, in his report “A Police Ombudsman for Northern Ireland” recommended that she should be subject to ‘administrative accountability’. He suggested that complaints of maladministration against the Police Ombudsman should be dealt with by the Assembly Ombudsman. In the absence of devolution of policing in NI it has not possible for the Assembly Ombudsman to take on this role. The Government has, therefore, determined that the Secretary of State should discharge this accountability function on a non-statutory basis.

Complaints about maladministration against the Ombudsman’s office may be referred to the Secretary of State, provided that the complainant has formally raised the specific issue with the Ombudsman’s office and is unhappy with the Ombudsman’s written explanation. This is consistent with the approach taken by the Assembly Ombudsman in maladministration cases. The NIO would then ask the Ombudsman’s office for its comments and prepare advice for the Minister. The Minister will determine if any further action is required.

Complaints of maladministration do not include complaints about the Ombudsman’s decision on how to respond to a complaint against the police, handle an investigation, or the outcome of an investigation, or the Ombudsman’s policy on dealing with complaints against the police. The Ombudsman’s independence in these areas is set out in the Police Act 1998 and she has full discretion in deciding whether and how to progress her investigations. The Secretary of State (in practice, the Minister) does not interfere with her investigations or review her decisions. The Secretary of State can only review administrative decisions or actions. This is entirely consistent with the approach taken by the Parliamentary Commissioner for Administration and the Commissioner for Complaints.

It is most important that charges against the Ombudsman of maladministration and decisions over possible referrals to an independent person, should be taken at Ministerial level. We were alarmed that the Minister had not been briefed on the relevant procedures until the point at which we questioned him, and welcome the assurance that we have been given that in future all such papers will be seen at Ministerial level. We also recommend that the Department should record the number of such complaints it receives, and indicate the outcome in general terms, in the

Departmental Annual Report as a matter of routine. We consider that this would aid transparency and improve confidence in the present arrangements. (Paragraph 51).

The Government confirms that decisions on the outcome of eligible maladministration complaints will be taken by the Minister, in accordance with the commitment given by the Minister. The Government also accepts the recommendation that NIO include information on such complaints in its Annual Report. The Department will, in future, include in its Annual Report the number of eligible maladministration complaints, (i.e. where the complainant has provided written evidence of formally raising the maladministration issue with the Ombudsman's office and, having exhausted the Ombudsman's own internal complaints arrangements, remains dissatisfied with the response), referred to the NIO. The Department will provide in its Report general information on the outcome of such complaints received.

If there is prima facie evidence of maladministration, the Northern Ireland Office can refer the complaint to an independent person for investigation. This system is largely untried as no referrals have yet been made by the Department to any independent person. We think that the present arrangements should be given the chance to 'bed down' subject to the Government accepting our recommendations above. (Paragraph 55).

The Government notes that at para 17.23 of his 1997 report "A Police Ombudsman for Northern Ireland" Maurice Hayes referred to the issue of complaints against the Police Ombudsman saying that "the Police Ombudsman should be added to the schedule of bodies in the jurisdiction of the Assembly Ombudsman. This would provide for the investigation of complaints about maladministration of the Police Ombudsman in the exercise of his/her administrative functions without, of course, forming a court of appeal against his/her decision on complaints investigated on policies".

In the absence of devolution policing in Northern Ireland has remained a "reserved" matter and it has not been possible to implement this recommendation. The Government therefore considers that arrangements mentioned in recommendations 9, 10 and 11 are interim arrangements until devolution of policing takes place. They are not statutory arrangements. We would expect that once devolution has taken place the maladministration complaints against Police Ombudsman will be dealt with by the Assembly Ombudsman as recommended by Dr Hayes.

We were told that the Ombudsman is currently engaging with the police to ensure that they understand the process for independent investigation. We welcome this, and we also consider that there is a role here for the Government to ensure that all those who may use the system are fully aware of it, and its operation. However, if it becomes clear that, after a reasonable time, the present arrangements are continuing to cause unease and are failing to gain general respect and acceptance, then the Government must consider what alternative procedures may be put in place to provide assurance that complaints of maladministration against the Ombudsman will be investigated fully and fairly. (Paragraph 56).

The reasons for the current interim arrangements arise from the fact that in the absence of devolved administration the Government was not able to pursue the specific recommendation by Maurice Hayes in his 1997 report which led to the creation of the current police complaints system.

We understand that no other Ombudsman is subject to investigation by a Government department and we would intend that other arrangements will be put in place on devolution of policing.

In order to help clarify the arrangements the NIO has written to the Police Ombudsman with proposed wording for inclusion in the Ombudsman's explanatory literature.

We believe there is a strong case for amending the Police (Northern Ireland) Act 1998 in order to give the Ombudsman power to determine that a complaint is suitable for mediation rather than formal investigation. We consider that this is likely to facilitate greater flexibility in the complaints process, improve its efficiency, and secure greater confidence in the system. The evidence we received indicates that the proposed changes have the support of the PSNI and police staff associations and we urge the Government to introduce the necessary legislation speedily. (Paragraph 63).

The Government has had a number of exchanges with the Ombudsman's office on the issues of amended mediation and conciliation. It is not yet clear precisely what changes will make the police complaints system more flexible and efficient as well as securing greater confidence in it.

We have encouraged the Ombudsman's office to consider fully the detail of how mediation/conciliation would fit into the police complaints system and to explore this directly with those most affected ie PSNI and police officers, and with the office of the Director of Public Prosecutions if the proposals might impact on the referral of criminal cases to the DPP. In this way it is hoped that a fully agreed approach to revised mediation arrangements, and the new idea of conciliation, will enable the Government properly and fully to consider the issue, determine the impact on current legislation, and then approach Parliament with a view to securing ready support for the necessary legislative changes.

While it is not presently clear that the extensions to the Ombudsman's remit sought by the Northern Ireland Human Rights Commission are justified, we do believe that these proposals have illuminated potential weaknesses in the present complaints arrangements which have been identified by the Ombudsman herself. We think that these deserve further, thorough consideration by the Government. (Paragraph 68).

The Government will follow up the issues raised with the Ombudsman, the Army and the PSNI.

In relation to extending the remit of the Ombudsman to investigating alleged misconduct by soldiers (when operating in direct support of the PSNI) the Committee will be aware that the Government's current policing and security policy, as part of its overall policy in Northern Ireland, is to reduce the need for military support to the police. The Government's current view is that extension of the Police Ombudsman's role to allow her office to investigate the military in Northern Ireland is not necessary, particularly where there are existing complaints mechanisms to deal with complaints against soldiers in Northern Ireland. We will, however, follow up the issue in discussion with the Ombudsman, the Army and the PSNI.

With regard to retired police officers. The Ombudsman can investigate an allegation of police misconduct whether or not the officer concerned has retired. Such officers, when retired, revert to civilian status and are no longer subject to any PSNI disciplinary control. If the Ombudsman's investigation reveals prima facie evidence of criminal activity, the Ombudsman's office will prepare a file for the DPP in the normal way. Extending the Ombudsman's powers to compel police officers to assist her investigations would create legal and other difficulties.

With regard to the issue of the Ombudsman investigating allegations of misconduct against police officers raised by complainants who are not members of the public (ie other police officers) there are differing views. In particular, the PSNI is concerned that such an arrangement would cut across the PSNI's own internal grievance procedures for handling these issues.

The Government notes the Committee's view that these issues deserve further consideration, and will follow these points up in discussion with the interested parties.

The importance of the Office actively engaging with young people and increasing their awareness of the Office cannot be overestimated. We welcome the joint initiatives undertaken by the Ombudsman and the PSNI to improve young people's understanding of the Office and the new complaints system. We expect these efforts to continue to develop. We urge the Ombudsman to reconsider the recommendations of the report by the Institute for Conflict Research, in particular, whether a separate team should be set up within the Office to deal specifically with complaints by young people. (Paragraph 71).

The Government welcomes and pays tribute to the work the Police Ombudsman's office does to increase awareness of its role and the police complaints system across the community.

Appendix 2

OFFICE OF THE POLICE OMBUDSMAN FOR NORTHERN IRELAND RESPONSE

The Police Ombudsman has considered the Report of the Northern Ireland Affairs Committee and welcomes the Report. The Police Ombudsman and her staff would like to place on record their appreciation of the work of the Committee in relation to the Office. The Police Ombudsman now wishes to respond to the Report. References to paragraphs are references to the paragraphs of the Fifth Report of the Committee into the Functions of the Office of the Police Ombudsman for Northern Ireland.

“The Ombudsman and the Northern Ireland Policing Board must ensure that they are taking all steps necessary to maintain full cooperation at all levels. There is clearly a difference of opinion between the Board and the Ombudsman over what constitutes appropriate frequency of contact. The Board said that the present frequency of meetings appears sufficient, although it made clear that this would be kept under review. However, such fundamental differences ought never to occur. We expect to see a structure of communication put in place quickly which is fully acceptable to both the Ombudsman and the Board.” (Paragraph 28)

The Police Ombudsman’s Chief Executive has met with the Chief Executive of the Policing Board to revisit the whole issue of communication. They are now in the process of agreeing a draft protocol for communication between the two organisations which will provide greater flexibility and more appropriate structures than presently exist. The protocol will then be presented to the Police Ombudsman and the Policing Board. It is hoped that a new structure will be introduced very rapidly.

“We are surprised that the Office’s present “case management system” has failed completely and is having to be scrapped so soon after its installation at the considerable replacement cost of over £2.4 million over seven years. While we appreciate the difficulties involved in anticipating how such systems will operate in practice, we note that, despite expenditure of £72,000 on consultancy advice and the experience of the “IT strand team”, the project implementation team failed to identify an IT system capable of functioning satisfactorily. The new “case handling system” must be made to operate effectively over a much longer period.” (Paragraph 32)

The original case management system, which was procured in early 2000, at a cost of £90,000, has dealt with over 18,000 allegations to date and has been repeatedly modified to enable it to incorporate, where this has been possible, multiple legislative amendments. It was procured prior to the establishment of the Office, at a time when the detailed working processes of the Office had not been formulated, and prior to the passing of the legislation. It was purchased on the basis that it would provide an initial

platform from which to launch the Office's case management, but it was anticipated at the time that it would only provide a basic system for the first three years or so.

The Committee were advised there have been significant developments in legislative and practice terms affecting the Office over the past five years. As a consequence of this a Case Handling System which has an investigative and research function (neither of which the original system had) and other functionality is now required.

The initial IT consultancy which cost £72,000 referred to by the Committee provided support not only for the case management system, but also for the procurement of computer hardware, advice on contract compliance and all the other IT systems including finance, personnel and computerised security systems for the Office.

The Police Ombudsman welcomed the Committee's support for the new system, and has also appreciated the Northern Ireland Office's very considered response to the business case which was made. The Project Implementation Board is at work and we hope to move this forward very rapidly, in conjunction with all stakeholders, and in accordance with government requirements on the process of conducting such a procurement exercise. Necessary consultancy is in place, the tendering process has now begun, the contract could be awarded by the end of August and implementation commenced by the end of the year.

“It is crucial to the credibility of the Office that the Ombudsman's formal presentation of her performance in the Annual Report should be of the very highest quality. It must be comprehensive, fully transparent, easily comprehensible, and should track progress on key targets year on year in a consistent format. There is some way to go before this standard of rigour is achieved. We expect to see an improvement in the presentation of the Annual Report in future years”. (Paragraph 35)

The Police Ombudsman recognises the importance of the Annual Report and has, in the past, devoted extensive resources to its preparation. The Office has been engaging in a process of performance review of the 2004-2005 targets and indicators on a three monthly basis, as a consequence of this year's planning. We are now in a position to report extensively on trends and patterns in complaints with 3 or 4 year comparisons. The core indicators of importance are now more clear, and there will be a significant comparative element in performance reporting for 2004-2005 with previous years. The Police Ombudsman has asked for consultation with the Northern Ireland Office in relation to their views on the key performance indicators for the business plan for 2005-2006 which is currently being prepared. The Police Ombudsman is also in the process of consulting in accordance with s.75 Northern Ireland Act. We hope that this will ensure that our reports will be even more meaningful and informative.

“Developing trust on the part of the police in Northern Ireland in the Office of the Police Ombudsman depends on a positive and proactive approach by the top managements of the police and the Office, and we are satisfied that substantial efforts are being made by both in this direction. While we acknowledge the particular

difficulty of the Ombudsman’s task in securing the trust of rank and file police officers, we are concerned about the low level of confidence which police officers appear to have in the Ombudsman and, in particular, their perception that the system is neither impartial nor fair. Everything possible must be done to improve officers’ confidence in the present system of complaints. We warmly welcome the agreement between the PSNI, police staff associations, and Ombudsman to work jointly to improve confidence. This is a solid start on which we expect all parties to build.” (Paragraph 45)

The Communications Group between the PSNI, the staff associations and this Office are meeting under the joint chairmanship of the Police Ombudsman’s Chief Executive and the Deputy Chief Constable who are taking all these matters forward. As articulated to the Committee in oral and written evidence there is much work ongoing in relation to these issues.

It estimated that between September 2004-March 2005 more than 1787 police officers have received presentations and engaged in debate on our systems:

- 379 officers during DCU presentations in East Belfast, North Down and Castlereagh (43 sessions over 6 months)
- 570 (approximately) officers at 42 firearms presentations to at Garnerville
- 200 officers: Gender Action Day 14 September 2004
- 240 officers: Student Officer Training at Garnerville:
- 180 officers Phase four probationer training
- 23 officers - “Ask the Ombudsman” event
- 25 officers - CS Spray Training
- 80 officers -Phase four Student Officer Training at Maydown

Evaluation of events such as these demonstrates increasing confidence in the systems and processes of the Police Ombudsman’s Office.

A major conference involving approximately 80 senior and chief officers was held jointly by the Police Ombudsman and the PSNI in December 2004

Regular meetings are held between the Staff Associations and the Police Ombudsman at which issues impacting on police officers are discussed and addressed.

There are occasional meetings with the Northern Ireland Policing Board and 26 District Policing Partnerships have been met on one or more occasions since they were established in 2003. The Police Ombudsman has sought meetings with all the District Policing Partnerships.

There is regular consultation with other policing organisations such as Her Majesty's Inspector of Constabulary, the Association of Chief Police Officers and its sub-committees, IPCC and various police services in England and Wales including those which second officers to us.

Monthly contributions are made to the Police Magazine The Gazette

Further activity is planned both by this Office and as a consequence of the work of the Communications Group. It is the hope of the Police Ombudsman and her staff that the PSNI, the Policing Board and the Staff Associations will all play their part in addressing this most sensitive matter.

“While the outcome of investigations, conducted by the Ombudsman are a matter for her Office, it is vital that in all respects the manner in which these investigations are conducted represent the highest professional standards, and it appears that she is seeking to achieve this goal. We warmly support such an approach and, in particular, commend the Office for seeking to keep complainants and officers fully informed as work progresses. We have heard complaints in other inquiries that this is not done sufficiently in police investigations, and a punctilious adherence to this practice will enable the Ombudsman to set a ‘gold standard’ for procedure in this area.” (Paragraph 48)

The quality of investigations is of the utmost importance to the Office. Twenty quality assurance exercises have been conducted into investigations. The outcome of each Quality Assurance Report is communicated to the Senior Management Team as it is produced. The Reports then become the subject of targeted management intervention as appropriate by Investigations Directors and managers. This is an ongoing objective from past planning and has been identified again during this year's business planning.

“We were told that the Ombudsman is currently engaging with the police to ensure that they understand the process for independent investigation. We welcome this, and we also consider that there is a role here for the Government to ensure that all those who may use the system are fully aware of it, and its operation. However, if it becomes clear that after a reasonable time, the present arrangements are continuing to cause unease and are failing to gain general respect and acceptance, then the Government must consider what alternative procedures may be put in place to provide assurance that complaints of mal-administration against the Ombudsman will be investigated fully and fairly.” (Paragraph 56)

The Police Ombudsman has agreed with the Northern Ireland Office new wording in respect of informing the public and police about the complaints procedure for allegations of maladministration against the Office. The system was established when the Office was opened. The new wording, which clarifies that complaints relating to maladministration must be made in the first instance to the Office and if not resolved, then to the Secretary of State, has been changed on the Office's website and is about to be changed on all leaflets. This has confirmed with the Northern Ireland Office. The

Police Ombudsman hopes that this will assist any potential complainants to understand the purpose and nature of the system.

“We believe there is a strong case for amending the Police (Northern Ireland) Act 1998 in order to give the Ombudsman power to determine that a complaint is suitable for mediation rather than formal investigation. We consider that this is likely to facilitate greater flexibility in the complaints process, improve its efficiency, and secure greater confidence in the system. The evidence we received indicates that the proposed changes have the support of the PSNI and police staff associations and we urge the Government to introduce the necessary legislation speedily”. (Paragraph 63)

The Mediation Project Team led by a Complaints Supervisor is currently working. Final confirmation of agreement has been sought from the PSNI and the staff associations. It is The Police Ombudsman’s hope that legislation will be drafted very soon to enable us to plan for the introduction of the new process next year.

“The PSNI told us that allegations of criminal conduct made against retired police officers are currently investigated by the Police Service and the facts placed before the DPP and questioned the need for the Ombudsman’s involvement. They explained that the Ombudsman has the “powers of a constable” and can choose to investigate allegations of criminal conduct against retired members. However the Ombudsman only has power to report serving members of the police service or retired members where criminal offences may have been committed during their police service to the DPP for prosecution. The PSNI has “stated its willingness in the case of investigations about retired officers “to develop a protocol for forwarding reports to the prosecuting authority on the Ombudsman’s behalf” to avoid the need for further legislative change.” (Paragraph 65)

It appears that there is some confusion in relation to the powers of the Police Ombudsman in the text of the Committee’s Report, in so far as the PSNI are said to have “stated its willingness in the case of investigations about retired officers “to develop a protocol for forwarding reports to the prosecuting authority on the Ombudsman’s behalf” to avoid further legislative change”

No legislative change is required in relation to the Police Ombudsman’s investigation of alleged criminal activity by retired officers. No protocol with the PSNI is required. The Police Ombudsman has a duty under s. 58(2) of the Police (NI) Act 1998 to send a report to the Director” of Public Prosecutions.

The situation is quite clear. The Police Ombudsman’s remit in respect of alleged criminal activity by a police officer is predicated on whether the alleged criminal activity occurred whilst the officer was serving. If the alleged criminal activity did occur during a retired officer’s service in the RUC or the PSNI, then the Police Ombudsman has power to investigate such activity, unless it occurred off duty and the fact of being a police officer is not relevant to the complaint. In all other circumstances the Police

Ombudsman can investigate allegations of criminal activity by a police officer during his service as an officer.

The fact that the officer has retired has no impact on this matter. Indeed, “if it appears to the Chief Constable ---that conduct of a member of the police service may have resulted in the death of some person” then the “Chief Constable shall refer” that matter to the Police Ombudsman for investigation (see s.55(2) Police (NI) Act 1998). Such matters cannot be investigated by the PSNI.

“The importance of the Office actively engaging with young people and increasing their awareness of the Office cannot be overestimated. We welcome the joint initiatives undertaken by the Ombudsman and the PSNI to improve young people’s understanding of the Office and the new complaints system. We expect these efforts to continue to develop. We urge the Ombudsman to reconsider the recommendations of the report by the Institute for Conflict Research, in particular, whether a separate team should be set up within the Office to deal specifically with complaints by young people.” (Paragraph 71)

The Police Ombudsman’s Senior Management Team, having commissioned and paid for the research conducted by the Institute for Conflict Research have considered the recommendations at length, and responded. Some of the recommendations actually reflected ongoing working practice and no change was necessary. In the context of others we have ensured that investigators are specially trained in interviewing vulnerable complainants and witnesses, and are introducing new video technology to minimise the stress of the interview process in accordance with ACPO “Achieving Best Evidence” Guidance. The Senior Management Team is also considering appointing Youth Complainant Co-ordinators for each investigation team, and in the Complaints Office.

“The difficulty of the Ombudsman’s task in attempting to secure the confidence of police officers is considerable. Managing the relationship is unlikely ever to be straightforward. We are concerned by the very low level of confidence which police officers and their representative bodies presently have in the Ombudsman. However, we were pleased to note an appetite for constructive discussion and debate on police practice and complaints procedures on the part of the PSNI, the police staff associations, and the Office. The parties must build further on this co-operative basis. The Ombudsman should arrange for regular monitoring of levels of police confidence in her Office, and publish the full results straightaway.” (Paragraph 73)

The Police Ombudsman welcomes the Committee’s acknowledgement of the difficulty of the task of securing police officers’ confidence in the complaints system. The figures to which the Committee refers are now two years old, and were the result of survey work carried out at the time of the Police Association’s judicial review of the Police Ombudsman’s Omagh Report which was subsequently withdrawn by the Police

Association. As the Committee is aware much work has been done by the Police Ombudsman and her staff alone, and in conjunction with the PSNI and the staff associations, since the survey to address the matter.

The Police Ombudsman is keen to survey further police officer perceptions and experiences. To this end the Police Ombudsman's Information Directorate is also conducting an evaluation of the officer response to the varied information and discussion sessions, involving the Police Ombudsman and her staff, which are being held across District Command Units. The responses to the questionnaires distributed at these sessions are being analysed. Finally the Police Ombudsman is consulting with the PSNI and the staff associations through the Communications Group about a survey of the experiences of all officers who have been the subject of investigation by the Office. We hope as a consequence of such activity to create an effective and useful survey of all officers for the future.

“The Ombudsman’s relationship with the Northern Ireland Policing Board is a critical one for the success of the new policing arrangements. Without full mutual cooperation these arrangements will be damaged, and the people of Northern Ireland will not receive the excellent policing service to which they are entitled. It is our view that more regular communication between the Ombudsman and the Policing Board will improve their effectiveness and assist in achieving the increase in police accountability envisaged by the Independent Commission on Policing for Northern Ireland. We also urge the Ombudsman to continue her existing commendable efforts to improve young people’s awareness and understanding of the Office and the new complaints system.”
(Paragraph 74)

See the response to Paragraph 28 above in relation to communication with the Policing Board.

The Police Ombudsman appreciates the Committee's evaluation of the work of her Office with young people and is determined that the Office will continue and develop the programme which is currently underway. The Police Ombudsman will also seek to work with the Children's Commissioner to develop positively the interaction between young people and the police.