



The Independent Assessor for Complaints for the Public Prosecution Service of Northern Ireland

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Fourth Formal Report

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The Independent Assessor
for the **Public Prosecution Service**
Alasdair MacLaughlin
- investigating complaints
- overseeing and auditing complaints

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Sir Alasdair Fraser CB QC
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31st March 2009

Dear Director

I have the privilege of presenting to you my Fourth Annual Report as The Independent Assessor for the Public Prosecution Service of Northern Ireland.

The period of this Report is from 1st April 2008 to 31st March 2009. However, the statistics refer to the calendar year 2008. I have presented this Report in a timetable, which I hope may be helpful to you as you finalise your Annual Report for the PPS for the same period.

The purpose of my Report is to provide a basis for reflection on the processes of, and the progress in, Complaints Handling in PPS during the period. I also provide information on my own activity during the past twelve months.

There has been substantial development during the year, and I would wish to commend PPS on several important developments in Complaints Handling. In addition, my own role has changed and developed in ways I believe we initially foresaw at the outset in 2005, when I was originally appointed. My Report aims to illustrate how these developments are appropriate and helpful, now that PPS has become fully established.

I would wish also to thank you and your staff for the ready help, assistance and, above all, responsiveness to my role, and most importantly your concern to provide a better service to the stakeholders of PPS. I have been impressed in the year concerned by the very ready recognition by everyone I have met at PPS of where service improvements can be achieved, and when apologies may need to be made in relation to complainants. Above all, it is the commitment that has been shown by management in PPS to ensure that the necessary changes and developments result that is of most value to PPS and to its stakeholders.

I conclude by noting and commending the continuing and strenuous efforts made in PPS to ensure that my function is truly independent of the organisation.

Alasdair MacLaughlin

Alasdair MacLaughlin

*Investigating complaints
Overseeing and auditing complaints handling processes
The Independent Assessor is Alasdair MacLaughlin*

Background

1. This is my Fourth Annual Report on my work as the Independent Assessor for Complaints for the Public Prosecution Service of Northern Ireland (PPS). The Report covers the period from 1 April 2008 to 31 March 2009. Statistical data, however, has been drawn from the calendar year 2008.
2. The Report provides information on the activity of Complaints Handling in PPS for the period concerned and also on the work of the Independent Assessor. It aims to provide a basis for examining progress in Complaints Handling, and takes account of the fact that PPS has now achieved its full organisational and geographical coverage. It also attempts to provide a means for prompting and reflecting on how the experience of Complaints Handling can contribute to improving the service provided by PPS in this context and also more widely. Finally, it provides an important contribution to the public accountability of PPS.
3. The timing of my Report takes account of the fact that the Director issues his Annual Report on PPS in June for the previous period. Availability of my Annual Report by the end of March therefore gives time for any information on Complaints Handling that he may regard is of relevance for the Director's Annual Report for the same period.
4. In dealing with complaints, PPS has adopted a three-tier process. PPS accepts a complaint from a stakeholder - who may be a legal-services professional, a judicial officer, a victim, a witness, a police officer, an offender, a supplier of goods and/or services, or a member of the public. PPS does not in general terms attempt to subject a complaint to detailed definitional filters designed to exclude certain types of complaint. However, it is important to note that distinctions may have to be made with other types of complaint when a prosecutorial complaint/review or a Freedom of Information query is involved. These are dealt with under separate arrangements.
5. Whether prosecutorial in nature or otherwise, a complaint is normally accepted at the work interface, verbally or in written form, where it is dealt with in the first instance; this is the **first** tier. If the conclusion at this stage is not regarded by the complainant as satisfactory, the complaint can be taken to the **second** tier, which is primarily the responsibility of senior management. If at this stage, the complainant remains dissatisfied, the complaint, in the case of a prosecutorial matter, is taken to the Director or his nominee - usually the Senior Assistant Director. All other types of complaint are channelled to the independent **third** tier, which is the responsibility of the Independent Assessor for Complaints.



Alasdair MacLaughlin
Independent Assessor

6. The distinction between a prosecutorial and a non-prosecutorial complaint, while appearing to be obvious in a definitional sense, is in practice not always so clear-cut. Accordingly, a decision may be made by the Director to refer a matter directly to me, if there appear to be any non-prosecutorial elements connected with a complaint. In practice, where the Director refers such cases to me, he will be advised on my opinion as to whether I believe I have a remit or not. This is a further illustration of the emphasis that the Director places on a thorough investigation of all complaints.
7. A complaint can in practice be accepted directly at the second tier, but if so, it must always be submitted in writing. A non-prosecutorial complaint cannot normally be taken directly to the independent third tier, bypassing the second tier. However, there have been cases where the Director has adjudged that it will save time and further frustration to the complainant for such a reference to be made before the second tier is exhausted. Also, there have been several cases more recently where a complainant has chosen to bring a complaint to me directly from being dissatisfied at the first tier. In most cases, I will refer such complaints back to the second tier for attention, although there may be circumstances where it may be desirable to accelerate the process, and so bypass the second tier.
8. Concluding responses are given in writing, at the second and third tiers. These may be, and increasingly are, supplemented where necessary by face-to-face meetings and discussions with complainants. The Director has made it plain to all that every complaint must be treated at every level seriously, and with due consideration; each complaint must be concluded thoroughly, fairly and expeditiously. However, while 'justice delayed' may be seen as 'justice denied', the degree of complexity of the issues in each complaint and practical considerations should properly determine the elapsed time to conclude a complaint. Whatever else, the Director has made it plain that the processes employed must be of the highest standards of excellence.
9. It is also vital that the Complaints Handling Processes feed organisational learning and development in PPS. The receipt of every complaint is, and should be seen to be, an opportunity to put right specific matters, and to improve the overall service PPS provides, at every level.
10. When I was appointed, I was asked to:
- Develop initially the Complaints Handling Processes of PPS against a background of excellence
 - Oversee from an independent and impartial standpoint the Complaints Handling Processes of PPS
 - Deal with non-prosecutorial complaints taken by stakeholders against PPS at the third and independent tier. This involves me in detailed study of the relevant files and, in certain circumstances, I may interview the complainant and/or appropriate PPS staff
 - Make recommendations to PPS about Complaints Handling in the context of an individual complaint, in regular informal and formal reports and as a consequence of an audit of complaints handling.
- The right that I have been given to audit complaints received in PPS but which are never referred to me at the third tier is unusual for independent complaints assessors/examiners. This is a yet another indication of the emphasis which the Director and PPS place on having a thorough approach to complaints handling. An additional role for the Independent Assessor has more recently emerged:
- make interventions to assist the development of a better service from PPS.
- Examples of these are included later within this Report and its Appendices.

The Independent Assessor: Activity During 2008

11. During the twelve-month period 1 April 2008 to 31 March 2009, I have concluded nine complaints. One of these complaints commenced in the period 2007-2008 and was concluded in 2008-2009. A further tenth complaint also began in 2007-2008 but it is still in progress, due to the fact that the complainant is unwilling to follow due process. The timetabling at the third/independent tier of these cases is as follows:

- the **first** complaint began on 31 March 2008 and was concluded on 15 October 2008
- the **second** complaint began on 15 July 2008 and was concluded on 4 October 2008
- the **third** complaint began on 4 October 2008 and was concluded on 1 December 2008
- the **fourth** complaint began on 4 October 2008 and was concluded on 15 November 2008
- the **fifth** complaint began on 27 October 2008 and was concluded on 5 November 2008
- the **sixth** complaint began on 25 October 2008 and was concluded on 12 January 2009
- the **seventh** complaint began on 2 November 2008 and was concluded on 7 December 2008
- the **eighth** complaint began on 6 November 2008 and was concluded on 15 January 2009
- the **ninth** complaint began on 14 January 2009 and was concluded on 30 March 2009.

A further complaint began on 25 January 2008 and remains un-concluded at the date of this Report.

12. In the following paragraphs, these cases are briefly described. Further details on each complaint can be found in Appendix 3 to this Report. The **first** complaint was a very involved case where a young man, having been seriously assailed and rather badly hurt, found that he himself was considered an assailant. The complexity of the case ensured that there would be no speedy resolution, and considerable analysis was required on my part. Fundamentally, there was an issue that was prosecutorial in nature - and therefore outside my remit - but

there were also four other substantive issues that arose. As a consequence, the complaint therefore took me almost seven months to conclude.

13. In the end, I made **two** recommendations to the Director. The latter regarded these as appropriate, wrote to the complainant apologising unequivocally and commenting on each point, and offering to review all or any aspect of the prosecutorial decision. My recommendations and other comments are contained in Appendix 3.

14. The **second** complaint concerned matters where in fact no case had been brought to the Courts. This complaint took me twelve weeks to conclude. The complainant had reported a dangerous traffic incident to the police, but no prosecution was brought forward, much to the annoyance and frustration of the complainant. In this complaint there was, once again, a prosecutorial element, which was of course outside my remit. However, there were also issues of inefficiency, which induced in the complainant strong feelings about the way in which, as a responsible citizen, he had apparently not been taken seriously. I identified four issues that arose relating to my remit, and I upheld the complainant's position in all four matters. I made two recommendations to the Director, both of which were accepted by him. Accordingly, he made a fulsome apology to the complainant, and further offered to review the prosecutorial matters - or any part of them - if requested by the complainant.

15. The **third** complaint involved a complicated family matter. I concluded the complaint in eight weeks. Like the case described above, again it had resulted in no prosecution, to the frustration and annoyance of the complainant. The main point made by the complainant in fact related to prosecutorial issues. In my opinion, PPS had very

clearly and effectively explained to the complainant the prosecutorial decision, but had not made reference to or provided the complainant with a copy of the Code for Prosecutors. The issue of a copy of the Code, with references, in this case could very likely have avoided the necessity for the complainant to bring forward the complaint. I now regard this omission as a serious matter in relation to any complaint involving a prosecution or indeed a non-prosecution, and so I commented to the complainant and to the Senior Assistant Director accordingly.

16. The **fourth** complaint was a most harrowing case for all, but this was as nothing compared with the suffering of the complainant, a parent of a young man who, in a road traffic accident, lost his life. The complainant was fundamentally highly distressed that the prosecutorial decision taken in the case was incorrect and, in that aspect, the complaint was outside my remit. It was however necessary for me to examine the files to make certain that there were no other issues involved. Having concluded my investigation, it was clear to me that I had nothing to offer in this particular case - all matters were outside my remit. I did however suggest to the complainant that a review of the prosecutorial decision could be requested, and I explained how this could be done. I concluded this investigation in five weeks.

17. The **fifth** complaint was a reference from a solicitor about a client, a victim of an alleged crime. They were dissatisfied with a prosecutorial decision made by PPS against the perpetrator: it was therefore outside my remit. In this particular case, a Senior Prosecutor wrote to the complainant, and conveyed the message that the Regional Prosecutor concerned had reviewed the prosecutorial decision. However, in addition, the Senior Prosecutor mistakenly, but in a tone of helpfulness, referred the matter to me, for an independent opinion. The correct method should have been to refer the matter to the Director, or another member of the top team. In this case, once again, the complainant should have been issued with a copy of the Code for Prosecutors. If it was that the Code was indeed issued, the

complainant had obviously not read the section on prosecutorial requests/reviews/complaints. This case highlights the importance of ensuring that prosecutors understand the Complaints Handling System in PPS.

18. The **sixth** complaint involved studying an extensive set of files, but really the issues concerned were relatively straightforward. In essence, there had been extraordinary delays over several years in bringing a case against someone who had perpetrated an extensive fraud on public funds. The perpetrator's case was delayed in a number of ways. Some of these arose due to a systems problem in PPS, which this case helped to highlight, while others occurred elsewhere in the Criminal Justice system. Complaints against those other organisations were also placed with the appropriate authorities.

19. The Senior Manager involved in PPS ensured that a full explanation and an apology were issued from PPS, including an endorsement by the Director. In addition, PPS thanked the complainant for bringing the matter forward, thus helping to ensure that service to others could be improved. The Senior Manager also ensured that the Attorney General, as the person overseeing the Criminal Justice System, was kept informed throughout.

20. In my opinion, this complaint was handled in a model fashion, for which PPS warrants merit (even though PPS was at fault in the first place). This of course does not mean that the complainant was wrong in bringing the complaint to the independent level, where the behaviour of PPS could be independently assessed and tested. I had no hesitation, having studied the case in detail, in upholding the complaint against PPS. Accordingly, the Director wrote to the complainant following my conclusion to renew the regrets of PPS that these events had taken place.

21. The **seventh** complaint was more by way of a Freedom of Information request, although this was not initially evident. The reason for reference to me appeared to be that the complainant did not believe the information he was being given by

PPS. This is not a matter in which I can adjudicate, and accordingly the complaint was concluded, so far as I am concerned.

22. The **eighth** complaint involved a young man who, in the opinion initially of the police and subsequently PPS and the Courts, had behaved in a dangerous fashion while driving a tractor on the open road. Even though he had admitted to what he had done, there were subsequently a number of technical points that arose, and which were outside my remit; these took place in PPS as well as in other organisations. In responding to the complainant, a parent of the young man, the Senior Prosecutor correctly and helpfully explained what had taken place and why, and apologised on behalf of PPS.

23. However, no mention was made that there was a Complaints Policy, no copy of the Code for Prosecutors was sent to the complainant, and indeed in the letter sent there was a typographical error which reversed the meaning being conveyed in one sentence of the letter. This suggests that the letter in question had not been properly checked before being sent out. The fact that this section of the letter was not central to the overall matter in hand, while a mitigating factor, is not important. I concluded that, in my opinion - and of course, I am not legally qualified - the technical shortcomings would not have been likely to have changed the outcome of the original case. In this complaint, I made a recommendation in relation to service improvement to the Director, which he was able to accept.

24. The **ninth** complaint related to the matter of a young woman who, although authorised by her employment to access an official database, had confessed to doing so for personal reasons, and who, having done so, found herself under threat from a family associate. There was a prosecutorial element in this matter, in which I have no remit, but there were many other points of detail where the complainant - who was a parent of the young woman - felt cause for complaint. Fundamentally, the overriding motivation for the complaint appeared to me to be the feeling of unfairness that the young

woman had been singled out as an example, and further a mistaken belief that hers was the only case that had been taken. While it may be true to state that every case is unique, it is a fact that other similar cases have, in fact, been taken in similar circumstances.

25. This complaint has given rise to an important issue in relation to Freedom of Information, and relates to the PPS policy, which I believe to be correct, that the definition of a 'stakeholder' - who can bring a complaint against PPS - is widely interpreted. So, a relative, as in this case, who is not otherwise involved, can bring a complaint, in relation to a witness, a victim, an offender, and so on. In such a case, there may be issues involving Freedom of Information, which may require to be discussed within PPS at policy level.

26. The further, tenth complaint, which commenced in January 2008 and remains to date **unresolved**, is important and worthy of discussion. Once again, this was primarily a prosecutorial decision over which the complainant took issue. Accordingly, he raised a request for review, in the course of which many other issues emerged. The original case was one where the complainant, having caught two teenage boys tampering with his son's car, found himself and his son being accused of assault. In the end, for rather unusual technical reasons, he escaped being prosecuted as such, and the two teenage boys were also not charged, for rather different reasons. The complainant felt that the initial charge against him and his son was extremely unfair, and that the fact that 'charges' which were never brought against the teenage boys was totally unacceptable to him.

27. When the complainant brought the complaint to me, the matter had been rumbling on in PPS for many months. The initiating events took place in April 2007. The complainant began writing to PPS in July 2007. Thereafter, until the case was referred to me in January 2008, and particularly from October 2007, there was a continual flow of letters between the complainant and PPS. Many of the issues raised by the complainant were to do with unrealistic expectations, inappropriate matters for PPS to deal with, and

in some instances would have required the complainant to consult a legal representative for help to find resolution. Suffice to state that by the time the matter was referred to me by the Director, a very substantial degree of anger and frustration had built up in the complainant. Even face-to-face interviews with the complainant and top-level management had not succeeded in de-escalating his views.

28. When I received the complaint, it was by reference from the Director, and not the complainant. This had the unintended effect of raising the frustration and annoyance levels of the complainant still further. Initially, I decided to study and investigate the files, and then I met with the complainant and with the regional prosecutor concerned. In short, this culminated in my preparation of a draft Statement of Fact in the complaint, dated 29 June 2008 - an extensive document covering the complex history of the case to date, including those issues that had arisen subsequent to the case itself. This was provided both to the complainant and to the PPS for comment.

29. The complainant has pronounced himself profoundly dissatisfied with the draft Statement, but refuses to comment on the content of it until I answer a large number of unrelated questions. His comments would, of course, enable me to deal with his dissatisfactions. Amongst the further matters the complainant raised was the fact that he had formed the opinion that the Independent Assessor is not neutral in this complaint. However this may be, until his comments on the draft Statement of Fact are received, I regret to say that I cannot adjust it to take account of his dissatisfactions, and so I cannot take this case any further. This is regrettable, not least as there are several important issues for PPS to consider that have arisen in this complaint, and which could lead to service improvement. While I can have these discussed within PPS, the fact of that discussion cannot be comprehended by the complainant as long as he remains disengaged, and so it is probably impossible to give him any satisfaction if this situation persists.

30. This particular complaint highlights the need to identify the challenges that face an organisation against which a complaint is raised where the complainant appears beyond being capable of being satisfied. These include identifying the methods that can be deployed to assist in defusing the anger and annoyance of a complainant in such an instance.

31. It may be of relevance to note that the complaints that I have received have emanated from different parts of the Province, from persons of both sexes, and involving complainants of differing age groups and a diversity of backgrounds.

Complaints Handling in PPS in 2008

32. In my Formal Report for 2007, I alluded to the basis being developed for a statistical build-up relating to complaints, so that year-on-year comparisons can be made. This matter has not developed substantially, but we do now have a basis for examining in a simple but effective manner the incidence of complaints and how they have been resolved both within PPS and by me. However, I am still not completely convinced that this methodology is sufficiently rigorous to be able to have the necessary confidence that the system is sufficiently robust to reflect the true situation at any given time. I note this particularly in relation to those complaints - whether written or verbal - that are still in process at the regional prosecutor level. This may be as a result of insufficient maturity in the Complaints Handling Processes, or it may even arise through a lack of clarity in PPS that the Complaints Handling System has much more to do with service improvement than in establishing responsibility, and therefore blame, for the complaints that arise. It is my clear understanding that the Director and his team at senior level see it very clearly as about service improvement - and indeed there is ample evidence, to which I have already alluded in the previous section of this Report, to support the fact that this is indeed the focus of their attention.

33. In 2008, PPS logged centrally 41 complaints at the second tier, compared with 28 in 2007, and 39 in 2006. In addition, there were 137 requests for review/information/reasons during 2008, compared with 115 in 2007, and 126 in 2006. The full roll-out of PPS services was effectively complete organisationally and geographically throughout 2008. This now represents a full year case-load in excess of 60,000 prosecutions.

34. This suggests a very encouraging picture of an organisation with a persistently low complaint record which, expressed as a percentage of total cases dealt with, represents a virtually negligible

incidence of 0.5%. This is not for one moment to say that the complaints that do arise are of no importance - every complaint is one too many - but it is the clear view of senior management in PPS that every complaint is also an opportunity for improving service. I have seen no sign of complacency towards those complaints that do arise, nor indeed generally to the Complaints Handling Process in PPS.

35. There still arises in my own opinion, however, a question of what is actually happening at regional level. The last thing I am suggesting is that there should be a slavish attempt to log **centrally** every written complaint received at regional level - such bureaucracy in my view is generally unhelpful and, further, can often lead to unhelpful competition in a matter where no competition makes sense. Nevertheless, I am suggesting that it would be important to find a mechanism so that the Director may obtain a feel for what may be developing. In my opinion, the way to handle this might best be by using the informal means of a group discussion in regular management meetings with regional prosecutors. This would provide a very clear picture on a regular basis of the emerging picture in respect of complaints developing in PPS. I have discussed this matter with the Director and his senior colleagues, without resolution at this stage.

36. It is now possible to make comparisons over the past three years about the nature and outcomes of complaints that are centrally registered at the second tier of the Complaints Handling Process. At this stage, it is still rather tentative, but the four-year series that I believe is necessary will have been achieved in my next Report in 2009. Nevertheless, the following pattern for the past three years is now in place:

Outcome of Complaint /second tier	2006	2007	2008
• Upheld	9	4	8
• Partially upheld	5	0	3
• Dismissed	10	5	12
• Resolved informally	1	0	0
• No action required	12	15	5
• Apparently incomplete (until 09)	2	4	13
• TOTAL	39	28	41

It is a measure of the relevance of the Complaints Handling System to the complainant that some 27% of the centrally logged complaints in 2008, 36% in 2007, and 14% in 2007 were **upheld/partially upheld**. This indicates that in the event, significant proportions of complaints taken against PPS were upheld in favour of the complainant by the internal Complaints Handling Process. This is of considerable importance to those complainants affected, who, it emerges from the Complaints Handling Process, were found to be fully vindicated in bringing their complaints forward. This alone is an important justification of the Complaints Handling Process in general but in addition, of course, every complaint dealt with, whether upheld or not, provided an opportunity for evaluation and service improvement. Every complainant is fully within his/her rights to advance a complaint to be tested by the Complaints Handling Process.

37. As part of my duties, I currently audit all the complaints centrally logged in PPS. In 2008, there were 41 such cases. This process involves perusal of each file or set of files to ensure that the appropriate processes, language, approach and tone have been employed, as well as to gain a 'feel' for the types of complaints being advanced, the issues involved and how they are being resolved and concluded by PPS. In future, it may be appropriate to select only a proportion of these cases for audit.

38. It continues to be of note that the audit role remains the envy of most independent assessors/examiners; the power to audit complaints which are never referred to the independent third tier is increasingly being seen as an aspiration which takes Complaints Handling to a higher level. In addition, the auditing process is being seen in PPS as a means of measuring and enhancing public accountability and transparency. It is rewarding for me to note that the PPS is so firmly advanced in this respect. I had occasion to discuss this issue with a very senior member of the management team in PPS (now retired). His words to me were: **'As I have often said to staff, complaints are important - they are the world's window on our performance as a public service. The willingness to see them as such and the manner in which they are handled, appraised and monitored says much about the organisation and its level of maturity.'**

39. The auditing process has disclosed a number of additional points that did not arise in dealing with third, independent tier complaints handling. There is evidence of **three** additional issues. The **first** issue raises the question of the difficulties being experienced by several complainants in communicating, particularly by telephone with prosecutors. Perhaps this matter might be assessed within PPS.

40. The **second** point relates to mistakes in recording information to do with victims, witnesses and offenders. There were a small number of instances of mistaken identity which showed up when papers were issued to the wrong persons; additionally, in one instance, an entirely innocent and uninvolved person found that it was on a record that he had allegedly stolen material from an alleged employer when neither allegation was in fact the case.

41. The **third** issue has occurred in a number of instances where a complainant has been left unaware of the reason for delays in the process of his/her case. This is inevitable in the process of many cases for reasons that may have their roots within PPS or in another organisation. Either way, it is incumbent on PPS to give an indication of likely timetables in the interests of

transparency. An estimate can surely be given, and if it turns out for very good reason to be likely not to be met, the stakeholder should be informed accordingly; a simple and efficient 'bring-forward' system might help eradicate these problems.

42. Each year to date since I was appointed, I have made mention of the fact that complainants need to have their complaints processed according to a clear timetable, so that they know where they stand in relation to the complaint. The PPS has set for itself high standards in this regard. It appears that again this year, there is room for improvement. It is the clear policy in PPS that written complaints (whether in letter or e-mail form) must be acknowledged within five working days. I too regard this as an attainable target. In 2008, 10 out of a total of 41 complaints were acknowledged within five working days. In 2007, the corresponding figure was 15 out of 28 complaints being acknowledged within five working days, and I made particular mention of this last year. **This is simply not acceptable for such an easily attained target.** All that is required is an indication to the complainant that the complaint has been received - there is no necessity to provide further information beyond the statement that PPS will make further contact within an estimated timescale.

43. Also, PPS has undertaken, I believe, as I have stated before, unrealistically, to conclude complaints within 15 working days. There will be a few complaints where this applies - for example where an administrative omission is made and can be rectified straightaway within 15 working days. However, for the most part proper conclusion will take much longer. I have already suggested that the sensible way to deal with this is to give an estimate which can then be updated if it turns out to be unattainable. So often it seems that a complainant is angry/frustrated/upset by a lack of knowledge of what is happening than by the length of time required to conclude the complaint investigation. In 2008, eight complaints out of a total of 41 were completed within 15 working days. This tells us little beyond the fact that the complainants who raised the balance of the

complaints would have been entitled to have received a realistic estimate of the likely time that would be required to conclude their complaints. There is evidence to suggest that this did not often happen.

44. It appears to me that the tendency to use 'legal' language to complainants, which is more appropriate for communicating with fellow legal specialists, is reducing; and this is a good sign. Additionally, there is a greater reference by prosecutors in cases where there have been complaints to the existence of the relevant PPS Codes and Policies. I have pointed to the great value of the excellent Code for Prosecutors, which is so helpful to PPS in explaining things to lay persons, as well as making the processes clearer to PPS stakeholders. I would, however, like to see more mention as standard practice particularly where there are questions raised of the existence of the Complaints Handling Processes in PPS. There are excellent leaflets available relating to PPS processes and to the way I operate the independent third tier to which reference should be made. These now form a standard part of the profile information pack for PPS and this is sent out widely to describe the roles and functions of PPS. I hasten to point out, however, that any other mention of the Complaints Handling Processes must be as simple information and not, in any sense, promotion of the activity.

45. Last year I made the point that it would be of particular importance that other criminal justice agencies are made clear of the roles and functions of PPS. I believe that the senior management team has been most active in this context. Amongst other initiatives was mounting of a well-attended major Saturday conference/workshop involving other criminal justice agencies, at which I was privileged to have been present. This event was widely proclaimed to have been most helpful in ensuring a better measure of understanding of the operational roles and relationships of the bodies concerned.

46. During the year I conducted a half-day workshop for regional prosecutors, assistant directors and community liaison staff, under the direction of

the Director and the Senior Assistant Director. This was a most valuable opportunity for me to highlight not only the Complaints Handling Processes, but also to focus on the effective handling of complaints, against the clear realisation that PPS is concerned with good service, rather than using complaints as a way of finding someone to blame.

47. I continued in 2008 to maintain contact with other ombudsmen and complaints assessors/examiners in the rest of the UK and in Ireland. I have done so independently and through the British and Irish Ombudsman Association (BIOA). Once again, I am grateful that PPS supported me in attending a major conference in Edinburgh on Improving Service through effective Complaints Handling, where I was a speaker.

48. During 2008, I have had formal and informal meetings with the Director. These have been as required by formal remit, but it is a further measure of the commitment of the Director to the Complaints Handling Process that he has been so willing to meet me informally whenever requested. I thank the Director for the ready access and support that he has provided.

49. My operational relationship with PPS is conducted through regular contact with the Senior Assistant Director, Mr Raymond Kitson, on both a formal and an informal basis. Once again, I have to say that he is readily available to discuss matters with me, and I thank him for this open access. In addition, I link with Mr Peter Grant, the Departmental Record and Information Manager, and his staff. He is the person who makes available the necessary access as requested by me to files and relevant papers, and who handles the administration of the Complaints Handling Processes at central level within PPS. I am grateful to him and to his colleagues for their very willing assistance.

50. The issues discussed with Mr Kitson and Mr Grant in 2008 related to:

- clarity of roles at all levels in PPS in relation to handling complaints
- systems being appropriately adapted to meet changing needs
- recording, measuring and appraising the performance of complaints handling
- identifying issues and ensuring learning action in PPS
- explanations of procedures operated within prosecution cases
- discussing ideas for service improvement.

These issues have arisen from my handling of cases, my observations on the handling of cases by prosecutors, and from the results of the audits I conducted.

51. Once again, I can report that there has been considerable progress in the operation of the Complaints Handling Processes within PPS. The organisation is now operating at its full role and coverage in the Province. Despite the rapid growth in the many additional tasks required of PPS, it has managed to keep complaints low, improve services as a result of learning from complaints, and ensure a high level of commitment to all complainants. Mistakes will always creep in to the best-run organisations, complaints will therefore arise, and PPS is no exception. However, the way in which PPS continues to handle events when things go wrong continues to be creditable. When an organisation is new and fresh, such commitment is easier to achieve; the real test comes with a more settled existence when inertia and complacency can set in. I find no sign of such happening in PPS.

Recommendations

52. In 2007, I advanced **four** recommendations in my last Report dated 31 March 2008 and there has been substantial progress in all four. These related to:

- a programme for making the Codes & Policies more accessible and understood
- ensuring greater awareness of the role of PPS in other Justice Stakeholders
- giving higher profile within PPS to the Community Liaison Unit
- generating management information on the service improvement aspects of complaints handling.

I emphasise, however, that these are all developmental recommendations that by their very nature can probably never be fully achieved.

53. Accordingly, continuing emphasis by PPS management on these important matters should continue to be applied, so that development as appropriate can be continued.

54. In this my Fourth Annual Report, for 2008, I now advance a further set of six

Recommendations:

1. I **recommend** that the message that the principal aim of the Complaints Handling Processes in PPS is to achieve service improvements is reinforced to all staff in PPS.

2. I **recommend** that PPS management continue to reinforce the awareness amongst staff of the existence and principal elements of the Complaints Handling Processes in PPS and at the independent level; in this context, consideration might be given to making a copy of this my Annual Report available to all relevant staff in PPS.

3. I **recommend** that PPS management again consider the timetables relating to acknowledging and concluding complaints and how to respond effectively to my previous recommendations in this context.

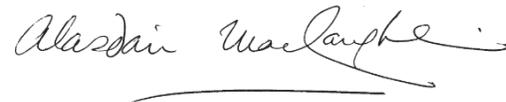
4. I **recommend** that consideration be given to the mounting of another similar workshop on Complaints Handling in 2009, and subsequently on an annual basis, as was implemented during 2008, and mentioned in paragraph 46 above, to be run by the Independent Assessor supported by senior management for relevant prosecutorial and community liaison staffs.

5. I **recommend** that PPS management consider how to develop a clearer picture of the number and nature of complaints developing at regional levels.

6. I **recommend** that PPS management consider the issues identified above around Freedom of Information/data protection in relation to Complaints Handling in PPS.

Concluding Note

- 55.** When I was appointed, the Director specifically charged me with the requirement to provide the highest possible standards in my work of independent oversight of the Complaints Handling Processes of PPS. I again confirm that I strive to do so, and seek to measure my work against the standards that have been laid down by the British & Irish Ombudsman Association. These are available in a booklet entitled 'Guide to principles of good complaint handling' published in 2007. I also seek to achieve the highest standards that are consistent with those expected within PPS.
- 56.** I have attempted to evaluate my own performance over the past year. During the year I was able to specify timetables to all complainants that were achieved. There was, however, one instance where a first-class letter to a complainant went missing in the post but, fortunately, this was discovered before the specified timetable had expired. In addition, I sent out in error to another complainant a copy of my leaflet, which had been annotated in handwriting. The circumstances of this, having been discovered, were quickly explained, and a fresh copy was sent. In both instances, I wrote to apologise and to provide an explanation to both complainants.
- 57.** Moves have begun to make comparisons with the methodologies and results of Complaints Handling in PPS and in other similar types of organisations. In particular, agreement has been reached for me to approach other Prosecution Services in these Islands in this context. This important matter will be advanced during the coming year 2009-2010. Also, a simple basis has been developed for statistical comparisons within PPS, and a three-year series has now been achieved. Again, this matter will be further developed in the coming year.
- 58.** As ever, it is appropriate for me to comment that my role within PPS is largely advisory, recommendatory and independent. Apart from dealing with complaints at the independent tier, it is indeed largely catalytic. I therefore emphasise that the credit for the achievements made in Complaints Processing in PPS is entirely down to the efforts of management and staff of PPS under the Director. I would simply wish to thank all those concerned for their responsiveness to my role in every way. I have to confirm that in all matters, where I have required support and assistance, this has very readily and willingly been made available by PPS. I would also wish to highlight the very strenuous efforts made by PPS to ensure the integrity and independence of the role of the Independent Assessor.
- 59.** Finally, I think it appropriate once again, as I have in the past, to emphasise that PPS remains a low-complaint organisation. Every complaint to PPS is important, and I believe that PPS clearly demonstrates that it has this as clear policy in its sights at all times. Nevertheless, with a case load in excess of 60,000, the incidence of complaints arising, at under 0.5% is indeed creditable and worthy of note.



Alasdair MacLaughlin
31 March 2009

Appendix 1

Alasdair MacLaughlin - The Independent Assessor for Complaints for the Public Prosecution Service of Northern Ireland

Who is he?

Alasdair MacLaughlin has extensive experience of private, voluntary and public sector work in Northern Ireland, Great Britain, Ireland, the EU and the USA. He was trained as an economist, and his career has been as a manager in manufacturing and consultancy (15 years); the CBI, Director Northern Ireland (10 years); and the Director General of the Ulster Farmers' Union (10 years).

Currently, he is a Member of the Probation Board for Northern Ireland, where he chairs one of the two main committees of the Board. For the past five years, he has been the Lay Observer for Northern Ireland. He is also an Assessor for the CCEA - the curriculum authority in Northern Ireland, and is a panel member of the Industrial Tribunals. He has recently retired as Chairman and Director of CfA Ltd - the UK national company contracted to hold and develop National Vocational Qualifications (NVQs) in Administration. In addition, he is a Trustee of RELATE and the Belfast Association for the Blind.

Previous activity includes membership of the Council of the University of Ulster, a governor of a grammar school, membership of two EU monitoring committees, a regulator for the Institute of Chartered Accountants in Ireland, a panel member of the Social Security Tribunals, and a member of the former Standing Advisory Commission on Human Rights. He has also been an advisor to the Wales Assembly Government, and to the authorities in Poland on EU representation.

Additionally, he is an organist and is interested in nature, walking and playing golf for fun.

Appendix 2

In my third Formal Report, for 2007, I advanced four recommendations:

1. I **recommend** that consideration be given to developing further and accelerating the programme of making the Code for Prosecutors, and The Victims & Witnesses Policy much more widely accessible and understood, both inside and outside PPS. These excellent documents are being increasingly made visible. Extra attention should be given to raising the profile and understanding of the documents still further.
2. I **recommend** that consideration be given to accelerating the creation of a better awareness of the role of PPS in relation to other Justice Stakeholders. I make this recommendation in the clear awareness that there is already a project in train in this general area. While it may seem to be not my business to stray into matters which are not directly to do with Complaints Handling, I do believe that prevention of some of the reasons for complaints could have a beneficial effect all round.
3. I **recommend** that consideration be given to raising the internal profile and clarifying the role of the Community Liaison Unit. I believe that this part of PPS is well placed to provide a greater degree of explanation, advice and information, but stopping short of legal advice to stakeholders - in particular to victims and witnesses. Consideration should be given to thorough training to enable them to use the excellent documents referred to in paragraph 1 above. The enhancement to approachability and accessibility for PPS thereby gained would lead to even fewer reasons for frustration, review and complaint against PPS.

4. I **recommend** that the generation of management information in relation to Complaints Handling and its use in the structure of PPS needs to be improved. In particular, emphasis should be given to ensure that complaints are understood as opportunities for improvement and quality control. This means that it must be clearly understood throughout PPS that the recording of complaints is not about pinning blame, but an opportunity for improving service and assuring quality. Accordingly, any propensity for hiding or losing complaints in the melee of day-to-day work will be made less likely, and if it indeed exists, it needs to be suppressed.

Alasdair MacLaughlin
31 March 2008

Appendix 3

Issues arising and Recommendations raised by the Independent Assessor from complaints made and concluded during the reporting period 1 April 2008 and 31 March 2009.

Complaint 1

Issues

- the need to make available to the complainant copy of The Code for Prosecutors, and of other codes where appropriate
- apologies when deemed appropriate should be made wholehearted and fulsome in tone
- communications from PPS to a stakeholder should not automatically cease when the Independent Assessor becomes involved
- legal short-hand should not be used when communicating with lay stakeholders, or where lay stakeholders may have or be likely to have sight of a document.

Recommendations

- that management take steps to ensure that prosecutors and others confine themselves to using legal language which it is efficient to use normally in a direct way between legal professionals and only where appropriate, and not to lay stakeholders
- that the Director write to the complainant in appropriate fashion.

Complaint 2

Issues

- ineffective 'bring-forward' system caused delays
- the need to make available to complainant copy of The Code for Prosecutors
- need for clarity of thinking and understanding by prosecutorial and other staff about the Complaints Handling System, its potentialities and its limitations.

Recommendations

- that management ensure that administrative shortcomings are kept under review and that they are brought to the attention of PPS staff
- that a further apology, this time from the Director, is issued.

Complaint 3

Issue

- the need to make available to complainant copy of The Code for Prosecutors.

Recommendation

- that management take steps to ensure that all staff are aware of the importance of the need to issue complainants with Codes relevant to their complaints.

Complaint 4

Issue

- incorrect application of the Complaints Handling Process in PPS.

Recommendation

- that all relevant staff are reminded of the correct application of the Complaints Handling Process.

Complaint 5

Issues

- incorrect application of the Complaints Handling Process in PPS
- need to make available The Code for Prosecutors to all complainants
- awareness of the PPS and Independent Assessor's complaints leaflets.

Recommendations

- that all relevant staff are reminded of the correct application of the Complaints Handling Process
- that all complainants are given access to the relevant PPS Codes.

Complaint 6

Issues

- installation of effective 'bring-forward' systems for casework
- major delays of many months causing offender additional anguish

- need for pro-activity in ensuring other criminal justice bodies do not prolong delays
- importance of recognising the contribution to service improvement dealing with a complaint can make
- giving pointers (but not advice) for further action inside or outside of PPS or inside or outside of the PPS Complaints Handling System
- the importance of keeping other stakeholders where relevant informed about the progress of a complaint
- the importance of closing off a complaint at an appropriate point - avoidance of allowing a complaint to drift.

NOTE: these issues all arose in this case and in the progress of the complaint. The actual Complaints Handling Processes were all very well executed in this instance by the senior prosecutor concerned, except for closing off the complaint at an appropriate point. I regard the way in which this particular complaint was handled, with the one exception mentioned, to be a model approach to handling a complaint.

Recommendation

- that a copy of my concluding letter in this complaint be sent to the Attorney General (in view of her involvement at earlier stages in the process).

Complaint 7

Issues

- relationship between the PPS Complaints Handling Processes and Data Protection/Freedom of Information requests to PPS
- dealing with a complainant who does not accept information given by PPS as correct.

No Recommendations in this complaint.

Complaint 8

Issues

- helpful responses to complainants where substance of complaint is largely outside the remit of PPS
- the need to mention the Complaints Handling Processes during a case - issue of the Codes may actually make this unnecessary in any correspondence
- the need to ensure that complainants are aware of the independent tier of the Complaints Handling Process in PPS - I issue a leaflet to complainants on this matter
- the importance of checking correspondence before issue.

Recommendation

- note to be taken of these points
- no action in relation to complainant required.

Complaint 9

Issues

- dealing with a complainant who is a relation of a victim/witness/offender or other stakeholder with particular reference to Data Protection/Freedom of Information legislation
- relationship between PPS Complaints Handling Process and Data Protection/Freedom of Information legislation in PP
- maintaining secure identity or security-sensitive information.

Recommendations

- that the question of the relationship between PPS Complaints Handling and Data Protection/Freedom of Information legislation is discussed and resolved by PPS management

- that the matter of dealing effectively with the complainant who is a relation of a victim/witness/offender or other stakeholder is discussed and resolved by senior management
- that the importance of safeguarding security information is discussed and resolved by senior management.

There is also a **complaint that has not yet been concluded** due to the fact that the complainant is reluctant to follow due process. In this case there are a number of issues that require consideration, although unfortunately, as the complainant cannot agree to comment on the draft Statement of Fact, the complaint cannot be concluded in the normal manner.

Issues include:

- dealing with a complainant who does not wish to follow the Complaints Handling Process
- dealing effectively with issues outside the remit of Complaints Handling Process
- offering apologies in an appropriate fashion
- dealing thoroughly with the relevant issues and complaints raised by complainants
- drawing a line under the Complaints Handling Process when process has been exhausted.

Other issues also arise, but those listed above relate in particular to this unconcluded complaint. It is unfortunate that the complainant is unwilling to follow due process. The longer the matter remains unresolved, the less is the likelihood that the complainant can be satisfied, and that some very specific and important issues can be seen to be addressed in this case.

Alasdair MacLaughlin
31 March 2008

