



Statutory Report:

**REVIEW under SECTION 61(4) of the
POLICE (Northern Ireland) ACT 1998**

REVIEW – SECTION 61 (4) POLICE ACT 1998

INTRODUCTION

1.1. By virtue of s. 61(4) of the Police (NI) Act 1998 the Police Ombudsman for Northern Ireland (the Police Ombudsman) is required to

- (a) keep under review the working of this Part, and
- (b) at least once every five years, make a report on it to the Minister.

1.2. This Report is compiled and submitted in accordance with Section 61(4).

STRUCTURE

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APPENDIX A – Summary of 2011 Recommendations

APPENDIX B – Summary of 2007 Recommendations.

1.0

THE OFFICE OF THE POLICE OMBUDSMAN FOR NORTHERN IRELAND

- 1.1 The Office of the Police Ombudsman for Northern Ireland was established under Part VII of the Police (NI) Act 1998 (the Police Act). The primary statutory duty of the Police Ombudsman is to secure an efficient, effective and independent police complaints system, and to do so in the way he thinks best calculated to secure the confidence of the public and of the police in that system. The first Police Ombudsman took office on 6 November 2000 for a term of seven years. The present Police Ombudsman has been in post since November 2007.
- 1.2 The Office of the Police Ombudsman is situated in Belfast and provides a continuous service 24 hours a day to the people and police of Northern Ireland. Staff are employed by, and seconded to the Police Ombudsman in accordance with Schedule 3 of the Police Act.
- 1.3 The Police Ombudsman has jurisdiction in respect of six organisations with police powers which operate in Northern Ireland:
- The Police Service of Northern Ireland including designated civilians;
 - The Larne Harbour Police;
 - The Belfast Harbour Police;
 - The Belfast International Airport Police
 - The Ministry of Defence Police
 - The Serious and Organised Crime Agency

1.4 In addition the Police Ombudsman will in the future perform a complaints handling function in relation to serious complaints made against certain staff of UK Borders Agency while operating within Northern Ireland and exercising enforcement powers against members of the public.

1.5 The Vision and Mission of the Police Ombudsman for Northern Ireland

Vision

Excellence in the independent and impartial investigation of police complaints.

Mission

Providing an effective, efficient and accountable Police Complaints system, which is independent, impartial and designed to secure the confidence of the public and police.

2.0

THE LEGISLATION

2.1 The legislation which governs the work of the Police Ombudsman's Office, and which is the subject of this review, is Part VII of the Police (Northern Ireland) Act 1998. The following is a list of some of the legislation which also regulates the work of the Office:

- Criminal Law Act (NI) 1967
- Criminal Appeal Act 1995
- Criminal Procedure and Investigations Act 1996
- Police (Northern Ireland) Act 1998
- Human Rights Act 1998
- Northern Ireland Act 1998
- Data Protection Act 1998
- Police (Northern Ireland) Act 2000
- Regulation of Investigatory Powers Act 2000
- Freedom of Information Act 2000
- Justice (Northern Ireland) Act 2000

- Anti-terrorism, Crime and Security Act 2001
- Criminal Justice and Police Act 2001
- Justice (Northern Ireland) Act 2002
- Proceeds of Crime Act 2002
- Police (Northern Ireland) Act 2003
- Justice (Northern Ireland) Act 2004
- The Serious Organised Crime and Policing Act 2005
- The Police and Criminal Evidence (application to the Police Ombudsman) Order (NI) 2009

Orders in Council

- The Commissioner for Children and Young People (Northern Ireland) Order 2003
- The Police (Northern Ireland) Act 1998 (Modification) Order 2003
- Criminal Justice (Northern Ireland) Order 2004
- Criminal Justice (Northern Ireland) Order 2005
- The Policing (Miscellaneous Provisions) (Northern Ireland) Order 2007

Statutory Rules

- Statutory Rule 1989 No. 1341: The Police and Criminal Evidence Order (Northern Ireland) 1989
- Statutory Rule 2000 No. 314: The Police and Criminal Evidence (Application to Police Ombudsman) Order (Northern Ireland) 2000
- Statutory Rule 2000 No. 315: The Royal Ulster Constabulary (Conduct) Regulations 2000
- Statutory Rule 2000 No. 316: The Royal Ulster Constabulary (Unsatisfactory Performance) Regulations 2000
- Statutory Rule 2000 No. 317: The Royal Ulster Constabulary (Appeals) Regulations 2000
- Statutory Rule 2000 No. 318: The Royal Ulster Constabulary (Complaints etc.) Regulations 2000
- Statutory Rule 2000 No. 319: The Royal Ulster Constabulary (Complaints) (Informal Resolution) Regulations 2000
- Statutory Rule 2000 No. 320: The Royal Ulster Constabulary (Conduct) (Senior Officer) Regulations 2000
- Statutory Rule 2000 No. 399: The Police (Northern Ireland) Act 1998 (Commencement) Order (Northern Ireland) 2000

- Statutory Rule 2000 No 412: The Police (Northern Ireland) Act 2000 (Commencement) Order 2000
- Statutory Rule 2001 No.132: The Police (Northern Ireland) Act 2000 (Commencement No. 2) Order 2001
- Statutory Rule 2001 No. 184: Royal Ulster Constabulary (Complaints etc) Regulations 2001
- Statutory Rule 2001 No. 396: The Police (Northern Ireland) Act 2000 (Commencement No.3 and Transitional Provisions) Order 2001
- Statutory Rule 2001 No. 369: Police Trainee Regulations (NI) 2001
- Statutory Rule 2003 No.184: Police Service of Northern Ireland (Amendment) Regulations 2003
- Statutory Rule 2003 No. 68: Police Service of Northern Ireland (Conduct) Regulations 2003
- Statutory Rule 2003 No.142: Police (Northern Ireland) Act 1998 (Commencement No.5) Order (Northern Ireland) 2003
- Statutory Rule 2003 No. 399: Police Service of Northern Ireland (Appeals) (Amendment) Regulations 2003
- Statutory Rule 2004 No.122: The Police Service of Northern Ireland (Secondment) (Garda Síochána) Regulations 2004

- Statutory Rule No. 376: The Police (Northern Ireland) Act (Modification) Order 2003
- Statutory Rule 2004 No. 315: Police Service of Northern Ireland (Conduct etc.) (Amendment) Regulations 2004
- Statutory Rule 2004 No. 379: Police (Appointments) Regulations (Northern Ireland) 2004
- Statutory Rule 2005 No. 341: The Police Service of Northern Ireland (Complaints etc.) (Amendment) Regulations 2005
- Statutory Rule 2006 No. 69: The Police (Recruitment) (Amendment) Regulations (Northern Ireland) 2006
- Statutory Rule 2007 No.177: The Police (Northern Ireland) Act 2003 (Commencement No.2) Order 2007
- Statutory Rule 2007 No.58: Police and Criminal Evidence (Northern Ireland) Order 1989 (Code of Practice) (No.3) Order 2007
- The Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007
- Statutory Rule 2007 No.130: Police Service of Northern Ireland (Unsatisfactory Performance and Attendance) Regulations 2007
- Police Powers for Designated Staff (Complaints and Misconduct) Regulations (NI) 2008

Statutory Instruments

- The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003
- The Regulation of Investigatory Powers (Communications Data) Order 2003
- The Criminal Justice (No 2) (Northern Ireland) Order 2004
- Policing (Miscellaneous) Provisions (Northern Ireland) Order 2007
- Northern Ireland Act 1998 (Devolution of Policing and Justice) Order 2010

3.0

THE PROCESS FOR THE REVIEW OF PART VII OF THE POLICE ACT

- 3.1 The process for the first 5 Year Review was initiated in 2006 by way of internal consultation in the Office of the Police Ombudsman (the Office). This was followed by preliminary external consultation with stakeholders, a meeting of stakeholders within the criminal justice system, community consultation meetings in Belfast and Omagh, and further stakeholder meetings. The Review Report was posted on the website.
- 3.2 In May 2007 the Report was submitted to NIO and the Minister issued the Report for full public consultation. A decision was taken in June 2009 by NIO and the Office to defer the majority of recommendations until the devolution of policing and justice powers was achieved.
- 3.3 On 2 October 2009 the Minister was advised of the outcome of the recommendations being taken forward by the NIO. Thereafter the Review process appears to have lost focus and agreed statutory amendments were not progressed through the legislature.
- 3.4 Accordingly, the Police Ombudsman considers that the original 5 year Review requires further consideration in light of today's landscape together with additional issues and recommendations which have developed since October 2009.
- 3.5 Reports which have been produced in relation to the Office were considered. These included:

- Report of the House of Commons Northern Ireland Affairs Committee on the Functions of the Office of the Police Ombudsman for Northern Ireland. Fifth Report of Session 2004-2005. February 2005
- Report of the Criminal Justice Inspector for Northern Ireland on the Inspection of the Office of the Police Ombudsman for Northern Ireland. December 2005
- Reports of the Patten Oversight Commissioner 2000-2007
- Commentary of the Committee on the Administration of Justice on the Office of the Police Ombudsman for Northern Ireland. June 2005
- Commentary of the Committee on the Administration of Justice on the Office of the Police Ombudsman for Northern Ireland. June 2011
- Review carried out by T McCusker on behalf of DOJ, 16 June 2011
- The Report of the Criminal Justice Inspectorate 5 September 2011

4.0

THE POLICE OMBUDSMAN FOR NORTHERN IRELAND

- 4.1 The convergence of a number of events have highlighted the need to reconsider the 'Corporate Sole' model that was established by the Police (Northern Ireland) Act 1998. Issues such as effectiveness, resilience and sustainability for the current model have been raised.

It is recognised that the Minister for Justice has initiated a review to determine the best corporate structure for the police complaints system. This may change the Corporate Sole model and consequently impact upon this recommendation.

Recommendation 1

That the Minister of Justice review the legal structure of the Police Ombudsman for Northern Ireland and consider whether the 'Corporate Sole' model established under S.51(2) of the Police (Northern Ireland) Act 1998 remains the viable model for the future.

- 4.2 The Police Ombudsman is appointed under S.51 of the Police Act as a corporation sole. The Police Ombudsman is appointed for a period of seven years, or a period ending on the date on which the person appointed attains the age of 70 whichever is the shorter. A person whose terms of appointment expire shall not be eligible for re-appointment (Schedule 3 Para 1(5)).
- 4.3 This provision is not consistent with the provisions in relation to the appointment of the Parliamentary Ombudsman or of the Chairman and

Members of the Independent Police Complaints Commission (IPCC – the independent police complaints system for England and Wales). The Parliamentary Ombudsman is appointed until retirement and the Chairman and Members of the IPCC are appointed for a term of five years, renewable for five years. Most public sector appointments carry the possibility of a renewal of the term of office.

Recommendation 2

That the initial term of the Police Ombudsman should be reduced to a term of five years, and that the Police Ombudsman should be eligible for re-appointment for a further term of up to five years.

4.4 The work of the Police Ombudsman is highly complex, technical and sensitive. In these circumstances it is considered that the provisions in relation to the single term of appointment of the Police Ombudsman are unsuited to the achievement of maximum efficiency and effectiveness.

4.5 There is currently no legal basis for the appointment of an interim Police Ombudsman should the incumbent die, become incapacitated or vacate the Office. This oversight should be rectified.

Recommendation 3

That the legislation be amended to provide for the appointment of an interim Police Ombudsman.

5.0

POLICE REFORM AND CONSEQUENTIAL JURISDICTIONAL ISSUES

- 5.1 When the Office of Police Ombudsman for Northern Ireland was established almost all policing functions were carried out by police officers. All those officers were subject to the accountability arrangements created by Part VII of the Police (NI) Act 1998.
- 5.2 Since the establishment of the Office, a programme of civilianization has been initiated in accordance with the requirements of the Independent Report on Policing (the Patten Report).
- 5.3 Under these arrangements the PSNI have introduced civilian receptionists in police stations. There may be other civilianization initiatives in the future.
- 5.4 At present complaints against these employees are not dealt with by the Police Ombudsman. The consequence of the new arrangements is that some of those police employees who are in regular contact with the public and who carry out functions previously carried out by police officers are not within the remit of the Police Ombudsman. This creates confusion for members of the public.
- 5.5 While there are now Regulations permitting the Police Ombudsman to investigate complaints against civilian detention officers, escort officers and investigators, no such regulations exist in relation to civilian receptionists or other civilian staff operating directly in conjunction Police Officers in the course of their policing functions. In certain circumstances actions by such staff could have a direct effect

on the exercise of a police duty or conduct of a police enquiry. In the public interest the Police Ombudsman should have jurisdiction over such matters and personnel. It is acknowledged that this requires consultation and complex discussion with trade unions.

Recommendation 4

In the public interest, any civilian staff operating directly in conjunction with Police Officers in the course of their policing functions should be brought within the remit of the Police Ombudsman for Northern Ireland for the purposes of complaints against those personnel.

- 5.6 In addition to the above, the Police Ombudsman's role in relation to reporting on designated civilians differs sharply from that pertaining to Police staff. The Ombudsman may presently only recommend the modification, suspension or withdrawal of the designation of the civilian concerned. The Ombudsman accordingly, has no legislative basis upon which to recommend advice and guidance or other disciplinary sanctions. To ensure commonality of oversight arrangements between all persons exercising 'police powers' over members of the public it is considered an amendment should be made.

Recommendation 5

The Police Ombudsman should be given statutory power to recommend comparable disciplinary sanctions for designated civilians to those permitted for police officers.

6.0

DISCLOSURE

- 6.1 The Police Ombudsman is committed to providing a police complaints service in the way he thinks best calculated to secure the support of the public and the police. He believes that for such support to be forthcoming it is essential that people be informed about the nature of his work. The Office is committed to Accountability.
- 6.2 The Police Ombudsman is also of the view, however, that the interests of the public and of justice are best served by maintaining a police complaints system where the participation of complainants, witnesses, informants, suspects and offenders is reliant upon ensuring, as far possible, their confidentiality.
- 6.3 Section 63 of the Police Northern Ireland Act places very strict limitations on the disclosure of information received by the Police Ombudsman in connection with his functions. The Police Act does not extend that restriction on the disclosure of information to other organisations with whom the Police Ombudsman may have to share that information in the exercise of his functions.
- 6.4 In order to help ensure the confidentiality of such information, the Police Ombudsman proposes that the restrictions on its disclosure be extended to all holders of that information in such a way that does not interfere with their own lawful and legitimate functions serving the public interest.

Recommendation 6

That section 63(2) of the Police (Northern Ireland) Act should be amended accordingly to ensure protection of information disclosed by the Police Ombudsman to other Agencies or individuals.

7.0

THE RECEIPT, RECORDING AND HANDLING OF COMPLAINTS

Receipt

- 7.1 Complaints are recorded by the Police Ombudsman. If made to the Chief Constable, the Northern Ireland Policing Board, the Department of Justice or the Public Prosecution Service complaints should immediately be referred to the Police Ombudsman. The Police Ombudsman is then responsible for recording the complaint and for notifying the PSNI and any named officer.
- 7.2 Complaints about police conduct may on occasion require immediate and urgent action to recover evidence, which if not so recovered will be lost. There are a number of Agencies and other Bodies which are not currently required to notify the Police Ombudsman immediately if they receive a complaint about police conduct, or if they become aware in the course of their work of a matter which should be referred to the Police Ombudsman by virtue of its nature and content. Those agencies include for example the Criminal Cases Review Commission and Victims Commissioners, and others who have no statutory power to refer matters to the Police Ombudsman.
- 7.3 There are also judges and magistrates who are not specifically empowered to refer matters to the Police Ombudsman, but who have on occasion sought to do so.

Recommendation 7

That consideration should be given to include any other statutory body or agency who may have cause to refer matters to the Police Ombudsman under s. 52 of the Police Act.

7.4 Complaints can only be made by “members of the public.” Police officers are not empowered to complain to the Police Ombudsman. There are however occasions on which police officers have brought to the attention of the Police Ombudsman matters which require investigation. The Police Ombudsman can only deal with these matters by way of the exercise of his right to investigate under section 55(6) of the Police (NI) Act 1998. This involves the necessity to report on each occasion to the Minister of Justice, Northern Ireland Policing Board and Chief Constable under Regulation 20 of the RUC (Complaints etc.) Regulations 2000.

7.5 Both the Northern Ireland Affairs Committee and the Northern Ireland Human Rights Commission have recommended that police officers should be permitted to bring to the attention of the Police Ombudsman matters of concern involving both the way in which services are delivered to the public and the conduct of police officers in that process. The Police Federation for Northern Ireland has also articulated their wish that their members should be permitted to bring matters to the attention of the Police Ombudsman.

Recommendation 8

That police officers should be empowered to bring to the attention of the Police Ombudsman for investigation matters which appear to indicate that

there are concerns about the conduct of colleagues in the delivery of policing services to the public.

Recording and subsequent handling of complaints

7.6 Complaints must be recorded when received by the Police Ombudsman and a register of complaints must be kept.

7.7 By virtue of s. 52(3) of the Police Act the Police Ombudsman is required on receipt of a complaint:

“ (a) to record and consider each complaint made or referred to him... and

(b) to determine whether it is a complaint to which subsection 4 applies.”

7.8 Regulation 6(2) of the RUC (Complaints etc) Regulations 2000 requires the Police Ombudsman to send to police and to any identified police officer a copy of any complaint received. This notice does not indicate that the officer is under investigation. It merely advises the officer that a complaint has been made. The information contained in the Regulation 6 notices forms the basis of the system of tracking and trending of complaints against individual officers. The process of tracking and trending complaints against individual officers was a requirement of the Patten Report on Policing. Under this process management information is provided to District Commanders in respect of any officer who has been the subject of 3 or more complaints in any twelve month period.

7.9 The Police Ombudsman serves over 3,000 Regulation 6 Notices each year. Every officer served with a Regulation 6 Notice is identified on the monthly Tracking and Trending Report. It has been identified that the

service of a Regulation 6 Notice on an officer can cause concern, alarm and, on occasion, distress. In addition to this there have been a number of occasions on which senior officer and Police Ombudsman time has been spent explaining again to officers that the service of a Regulation 6 notice does not mean that the officer is under investigation (and this is stated clearly at the top of the notice).

- 7.10 When the complaint has been closed the officer will also receive a notice informing him or her of the outcome of the complaint, despite the fact that that officer was never the subject of investigation.
- 7.11 If the complaint is not one to which section 52(4) applies, then the Police Ombudsman cannot deal with the complaint, but must refer it to the Chief Constable, the Northern Ireland Policing Board or the Minister as he thinks fit, and shall notify the complainant accordingly.
- 7.12 The service of Regulation 6 notices on officers may serve no constructive purpose, as the complaint may be one in respect of which informal resolution is attempted under s. 53 of the Police (NI) Act, may be one with which the Police Ombudsman cannot deal as it does not fall within his remit, or may be one to which Regulations 23, 24 and 25 of the RUC (Complaints etc) Regulations apply. The complaint will then be closed as indicated in the paragraph 7.10.
- 7.13 The cumulative effect of Regulations 6 is that some officers receive two statutory notices from the Police Ombudsman, because when a Regulation 6 Notice has been served in compliance with the law, and it subsequently transpires that the complaint is not one to which s. 52(4) applies, then that complaint will be closed. In such circumstances the officer has never been placed under investigation. The process of serving Regulation 6 notices and closure notices in these

circumstances causes alarm and concern among police officers, and is not an efficient use of resources.

- 7.14 Moreover, under the current arrangements tracking and trending of any officer subject of multiple complaints occurs automatically on service of the Regulation 6 notice, even though the complaint may subsequently transpire to be one in respect of which no action is possible, for the reasons described in paragraph 7.12
- 7.15 If a police officer is the subject of a complaint, and that complaint is to be investigated, then the Police Ombudsman must serve a notice, under Regulation 9 of the RUC (Complaints etc) Regulations 2000, on the officer, telling him that he/she is the subject of a complaint and that he has certain rights.
- 7.16 This provides protection of all officers consistent with the requirements of the law.

Recommendation 9

That the requirement to serve a notice under Regulation 6 of the RUC (Conduct) Regulations 2000, on officers, is repealed but that the Regulation 6 notices continue to be served on the PSNI to notify them of the existence of the complaint, so that all complaints are captured for statistical analysis.

Recommendation 10

That tracking and trending of officers the subject of multiple complaints should be triggered by the service of Regulation 9 Notices. No legislative amendment is required for this purpose.

8.0

INFORMAL RESOLUTION

- 8.1 Section 53(1) of the Police Act requires that the Police Ombudsman *“shall consider whether the complaint is suitable for informal resolution and for that purpose may make such investigations as he thinks fit.”*

S. 53(2) of the Act states that

*“ A complaint is not suitable for informal resolution unless –
(a) the complainant gives his consent; and
(b) it is not a serious complaint.*

- 8.2 Informal resolution is conducted by the police and it is generally agreed that, for those complainants who agree to informal resolution, the process is working as well as can be expected. There is a significant number of complainants who, having approached the Police Ombudsman with a complaint, do not think it appropriate for the PSNI to resolve the complaint.

- 8.3 The title “informal resolution” is generally agreed to be inappropriate. It is perceived that it suggests that complaints which are dealt with in this way are less professionally and less seriously processed. It is therefore suggested that the name of this process should be changed to ‘local resolution’ to make it consistent with the term used in England and Wales.

Recommendation 11

That the title of the process currently referred to as “informal resolution” in section 53 of the Police (NI) Act should be changed to “Local Resolution.”

- 8.4 The new arrangements in GB brought about by the Taylor reforms are presently not deliverable in the existing statutory framework. However the principles of early dispute resolution and mediation approaches to less serious complaints or customer service issues are well enshrined in complaints handling. The Police Ombudsman sees no reason why such principles should not be applied to police complaints and under the umbrella of revised local resolution and mediation procedures.
- 8.5 The requirement that all complaints must come to the Police Ombudsman for registration and direction serves to delay process and potentially inhibits early resolution of less serious complaints which is not in the interests of the public and police. It also involves a use of resources out of proportion to the benefit of parties involved.

The issues and arguments for a quicker and more localised system of early resolution has been tested and piloted. It provides evidence that the concept is viable and produces satisfactory outcomes and resolution of less serious complaints in less than one third of the time taken normally to resolve similar matters under Informal Resolution arrangements. Evidence from the Pilot conducted in conjunction with PSNI (D District), is contained in the Local Resolution Report posted on the Office website.

It is important to emphasise that the legal authority of the Police Ombudsman will permit full oversight, guardianship and scrutiny of local resolution processes and outcomes to ensure public confidence and trust in the handling of complaints are maintained.

Recommendation 12

To allow certain classes of less serious complaints to be subject of Local Resolution procedures without reference to the Police Ombudsman in the first instance but with a guardianship function preserved to ensure public confidence in the complaints system.

- 8.6 There is currently a requirement that if informal resolution fails then the Police Ombudsman “shall” investigate. There are occasions on which it is inappropriate to investigate. For example; the complainant unreasonably failed to complete the informal resolution process, but did not withdraw from it; where there are irreconcilable differences between the complainant’s account of an incident and that of the officer, there were no independent witnesses or there are no investigative opportunities.

Recommendation 13

That section 54 of the Police (NI) Act should be amended to give the Police Ombudsman discretion to decide whether a complaint which has been the subject of a failed Local Resolution should be investigated, and that in such cases a new closure category “Failed Local Resolution, further investigation not necessary” be introduced. The necessity of further investigation should be determined by the Police Ombudsman.

9.0

MEDIATION – THE NEED FOR MODERN METHODS OF DISPUTE RESOLUTION

- 9.1 Mediation is permissible under the Police Act only after investigation. Section 58A of the Police (NI) Act 1998 provides for the option of mediation after the conclusion of investigation, and only where the complaint is not serious and does not indicate that a criminal offence has been committed. This is generally inappropriate, as investigation can have the effect of further separating the complainant and the officer.
- 9.2 Mediation is a widely recognised modern form of alternative dispute resolution which has proved to be cost effective, while providing higher levels of satisfaction to both complainant and the person complained against. A method of resolving complaints through a mediation approach previously had the support of all parties and was the subject of a recommendation by both the Northern Ireland Affairs Committee and the Criminal Justice Inspector.
- 9.3 The ability to mediate suitable complaints on a consensual basis is essential to enable the police complaints system to meet the needs of complainants and of the police service in a modern, timely, appropriate and effective manner. Mediation is used in many jurisdictions to achieve resolution to such issues.

Recommendation 14

That the Police (NI) Act 1998 be amended to enable the Police Ombudsman to conduct mediation in appropriate circumstances, and that there be no requirement to investigate first.

10.0

INVESTIGATION

Cautions

- 10.1 Investigations are conducted by Police Ombudsman Investigators, who have full police powers under the Police and Criminal Evidence Order (NI) 1989, when conducting criminal investigations. Conduct investigations are covered by the relevant conduct and complaint regulations. Although the powers accorded to investigators are significant there are, nonetheless, a number of deficiencies in the legislation which require to be addressed.
- 10.2 When an officer is interviewed in respect of alleged involvement in a criminal offence, following caution under PACE, he or she will be interviewed. If there is consideration of the same matters, but for disciplinary purposes, then it is not necessary to re-caution and re-interview the officer. The answers which the officer has given under the Police and Criminal Evidence caution could not be withdrawn by the officer in a subsequent disciplinary interview without bringing into question his or her veracity when giving evidence under caution in respect of alleged criminality.
- 10.3 It is current practice is to conduct two sets of interviews – one criminal and one disciplinary in respect of the same issue. The Police Ombudsman considers that it is neither necessary, nor desirable nor sensible for an officer to receive two separate cautions and to be asked the same questions twice, once for criminal investigative purposes and once for disciplinary purposes.

- 10.4 When an officer is being questioned about other matters relevant only to their compliance with the PSNI Code of Ethics then that officer must receive a disciplinary caution before questioning occurs.
- 10.5 The legislation does not deal specifically with this matter and it would be of assistance if it were to do so.

Recommendation 15

That the RUC (Conduct) Regulations 2000, and the RUC (Senior Officer) (Conduct) Regulations 2000 should be amended to provide that matters the subject of questioning under PACE caution, do not require to be the subject of further questioning under a discipline caution; and that any matters relating to the discharge of a police officer's obligations under the PSNI Code of Ethics, which have not previously been addressed during a PACE interview, should be the subject of a second interview conducted following the administration of a disciplinary caution.

Attendance for interview

- 10.6 Most officers attend for interview, either as witness or suspect officer without any problem. However some officers do not attend voluntarily. Officers who decline to attend for interview cannot currently be ordered by the Police Ombudsman to do so. In these circumstances it is necessary for the Police Ombudsman to ask the PSNI to order the officer to attend for interview. This can involve a very lengthy process, which delays the conduct of the investigation – a matter of concern to all involved.
- 10.7 It would facilitate the process of investigation if officers, who are unwilling to attend for interview, could be required by the Police

Ombudsman to attend. This would also reduce a number of unnecessary and time-wasting interactions between senior police officers and senior staff of the Police Ombudsman.

Recommendation 16

That the Police Ombudsman should be specifically empowered by statute to compel the attendance for interview of both witness and suspect officers.

Retired officers and others

10.8 When police officers retire they cannot be the subject of discipline for actions during their service as police officers. This is quite correct. Retired officers can be investigated in respect of suspected criminal offences committed during their term of service.

10.9 The Police Ombudsman regularly wishes to interview, as witnesses, officers who have retired, in relation to evidence which they may have relating to an ongoing criminal investigation by the Police Ombudsman, or even in relation to the investigation of the circumstances of serious disciplinary matters. The Police Ombudsman has no power to compel those officers to assist his investigation or provide him with documentation compiled by them during their service and retained by them upon retirement. Most retired officers do assist but some with crucial information do not cooperate.

This requirement has been highlighted in a significant way with recent investigations of very serious historic matters where the refusal of retired officers to cooperate damages confidence in the oversight process and policing in general terms.

- 10.10 Section 5 of the Criminal Law Act (Northern Ireland) 1967 does not take account of the role of the Police Ombudsman within the criminal justice system and requires amendment accordingly. An appropriate amendment would place a duty on all persons, including police or former police officers, to report to the Police Ombudsman evidence of potential police officer criminality. Such an amendment would remove any doubt as to the obligation on all to assist the Police Ombudsman with the investigations of crimes, which fall within his remit.
- 10.11 The effect of retired officers' refusal to assist investigations, particularly retrospective investigations, which by statutory definition involve grave or exceptional matters, can be quite damaging to the Police Service of Northern Ireland. This would be in the public interest as a refusal by retired police officers to give information, which they have to enable a criminal investigation, has the effect of reducing public confidence in police officers generally.
- 10.12 It is also the case that there is a public understanding that there is a civic obligation on anyone who can assist an investigation to do so. It is the Police Ombudsman's view that that obligation applies equally to retired police officers and to members of the public, and to others who have relevant information.

Recommendation 17

That the Police Ombudsman be given a power to compel retired or former police officers to submit to witness interview, and provide all relevant documentation to him, which is within their possession, custody, power or control, when he is conducting investigations involving grave or exceptional matters.

Recommendation 18

That Section 5(1) of the Criminal Law 1967 be amended to include after “constable”; “or where the information relates to police conduct, the Police Ombudsman for Northern Ireland”

The submission of investigation files to the Director of Public Prosecutions

- 10.13 A complainant has the right under the Police (NI) Act 1998 to complain within a period of twelve months following the incident which is the subject of complaint. Some complaints involve allegations of summary criminal offences, such as common assault, which are statute barred in terms of prosecution after six months. Those cases can then only be dealt with under the PSNI Code of Ethics.
- 10.14 Matters which are statute barred from prosecution (because they are summary offences triable in a Magistrate’s Court, no charge has been preferred and six months has elapsed since the date of the incident) can only be dealt with under the PSNI Code of Ethics. Notwithstanding this the Police Ombudsman is required by Section 58 of the Police (NI) Act to submit an investigation file to the Public Prosecution Service.

Recommendation 19

That the requirement, under Section 58, to submit files for the consideration, by the Director of Public Prosecutions, of criminal prosecution only applies when the complaint has been received before the alleged criminal offence became statute barred.

Police Ombudsman powers of retrospective investigation

10.17 The RUC (Complaints etc) Regulations 2001 prevent the Police Ombudsman from investigating “historic” cases unless certain exceptions are met, primarily that the complaint or matter referred is of a grave nature or there are exceptional circumstances pertaining. This invariably means that cases referred to the Police Ombudsman alleging that the police were directly involved in the death of an individual will be considered as grave matters and investigated thoroughly. However, there are a number of automatic bars to investigation by the Police Ombudsman one of which is that the matter or complaint has not otherwise been investigated by the police.

10.18 The PSNI’s Historical Enquiries Team is chronologically considering all deaths which occurred during the period known as ‘The Troubles’. Where they encounter a case where the death occurred as the result of direct police action, the legislation requires them to refer that matter to the Police Ombudsman and he must formally investigate same. It has been identified that a number of cases alleging direct police involvement in the death or indirect linkage to the death have been referred to the Office and totalling currently 49 deaths of the present total of “historic” cases.

All deaths which occurred during ‘The Troubles’ at the hands of police or indirectly due to police actions were investigated by the RUC in some fashion. Accordingly Regulation 7 (2)(f) precludes any further by the investigation by the Police Ombudsman.

10.19 The Police Ombudsman considers that this provision should be amended as it has the dual effect of depriving one class of victim from potential further enquiry, namely those cases where the deaths

occurred at the hands of police. Unlike all other victims of the troubles who will have their cases reviewed, and where possible progressed by the Historical Enquiries Team, cases involving police actions are not treated equally.

- 10.20 Accordingly, the Police Ombudsman requests that the statutory framework should be amended to enable consideration be given to further investigation of such cases where the Ombudsman deems it in the public interest to do so.

Recommendation 20

The Police Ombudsman considers that the RUC (Complaints etc) Regulations 2001 should be reviewed and where necessary amended to enable him to investigate deaths occurring either directly as a result of police action or indirectly due to police operations despite the fact that the death might otherwise have been previously been investigated by police.

Conciliation following investigation

- 10.21 There is no provision for conciliation, which does not necessarily involve the alleged police officer offender and the complainant, but would involve the PSNI and the complainant. This process could be used by the Police Ombudsman in cases where, for example, there is clear forensic evidence of the commission of a crime by a police officer, but the individual officer cannot be identified. In such a situation conciliation may be a useful process which enables the PSNI to recover, to some degree the damage done by the offending behaviour but where a member cannot be identified.

Recommendation 21

That there be statutory provision for the use of a conciliation process in appropriate cases in which there is clear evidence that the conduct alleged occurred, but an individual officer cannot be identified.

The withdrawal of complaints under Regulation 23 of the RUC (Complaints etc.) Regulations.

10.22 There are a number of categories under which complaints can be closed. Among these are “non-co-operation,” which is used when a complainant, having made a complaint does not respond to action by the Police Ombudsman, and “withdrawn,” which is used when a complainant decides to discontinue the complaint. Regulation 23 of the RUC (Complaints etc) Regulations requires that complaints must be “withdrawn” in writing. Complainants sometimes seek to withdraw their complaints verbally, either during meetings or by telephone. If no written withdrawal is received the complaint must be closed as “non-co-operation.” This has the effect of distorting the statistics in relation to the numbers of complaints, which are closed as “non-cooperation” and “withdrawn.”

Recommendation 22

That, given the number of people who have difficulties in communicating in writing for various reasons, not least disability, complainants should no longer have to withdraw complaints in writing, but that they should be able to do so verbally, or through other means, provided that the withdrawal is accompanied by a formal written statement by the member of the Police Ombudsman’s staff who receives the withdrawal.

11.0

DISCIPLINARY HEARINGS UNDER THE ROYAL ULSTER CONSTABULARY (CONDUCT) REGULATIONS 2000 AND THE ROYAL ULSTER CONSTABULARY (CONDUCT) (SENIOR OFFICER) REGULATIONS 2000

- 11.1 Disciplinary hearings are conducted by the PSNI following both internal investigation by the PSNI and investigation by the Police Ombudsman.
- 11.2 The RUC (Conduct etc) Regulations 2000 do not permit the Police Ombudsman and his staff to attend such hearings unless both the presiding officer and all parties consent to such attendance at all or even part of the hearing. The RUC (Conduct) (Senior Officer) Regulations 2000 make no provision to allow the Police Ombudsman to attend hearings involving Chief Officers.
- 11.3 The effect of this is that the Police Ombudsman having conducted the investigation is excluded from the hearing unless the officer complained about is not a senior officer and he and the presiding officer agree. This is unsatisfactory and is undermining of the integrity and effectiveness of the hearing process itself. The Police Ombudsman or his investigators should be permitted to attend all hearings conducted as a consequence of an investigation by the Office.

Recommendation 23

That Regulation 26 of the RUC (Conduct) Regulations 2000 and the RUC (Conduct) (Senior Officers) Regulations 2000 be amended to provide a right to the Police Ombudsman to attend all hearings which take place following a Police Ombudsman investigation.

12.0

ANTICIPATED UK WIDE CHANGES INVOLVING POLICE OMBUDSMAN RESPONSIBILITY FOR HER MAJESTY'S REVENUE AND CUSTOMS AND UK BORDERS AGENCY AND CHANGES IN DISCIPLINARY ARRANGEMENTS

Her Majesty's Revenue and Customs and the UK Borders Agency

- 12.1 As stated in paragraph 1.4 of this Report arrangements are currently being considered which would make the Police Ombudsman responsible for the investigation of serious criminal allegations against staff, exercising police powers, employed by Her Majesty's Customs and Excise and by the UK Borders Agency. Those arrangements will require legislative change to enable the Police Ombudsman's investigators to conduct criminal investigations of these non-police personnel. Such legislative change has already occurred in respect of the Serious Organised Crime Agency in Northern Ireland. In the future, it will also include the National Crime Agency.
- 12.2 Following various recent reports, such as the Taylor Report in England and Wales there is a proposal to adopt new methods of dealing with police officer misconduct. It is anticipated that change of a similar kind may also occur in Northern Ireland.
- 12.3 Such changes will require further amendment to the Police (NI) Act and all the subordinate legislation there under.
- 12.4 On a previous occasion legislative change has occurred without consultation and necessary legislative change affecting the Police

Ombudsman has not occurred. The Police Ombudsman has then had to seek consequential legislative amendments, which have been very much delayed.

Recommendation 24

That the Police Ombudsman should be involved as early as possible in discussions in relation to matters of relevant and necessary statutory change affecting the Office.

13.0

SECRETARY OF STATE'S GUIDANCE UNDER S.65 OF THE POLICE (NORTHERN IRELAND) ACT 1998

13.1 The Secretary of State's Guidance on police complaints is now the responsibility of the Department of Justice and has not been revised.

Recommendation 25

That the statutory guidance on police complaints, issued in accordance with Section 65 of the Police (Northern Ireland) Act 1998 should be reviewed and where necessary revised by the Department of Justice.

14.0

MAKING OF MAL-ADMINISTRATION COMPLAINTS MADE ABOUT THE POLICE OMBUDSMAN

- 14.1 There is no time limit for the making of mal-administration complaints about the Police Ombudsman. The consequence of this is that complaints can be received at any time. Such complaints may necessitate the re-examination of case files. In such circumstances police officers, who were the subject of the relevant complaint, may find that matters which have previously been closed are again under review.

There should be a time limit consistent with time limits applicable for complaints of mal-administration in other public bodies.

Recommendation 26

That a time limit for the making of complaints of mal-administration against the Police Ombudsman should be introduced and that that time limit should be twelve months.

APPENDIX A

SUMMARY OF 2011 REVIEW RECOMMENDATIONS – PREPARED PURSUANT TO S. 61(4) POLICE (NORTHERN IRELAND) ACT 1998

Recommendation 1

That the Minister of Justice review the legal structure of the Police Ombudsman for Northern Ireland and consider whether the 'Corporate Sole' model established under S.51(2) of the Police (Northern Ireland) Act 1998 remains the viable model for the future.

Recommendation 2

That the initial term of the Police Ombudsman should be reduced to a term of five years, and that the Police Ombudsman should be eligible for re-appointment for a further term of up to five years.

Recommendation 3

That the legislation be amended to provide for the appointment of an interim Police Ombudsman.

Recommendation 4

In the public interest, any civilian staff operating directly in conjunction with Police Officers in the course of their policing functions should be brought within the remit of the Police Ombudsman for Northern Ireland for the purposes of complaints against those personnel.

Recommendation 5

The Police Ombudsman should be given statutory power to recommend comparable disciplinary sanctions for designated civilians to those permitted for police officers.

Recommendation 6

That section 63(2) of the Police (Northern Ireland) Act should be amended accordingly to ensure protection of information disclosed by the Police Ombudsman to other Agencies or individuals.

Recommendation 7

That consideration should be given to include any other statutory body or agency who may have cause to refer matters to the Police Ombudsman under s. 52 of the Police Act.

Recommendation 8

That police officers should be empowered to bring to the attention of the Police Ombudsman for investigation matters which appear to indicate that there are concerns about the conduct of colleagues in the delivery of policing services to the public.

Recommendation 9

That the requirement to serve a notice under Regulation 6 of the RUC (Conduct) Regulations 2000, on officers, is repealed but that the Regulation 6 notices continue to be served on the PSNI to notify them of the existence of the complaint, so that all complaints are captured for statistical analysis.

Recommendation 10

That tracking and trending of officers the subject of multiple complaints should be triggered by the service of Regulation 9 Notices. No legislative amendment is required for this purpose.

Recommendation 11

That the title of the process currently referred to as “informal resolution” in section 53 of the Police (NI) Act should be changed to “Local Resolution.”

Recommendation 12

To allow certain classes of less serious complaints to be subject of Local Resolution procedures without reference to the Police Ombudsman in the first instance but with a guardianship function preserved to ensure public confidence in the complaints system.

Recommendation 13

That section 54 of the Police (NI) Act should be amended to give the Police Ombudsman discretion to decide whether a complaint which has been the subject of a failed Local Resolution should be investigated, and that in such cases a new closure category “Failed Local Resolution, further investigation not necessary” be introduced. The necessity of further investigation should be determined by the Police Ombudsman.

Recommendation 14

That the Police (NI) Act 1998 be amended to enable the Police Ombudsman to conduct mediation in appropriate circumstances, and that there be no requirement to investigate first.

Recommendation 15

That the RUC (Conduct) Regulations 2000, and the RUC (Senior Officer) (Conduct) Regulations 2000 should be amended to provide that matters the subject of questioning under PACE caution, do not require to be the subject of further questioning under a discipline caution; and that any matters relating to the discharge of a police officer’s obligations under the PSNI Code of Ethics, which have not previously been addressed during a

PACE interview, should be the subject of a second interview conducted following the administration of a disciplinary caution.

Recommendation 16

That the Police Ombudsman should be specifically empowered by statute to compel the attendance for interview of both witness and suspect officers.

Recommendation 17

That the Police Ombudsman be given a power to compel retired or former police officers to submit to witness interview, and provide all relevant documentation to him, which is within their possession, custody, power or control, when he is conducting investigations involving grave or exceptional matters.

Recommendation 18

That Section 5(1) of the Criminal Law 1967 be amended to include after “constable”; “or where the information relates to police conduct, the Police Ombudsman for Northern Ireland”

Recommendation 19

That the requirement, under Section 58, to submit files for the consideration, by the Director of Public Prosecutions, of criminal prosecution only applies when the complaint has been received before the alleged criminal offence became statute barred.

Recommendation 20

The Police Ombudsman considers that the RUC (Complaints etc) Regulations 2001 should be reviewed and where necessary amended to enable him to investigate deaths occurring either directly as a result of

police action or indirectly due to police operations despite the fact that the death might otherwise have been previously been investigated by police.

Recommendation 21

That there be statutory provision for the use of a conciliation process in appropriate cases in which there is clear evidence that the conduct alleged occurred, but an individual officer cannot be identified.

Recommendation 22

That, given the number of people who have difficulties in communicating in writing for various reasons, not least disability, complainants should no longer have to withdraw complaints in writing, but that they should be able to do so verbally, or through other means, provided that the withdrawal is accompanied by a formal written statement by the member of the Police Ombudsman's staff who receives the withdrawal.

Recommendation 23

That Regulation 26 of the RUC (Conduct) Regulations 2000 and the RUC (Conduct) (Senior Officers) Regulations 2000 be amended to provide a right to the Police Ombudsman to attend all hearings which take place following a Police Ombudsman investigation.

Recommendation 24

That the Police Ombudsman should be involved as early as possible in discussions in relation to matters of relevant and necessary statutory change affecting the Office.

Recommendation 25

That the statutory guidance on police complaints, issued in accordance with Section 65 of the Police (Northern Ireland) Act 1998 should be reviewed and where necessary revised by the Department of Justice.

Recommendation 26

That a time limit for the making of complaints of mal-administration against the Police Ombudsman should be introduced and that that time limit should be twelve months.

APPENDIX B

SUMMARY OF 2007 REVIEW RECOMMENDATIONS – PREPARED PURSUANT TO S. 61(4) POLICE (NORTHERN IRELAND) ACT 1998

Recommendation 1

That the initial term of the Police Ombudsman should be reduced to a term of five years, and that the Police Ombudsman should be eligible for re-appointment for a further term of five years.

(Amended in 2011 to reflect a second term of ‘up to’ five years)

Recommendation 2

That any post which was previously carried out by a police officer, and which has been civilianized under the civilianization initiative and which involves contact with members of the public, should be brought within the remit of the Police Ombudsman for Northern Ireland for the purposes of complaints against those personnel and the exercise of the powers and duties under S.55 of the Police (Northern Ireland) Act.

(Amended in 2011 to broaden scope beyond positions that were previously police posts but deal with policing)

Recommendation 3

That section 63(2) of the Police (Northern Ireland) Act should be amended to include “(c) Such other persons to whom the Police Ombudsman is required by statute to release information”.

(Amended in 2011 to broaden scope and is now (2011) Recommendation 6)

Recommendation 4

That the Criminal Cases Review Commission and the Criminal Justice Inspector should be added to the list of those empowered to refer complaints to the Police Ombudsman under s. 52 of the Police Act and that the Lord Chief Justice should also be empowered to refer to the Police Ombudsman matters brought to his attention by members of the judiciary and magistracy.

(Modified to include a potentially broader group and it is now (2011) Recommendation 7).

Recommendation 5

That, police officers should be empowered to bring to the attention of the Police Ombudsman for investigation matters which appear to indicate that there are concerns about the conduct of fellow officers in the delivery of policing services to the public.

(No Change and is now (2011) Recommendation 8)

Recommendation 6

That the requirement to serve a notice under Regulation 6 of the RUC (Conduct) Regulations 2000, on officers, is repealed but that Regulation 6 notices continue to be served on the PSNI to notify them of the existence of the complaint, so that all complaints are captured for statistical analysis.

(No Change and is now (2011) Recommendation 9)

Recommendation 7

That tracking and trending of officers the subject of multiple complaints should be triggered by the service of Regulation 9 Notices. No legislative amendment is required for this purpose.

(No Change and is now (2011) Recommendation 10)

Recommendation 8

That the title of the process currently referred to as “informal resolution” in Section 53 of the Police (NI) Act should be changed to “Local Resolution.”

(No Change and is now (2011) Recommendation 11)

Recommendation 9

That section 54 of the Police (NI) Act should be amended to give the Police Ombudsman discretion to decide whether a complaint which has been the subject of a failed informal resolution should be investigated, and that in such cases a new closure category “Failed Informal Resolution, further investigation not possible” be introduced.

(Modified by clarifying Police Ombudsman will decide on further investigation, and is now (2011) Recommendation 13)

Recommendation 10

That the Police (NI) Act 1998 be amended to enable the Police Ombudsman to conduct mediation in appropriate circumstances, and that there be no requirement to investigate first.

(No Change and is now (2011) Recommendation 14)

Recommendation 11

That the RUC (Conduct) Regulations 2000, and the RUC (Senior Officer) (Conduct) Regulations 2000 should be amended to provide that matters the subject of questioning under PACE caution, do not require to be the subject of further questioning under a discipline caution; and that any matters relating to the discharge of a police officer’s obligations under the PSNI Code of Ethics, which have not previously been addressed during a PACE interview, should be the subject of a second interview conducted following the administration of a disciplinary caution.

(No Change and is now (2011) Recommendation 15)

Recommendation 12

That the Police Ombudsman should be specifically empowered by statute to compel the attendance for interview of both witness and suspect officers.

(No Change and is now (2011) Recommendation 16)

Recommendation 13

That the Police Ombudsman be given a power to compel retired police officers to submit to witness interview, answer questions and provide all relevant documentation to her, which is within their possession, custody, power or control when she is conducting criminal investigations involving grave or exceptional matters.

(Modified by changing gender; deleting ‘answering questions’ because there can be no legal compulsion; and deleting ‘criminal’ as it is redundant and covered by grave or exceptional. This is now (2011) Recommendation 17)

Recommendation 14

That Section 5(1) of the Criminal Law 1967 be amended to include after “constable”; “or where the information relates to police conduct, the Police Ombudsman for Northern Ireland”

(No Change and is now (2011) Recommendation 18)

Recommendation 15

That the Police Ombudsman is empowered to take out Form 1s, when engaged in the investigation of summary criminal offences in the same way that PSNI officers do.

(Deleted by 2011 Recommendations. A Form 1 commences a prosecution and is properly the role of the Public Prosecution Service. This Office can submit an interim investigation file if required)

Recommendation 16

That the requirement, under section 58, to submit files for the consideration, by the Director of Public Prosecutions, of criminal prosecution only applies when the complaint has been received before the alleged criminal offence became statute barred.

(No Change and is now (2011) Recommendation 19)

Recommendation 17

That the Police Ombudsman be empowered to arrest persons who are not police officers and who are engaged in a crime for which police officers are being investigated, and to conduct one investigation in respect of such a matter.

(Deleted in the 2011 Recommendations. There is no need to create another police organisation with the power to arrest persons who are not or have not been police officers. Where a police officer and another person are engaged in crime, a joint operation can be conducted while maintaining the independence of the Office)

Recommendation 18

That there be statutory provision for the use of a conciliation process in appropriate cases in which there is clear evidence that the conduct alleged occurred, but an individual officer cannot be identified.

(No Change and is now (2011) Recommendation 21)

Recommendation 19

That, given the number of people who have difficulties in communicating in writing for various reasons, not least disability, complainants should no longer have to withdraw complaints in writing, but that they should be able to do so verbally, provided that the verbal withdrawal is accompanied by a formal written statement by the member of the Police Ombudsman's staff who receives the verbal withdrawal.

(Amended to add 'other means' and is now (2011) Recommendation 22)

Recommendation 20

That Regulation 7 of the RUC (Complaints etc) Regulations 2000 be amended to enable the Police Ombudsman to recommend the suspension of an officer.

(Deleted in the 2011 Recommendations. The Police Ombudsman is satisfied that the duty to inform the Chief Constable of circumstances where a police officer suspension may be warranted is the adequate power and there has been no identified problem).

Recommendation 21

That the Police Ombudsman be given statutory power to direct that informal discipline be applied in cases where a complaint is substantiated but the Police Ombudsman does not consider it appropriate to recommend formal discipline.

(Deleted in the 2011 Recommendations. The Police Ombudsman is satisfied that the Chief Constable is the proper authority to decide on informal discipline and there has been no identified problem).

Recommendation 22

That Regulation 26 of the RUC (Conduct) Regulations 2000 and the RUC (Conduct) (Senior Officers) Regulations 2000 be amended to provide a right to the Police Ombudsman to attend all hearings which take place following a Police Ombudsman investigation.

(No Change and is now (2011) Recommendation 23)

Recommendation 23

That the Police Ombudsman should be involved as early as possible in discussions in relation to matters of relevant and necessary statutory change affecting the Office.

(No Change and is now (2011) Recommendation 24)

Recommendation 24

That the statutory guidance on police complaints, issued in accordance with section 65 of the Police (Northern Ireland) Act 1998 should be reviewed and where necessary revised.

(Amended to reflect the Department of Justice and is now (2011) Recommendation 25)

Recommendation 25

The Police Ombudsman is empowered to direct the Chief Constable to make a payment not exceeding specified amounts to a complainant.

(Deleted in the 2011 Recommendations. The Police Ombudsman is satisfied that the power to recommend is sufficient and there are sufficient alternate civil remedies available to meet any need)

Recommendation 26

That a time limit for the making of complaints of mal-administration against the Police Ombudsman should be introduced and that that time limit should be twelve months.

(No Change and is now (2011) Recommendation 26)