

THE
INDEPENDENT
ASSESSOR

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

Fifth Formal Report for 2009

Getting in Touch

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The Independent Assessor
for the **Public Prosecution Service**
Alasdair MacLaughlin
- investigating complaints
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Mr James Scholes
The Acting Director,
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31st March 2010

Dear Acting Director

I have the privilege of presenting to you this my Fifth Formal Report as the Independent Assessor for the Public Prosecution Service of Northern Ireland (PPS). The period of the Report is from 1st April 2009 to 31st March 2010. However, it should be noted that the statistics presented refer to the calendar year 2009. As usual, I have timed my Formal Report to allow you to take account of its contents in the context of the issue of your own Annual Report for PPS.

One aim of my Report is to provide you with a basis for reflection on, to assess the performance of, and to give information on the development of Complaints Handling within the PPS in the past period concerned. And it seeks to give pointers for the future handling of complaints. I also give information relating to my own activity as the Independent Assessor. Of particular note, I believe, and know that you share this view, is that my Report provides a key measure of public accountability for the PPS.

Outside of Complaints Handling, the year concerned – 2009 – was a time of considerable flux at senior levels within the PPS. There have been several changes in personnel and responsibilities. Added to this, I have been aware that there have been high profile cases that have required careful and skilful handling publicly and in a private context. On top of all, there has been significant public debate around Criminal Justice matters. All of these have put extra pressure on senior management.

These realities have had consequences for Complaints Handling Processes in PPS. They have also had consequences for the priorities facing the PPS. I comment on some of these aspects in the text of my Report. Despite these pressures, PPS continues generally to pay careful attention to Complaints Handling, and also to the ways in which the lessons learned contribute to improved service from PPS to stakeholders.

I am happy to confirm to you that PPS continues as an organisation that attracts low incidence of complaints. Nevertheless, I know that you share my view that any complaint is always one too many.

I conclude by thanking you and your staff for ready co-operation, and also the efforts made to ensure my true independence from PPS.

Alasdair MacLaughlin

Alasdair MacLaughlin

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

Background

- 1 This is my fifth Formal 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 1st April 2009 to 31st March 2010. Statistical data however has been drawn from the calendar year 2009.
- 2 The Report seeks to provide information on the Handling of Complaints within PPS for the period concerned, and in comparison with previous years. It provides information also on my work as the Independent Assessor. Of note and emphasis is promoting and reflecting on improving the service PPS provides to its stakeholders, that arises from the processes of Complaints Handling. Of particular importance is the generally agreed opinion that my Formal Report provides a substantial contribution to the public accountability of PPS.
- 3 The timing of my Report for the calendar year 2009 at 31st March 2010 takes account of the fact that the Director/Acting Director reports on the activity of PPS on an annual basis in June. My publication date permits the Director/Acting Director to take into account what has taken place in relation to Complaints Handling in the same period when he prepares his own Annual Report for 2009.
- 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 enquiry when a prosecutorial complaint/request for information



Alasdair MacLaughlin
Independent Assessor

- or 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 a 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.
 - 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 thus by-passing the second tier. However, there have been cases where the Director has adjudged that it will be more efficient and save further frustration to the complainant for such a reference to be made to me 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 direct, 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 particularly sensitive circumstances – for example where a death has occurred in a case – 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, and these may be and increasingly are being 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, in a timely fashion 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, and at every level.
- 10 My role is agreed to be as follows:
 - 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 and its development, and relevant service issues in the context of an individual complaint, in regular informal and formal reports and as a consequence of an audit of complaints handling.
 - Make interventions to assist the development of a better service from PPS.
- 11 The right that I have been given to **audit complaints** which are received in PPS but which are never referred to me at the third tier is unusual for independent complaints assessors/examiners. The granting of this right is yet another indication of the emphasis that the Director and PPS place on having a thorough approach to Complaints Handling.

The Independent Assessor: Activity During 2009

12 During the twelve-month period 1st April 2009 to 31st March 2010, I have concluded or in so far as it is possible to do so part concluded, **five** cases. In addition, there were two cases from would-be complainants, where it became clear after consulting the files that I had no remit. During the year also, I received my first Freedom of Information request, to which I had no difficulty in providing a full response.

13 Two further complaints have still not been concluded from previous years – one from 2008/2009, and one from 2007/2008. In the former case, the complaint has been referred back to PPS. In the latter case the complainant is unwilling to follow due process and so the complaint cannot be concluded.

14 The timetable of the investigation in each complaint was as follows:

- The **first** complaint began on 14th May 2009, and was concluded on 3rd June 2009
- The **second** complaint began on 28th September 2009, and was concluded on 5th October 2009
- The **third** complaint began on 16th November 2009, and having been dealt with by me, was referred back to PPS on 27th January 2010
- The **fourth** complaint began on 7th December 2009, and having been concluded by me on 28th January 2010, was referred back to PPS for further consideration
- The **fifth** complaint began on 8th December 2009, and was concluded on 2nd February 2010. Like the previous two complaints, this too was sent back to PPS for further consideration.

In the following paragraphs these various cases are described in more detail. Of the two complaints remaining not concluded, one commenced on 25th January 2008, and the other on 14th January 2009.

15 The **first** complaint was from the victim – an injured party - of a case where a young male driver had been initially charged with *dangerous driving* on a beach. In the event, the driver's charge was reduced to *driving without due care and attention*. This was despite the fact that the driver concerned had apparently admitted that he was driving dangerously; indeed he was racing with two other vehicles along the strand. On the face of it, this was fundamentally a prosecution issue, as the complainant saw no justification for the lesser charge that was brought. While the prosecutor concerned in the case gave a succinct and accurate reason in writing to the complainant as to why the charge was reduced, the letter written to the complainant did not emanate from the senior prosecutor concerned, but from the prosecutor involved in the case. In addition, the prosecutor in the case had used inexplicably an incorrect name for the accused in his letter of explanation to the complainant.

16 In relation to this complaint, I suggested to PPS that they should now write to the complainant, with a proper response from the Regional Prosecutor concerned. This would seek to advise the complainant what options she now had for reviewing the prosecutorial decisions in this case, and that comment should be made as to why an incorrect name had been used in relation to the offender in the case. Although I understand that this has been done I have not received a copy of what was sent to the complainant. However, as I

had invited the complainant to revert to me if she remained dissatisfied, I have heard no more, so must assume that she was satisfied with the PPS response.

17 The **second** complaint concerned domestic violence where the complainant was of the opinion that a lesser charge was brought against the offender than should have been the case. There were issues of administration within the case for which the complainant felt PPS should be held to account. These issues it turned out were perpetrated elsewhere in the criminal justice system than in PPS. These matters were explained carefully by me to the complainant, and after investigation, I concluded that the prosecutor concerned had answered clearly and correctly in a letter to the complainant the matters that related to prosecution. Accordingly, I made one recommendation / suggestion to the PPS in this complaint, and it is one that I regret to have to report I have had to make a number of times. This was that the prosecutor concerned should have made reference to the particular part of the Code for Prosecutors that explained the decision fully, and ideally also let the complainant have a copy. Other than this one point, I took the view that the prosecutor concerned had dealt with the complaint correctly, fully, and reasonably, in an acceptable time frame and with courtesy.

18 The **third** complaint related to a very sad case of the death of the son of the complainant in a road traffic accident. Such cases are always sensitive and clearly call for special attention – as is the case where any death is involved, whether of a victim, a bystander or even an offender. In this particular instance, the deceased was the complainant's son, a motor-bike rider who had lost his life in an accident involving a car, the accident having taken place in 2007. At an early stage the complainant was dissatisfied with some of the aspects of gathering evidence in this case, and sought a meeting at senior level in PPS. A meeting

subsequently took place, but the complainant remained dissatisfied with the outcome. He then asked for a prosecutorial review. In the process of this, the complainant suggested that he had concerns over some aspects of the review, and accordingly he brought a formal complaint to PPS.

19 The complainant's initial approach to me on 16th November 2009 was primarily in relation to the prosecutorial decision. I took the view that PPS should be invited to deal with their response to this in a quick and timely manner; it will be recollected that prosecutorial decisions are not within my remit. Accordingly, I wrote to PPS on 18th November in relation to this complaint, and asked PPS to expedite a response to the complainant. On 6th January 2010, I received another communication from the complainant to request me to consider his second formal complaint that PPS had not followed their own complaints procedure, and that he had heard nothing more from PPS. I wrote immediately following receipt to the complainant to state that I intended immediately to access the files at PPS.

20 Having attempted to access the files and having spoken with key people in PPS, it became evident that an investigation was still in process and so the files were not available to me to study, even though I was able to have a cursory read of the documents. It was indicated to me that the PPS was near to providing the complainant with a response. Accordingly, I wrote on 28th January 2010 to the complainant and to PPS indicating that it would be best that I await the response from PPS to the complainant before I became involved.

21 I now understand that PPS have written to the complainant, although I have not received a copy of this response. The complainant has now written to me requesting a full investigation under my remit, and accordingly this will commence forthwith.

22 I can only comment that no-one can feel satisfied in a case such as this where the complainant is suffering acute personal loss, great familial pain, and yet the evidence, suggests to me that he did not quickly obtain clear answers to his queries.

23 The **fourth** complaint was a case where a solicitor on behalf of his client referred a prosecutorial complaint on 21st September 2009 to PPS. The Regional Prosecutor in an entirely appropriate manner responded to this on 1st October 2009, explaining the decision. The solicitor then wrote again on 19th October suggesting that certain information had not been taken into account. In the response by another senior prosecutor it was implied that the next port of call for the solicitor was the Independent Assessor. This was clearly incorrect advice, as a prosecutorial review/complaint is outside my remit.

24 In concluding involvement by me, I have written to the Acting Director PPS with the **recommendation** that this particular case highlights the need once again, and continually to remind prosecutors of the correct processes for dealing with prosecutorial complaints/requests for reviews and non-prosecutorial complaints. I further **recommended** that this particular complaint be put back on the proper track for dealing with a prosecutorial complaint, and that the solicitor concerned receive an apology from the prosecutor.

25 The **fifth** complaint brought to light a case of misdirection to me by PPS. The complainant filled in and lodged a complaint form on 22nd October 2009. In the body of the form the complainant also requested that the Independent Assessor be asked to investigate the matter. This should have elicited the response from PPS that to have referred the matter to me at this stage would have caused the matter to have been outside the correct procedures of the Complaints Handling Procedure. Instead, the Regional

Prosecutor concerned informed the complainant that the matter would be referred to me by PPS top management. It seems that top management did not pick up either the fact that it was too early in the process for me to become involved, so accordingly the papers were simply sent to me to deal with. So far as the complainant was concerned, and apparently the PPS as well, I was now dealing with this. At that stage I was unaware that the process had effectively been steered to me prematurely. Once this was clear to me, I took action to revert the complaint back to PPS for proper consideration, and wrote to the complainant accordingly. This complaint has clearly been subjected to unnecessary delays that would not have happened had the complaint been dealt with correctly in the first place.

26 I have also received a number of potential complaints that were purely prosecutorial and/or had not been referred either to the PPS or alternatively to other organisations (eg police, or barristers or appropriate Ombudsman). In these cases, I have responded to the correspondents with information as to where the cases should be referred.

27 As already noted, I received during the year my first request under the Freedom of Information Act. In this case, I was asked two questions:

1 'Under your independent complaints system how many complaints have been upheld as a percentage of overall complaints over the last three years'

My answer to this was as follows:

'Over the last three years, namely those commencing 1st April 2006/07 (3 complaints), 1st April 2007/08 (4 complaints), 1st April 2008/09 (9 complaints), I have received a total of 16 complaints. In each case there have been issues that have led to recommendations to the Director of the

Public Prosecution Service for action. In this sense, therefore, 100% of the complaints that I have received over the past three years have been fully or partly upheld. I should point out however that there is one case that remains not concluded since the year 2007/08; the reason for this is that the complainant has been unable to agree the statement of fact that I have produced in his case. However, that has not inhibited me in making recommendations to the Director for action in that instance. I should also add that the Director has the right under my operating agreement to refuse to accept a recommendation that I have made; in such circumstances, he then must produce his reasons for such non-acceptance. In no case has he declined to accept a recommendation I have made in relation to a complaint'.

2 'As a direct result of a complaint through your independent complaints system how many prosecution decisions have been changed over the last three years'

My answer to this was as follows:

'I have no formal part to play in the matter of prosecutorial decisions taken by the Public Prosecution Service. This is a matter for the Director himself, and there are procedures for stakeholders for obtaining information, and making comments in which I have no part to play. However, there have been occasions where while a complaint has been presented as, and indeed was, primarily prosecutorial, but where the handling of the information with a stakeholder, or the service involved from the Public Prosecution Service is below standard, the Director may refer such a case to me for investigation of those non-prosecutorial issues. Therefore, I have to say that no prosecutorial decision has been changed over the last three years as a direct result of a complaint through my independent complaints system'.

28 In addition, I made available to the correspondent a copy of each of my Formal Reports for the three years concerned.

29 I have to refer to problems that arose during the year to do with the receipt of post. I have no objection whatsoever to the use of e-mails in my work; in, fact, I am encouraging of the use of this medium appropriate to the 21st Century. However, I do believe that it is necessary to ensure that 'hard copy' should be employed by me when an investigation commences, and wherever else may be appropriate. Indeed it is evident that many of my correspondents use only this medium. During the period concerned there were a number of incidences of apparently delayed post due to various industrial actions and the Christmas period. This leads to inefficiencies which one can only but regret. Where these took place, I have apologised to correspondents, and not simply sought to blame others for lack of service.

30 However, there was one lamentable lapse in one of the cases on my part where I neglected to acknowledge receipt of documents; I have dealt with this once again by apologising immediately I became aware of my omission to the correspondent. In fact this did not affect the efficient conduct otherwise of the complaint – it was simply that an acknowledgement letter was not sent. Such an inefficiency should however not have been perpetrated by me, and I much regret it.

Complaints Handling in PPS during 2009

- 31** As foreseen in my Formal Report for 2008, we now have a basis for comparison one year with another. The accumulated database has four complete years upon which to base comparisons, judgements and comments about Complaints Handling in PPS.
- 32** In 2009, PPS logged 49 complaints at the second tier, compared with 41 in 2008, 28 in 2007, and 39 in 2006. In addition, there were 109 requests for review/information/reasons during 2009, compared with 137 in 2008, 115 in 2007 and 126 in 2006. The full case-load for 2009/2010 in PPS was in excess of 68,000, which represents a rise in the number of cases over the previous year of around 20%. This same proportion is represented in the number of complaints received and logged by PPS at the second tier.
- 33** These figures continue to give an encouraging picture of a low incidence of complaints, reviews, and requests for information overall, amounting in total to around one quarter of one percent of cases giving rise to such enquiries. Of course, one complaint is always one too many, but it has to be noted that organisations run by human beings are suspect indeed if they give rise to no complaints. I am aware that the Director and the Deputy Director, as well as senior management in PPS take the view that any single complaint must be taken seriously, however trivial it might appear to be. A low incidence of complaints must never lead to the complacent view that there is no problem. Satisfaction with a low incidence of complaints is natural for any organisation as complex as PPS. However, every single complaint must receive serious attention in its resolution, as indeed it does in PPS, not least as the essence of the complaint is of all consuming importance to the complainant. I know that the Director and Deputy Director share the view that all members of the staff of PPS need to have this in mind when dealing with all stakeholders, whether complainants or not.
- 34** In response to my comments last year, I am aware that the Director and his Team at top level have been at pains to ensure that management teams at all levels are made regularly aware of their views on the importance of good Complaints Handling. Copies of the booklet on Good Complaints Handling published in 2007 by the British & Irish Ombudsman Association have been made available to PPS by me, and regular mention I am informed is made of complaints at monthly management meetings at Regional Prosecutor levels. This is vital good practice, and consideration should be given to continuing consistent efforts on these matters.
- 35** Despite all this, an analysis of the very few complaints with which I have had to deal in 2009 along with the analysis of the cases in my audit, indicates that there is still scope for misdirection at every level. There is also apparent room for a lower priority to be given to complaints than should be the case. Clear thinking about, and awareness of the established procedures – which are really not complex – needs constant emphasis to raise awareness in order to eradicate more of the complaints that do arise.
- 36** It is now possible to make comparisons over the past four years about the nature and outcomes of complaints that are centrally registered at the second tier of the Complaints Handling Process. At this stage, while it is still rather tentative, the four year series now available gives a basis I believe for developing a relatively sound statistical analysis in a convincing manner. The figures over the last four years are as follows:

Outcome of Complaint/ second tier	2006	2007	2008	2009
• Upheld	9	4	8	9
• Partially upheld	5	0	3	7
• Dismissed	10	5	12	12
• Resolved informally	1	0	0	0
• No action required	12	15	5	7
• Apparently incomplete	2	4	13	14
• TOTAL	39	28	41	49

37 Under my remit, I am empowered to audit all of these cases whether or not they are referred to me. This means that I can access the files and carry out whatever analysis I wish of the way these were handled by PPS. It will be recalled that only five of these complaints were referred on to me at the third tier in 2009.

38 I note a number of obvious points that arise. In 2009, there were of the order of 68,000 cases for decision in PPS; that represents a rise of almost 20% on those of 2008, when the corresponding figure was around 57,000 cases. Accordingly it is reasonable to expect an equivalent rise in the number of complaints taken to the PPS and indeed the number of complaints rose from 41 in 2008 to 49 in 2009 – a percentage rise of just under 20%. These combined with reviews/information/requests constitute a miniscule proportion of the cases dealt with in PPS during the year – in percentage terms they collectively amount to 0.25%.

39 However, in no sense is this to suggest that this small proportion does not matter. Every individual complaint is obviously one too

many, and for the complainant, his/her complaint is often all consuming. Accordingly, I have no hesitation in reporting that the Director and his senior Team approach Complaints Handling with this in mind, **and it has to be stated clearly that PPS is undoubtedly an organisation which gives rise to a very low incidence of complaints.**

40 There can be a tendency for complacency to arise in an organisation that attracts a low incidence of complaints. It is sobering however to note that in PPS, of the relatively few complaints that arise, 33% of those that were centrally logged were **upheld/partially upheld**. This compares with 27% in 2008, 36% in 2007, and 14% in 2006 that were upheld or partially upheld. This is of vital importance not only to the complainants concerned, but also for those who handle complaints within PPS. Such an incidence is another indicator of how important it is to have a proper Complaints Handling mechanism within PPS. I again draw attention to the fact that every complaint at whatever level in the organisation and whether upheld or not is an opportunity to improve the quality and efficiency of the service provided by PPS.

41 My audit, once again, has provided me with a basis for other comments about the way in which complaints are handled in PPS. I have stated before in previous Reports my concern about timetabling of Complaints Handling in PPS. Once again there is room for ensuring that staff acknowledge the receipt of a complaint within five working days – **this is simply an essential standard that must be met**. It has not often been met in the period concerned.

42 In so far as dealing with the substance of a complaint is concerned, the minimum standard to be achieved is that the complainant must be given an estimate of when the complaint will be likely to be concluded; and if it appears at any point in this period that the complaint cannot be concluded in the time estimated, the complainant must be informed immediately.

Once again, this has not often happened. The PPS literature states that PPS –‘will normally seek to make a full response within 15 working days’. This is simply not realistic in most cases and a complainant should be told so at the start of his/her particular complaint.

- 43** Last year I made reference in my Formal Report that the introduction of a simple bring-forward diary system might be the easiest method for managing this problem. I still hold this view, but I also believe that there should be clear responsibility assigned in each complaint for defining and adhering to a prescribed timetable in each case. **I put PPS on notice that this is something that next year will be subjected to detailed analysis. Performance in this regard will be thoroughly examined in my Formal Report for 2010. I will expect these minimum standards to have been met in every single complaint at the second tier in the process.**
- 44** My audit activity suggests that the tendency to use ‘legal’ language to complainants, that is more appropriate for communicating with fellow legal specialists, continues to reduce. Nevertheless, it seems that when legal professional people feel under pressure there is often the temptation to resort to legal language that only other legal professional people can fully understand. This is fine when the stakeholder is, or is advised by, a legal professional, but it is not appropriate where this is not the case as more commonly, such stakeholders are lay people who wish to have a clear communication in language they understand.
- 45** Additionally there is an increasing incidence of 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, and making the processes clearer to PPS stakeholders. **They can also be seen by stakeholders as authority independent of the prosecutor concerned.** I would however like to see yet more, and more frequent, mention of the relevant Code as standard practice particularly where there are questions raised about Complaints Handling Processes in PPS.
- 46** There are excellent leaflets available relating to PPS Complaints Handling Processes and also to the way I operate the independent third tier to which reference should also be made. Copies should always be sent to complainants in the first instance in a complaint. These leaflets now form a standard part of the profile information pack for PPS sent out widely to describe the roles and functions of PPS, so why not to stakeholders who are worried and have queries, requests for information or complaints?
- 47** I hasten to point out however that in no sense should the Complaints Handling Process conducted within PPS or operated by me be promoted as such. While no-one should feel excluded from the Processes, they should not be pro-actively encouraged to access them – they must simply be clearly accessible to all stakeholders.
- 48** In my Formal Report for 2008, it was suggested that a workshop led by the Director and myself should be planned for 2009. This did not in fact take place for a variety of reasons, which I understand and accept. However, I also understand that matters to do with Complaints Handling were raised regularly and discussed at Regional Prosecutor Meetings during the period.
- 49** I continued in 2009 my contacts with other ombudsmen and complaints assessors/examiners in the rest of the UK and in Ireland. This is essential to enable me to maintain contact with developments in, and changing standards and approaches to complaints handling. I have done so both independently, and through the British and Irish Ombudsman Association (BIOA), and the UK Inspectorates Forum.

- 50** During 2009, 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 (and the Acting Director) for the ready access and support that he has provided.
- 51** My operational relationship with PPS is conducted through regular contact with a Senior Assistant Director, Mr Raymond Kitson, on both a formal and an informal basis. In my previous Formal Report, I drew attention to the kind of issues that arise at these various meetings. Once again, I have to say that Mr Kitson 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 Records 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 his staff for their willing response whenever I seek their assistance.
- 52** It is pleasing to be able to report that PPS continues to experience a low incidence of complaints at the second and third tiers of Complaints Handling. It seems trite to point it out, but the fact remains that excellent service by PPS should be seeking to place Complaints Handling Processes beyond requirement. Equally, first tier processes should be seeking to place second and third tier activity beyond requirement. It is encouraging to note that, even though there have been incidence of complaints at all levels, the relative frequency appears to be reducing at present. It might also be stated that although a zero incidence of complaints is not realistic, it remains a desirable target to seek to achieve. By implication, the low incidence of complaints/requests for information is indicative of a high standard of service for the vast number of cases that PPS handles, and which never attract queries.
- 53** The final comment is that I believe that for the vast majority of cases, the ways in which PPS deals with complaints remains creditable and commendable. However, the point in development has been reached where I believe that care has to be taken to ensure that inertia and complacency about Complaints Handling in PPS do not set in.

Recommendations

54 In 2008, I advanced six recommendations arising from my Formal Report. These were:

- 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. This would 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.

55 There has been a reasonable response I believe to **four** of these Recommendations. I have already referred to the shortfalls

in response to Recommendation 3 & 4 in earlier paragraphs above.

56 They are all developmental Recommendations, and as such should be treated as on-going targets for continuing improvement and higher achievement. In this my Fifth Formal Report, therefore, I now advance a further set of **four** Recommendations for 2010 as follows:

- 1 In relation to the six Recommendations listed above, I **recommend** that it is appropriate for management in PPS to continue to apply emphasis in all these matters
- 2 I **recommend** that arrangements are made in 2010 to action the workshop mentioned in Recommendation 4 above, and to do so on an annual basis thereafter
- 3 I **recommend** that PPS now commence and complete a review of the supervision of the Complaints Handling Processes at all levels within PPS, to ensure that there is appropriate management control of the function. This must identify if there are ways of ensuring that there is a greater clarity of approach from staff at all levels in PPS towards handling complaints/requests in relation to cases. This process could also help identify if there are shortcomings in the current Complaints Handling System. I shall be very willing to assist with this matter, if I am requested to do so
- 4 I **recommend** that PPS examine and review the timetables relating to acknowledging and concluding complaints, and to providing effective responses to complainants in a timely manner. **I now state my intention to pay particular attention to these matters in my audit of 2010 complaints, and I will publish the specific results of what I find in my Formal Report for 2010.**

Concluding Note

57 When I was appointed, the Director specifically charged me 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.

58 I continued to evaluate my own performance during the past year. During the year I was able to specify timetables for investigations to all complainants all of which were achieved. There was one complaint which I failed at receipt to acknowledge, and I commenced an investigation into this complaint without first informing the complainant that I had done so. Fortunately, this fact was discovered relatively quickly, and I was able to write making good the omission, and apologising for my error. In fact, this error had no effect on the overall timetable of response. In one other case, a letter that was intended for me, and that was sent recorded delivery, was opened in the mail-room of the building from which I operate, and forwarded to someone for whom it was not intended. This resulted in the letter reaching an incorrect destination. When this was discovered, I was duly informed, received an apology as did the sender, and in turn apologies, with explanations were given by me to the sender.

59 I made an agreement with the Director PPS that efforts should be made to provide comparators and benchmarks by reference to the other prosecution authorities in UK and Ireland. Moves began during the year to make comparisons between the

methodologies and results in Complaints Handling in PPS and these organisations. Approaches were made by me, backed explicitly by the Director, to the heads of the prosecution bodies in the other parts of the United Kingdom and Ireland. General approval was given by the heads of these organisations, but it is regrettable that I must report that, operationally, little co-operation was received and so I conclude that there is no appetite in these organisations for such comparative exercises to be initiated. Perhaps the fact that none of them have an independent tier in their complaints processes may have had something to do with this response. At any rate, that there has not been co-operation seems to me to be a lost opportunity for learning, improving service across the work of these organisations, and for increasing accountability.

60 There is however some publicly available material relating to the Crown Prosecution Service (CPS) in a Report published in March 2009 by HM Crown Prosecution Service Inspectorate. This was the culmination of 'A Thematic Review of complaints handling by the Crown Prosecution Service', entitled '**When things go wrong**'. This is an important document that reveals and analyses very pertinent material that is likely to be relevant to all public prosecution services. The Report indicates a belief of under-reporting of complaints in CPS, while at the same time, for technical reasons, over-counting. In the end result, for the period concerned, the Report found 2,252 complaints arising out of 1,279,863 cases – a proportion of around 0.2%. The comparable figures for PPS are 41 complaints arising out of 68,000 cases – a considerably lower proportion of around 0.06%.

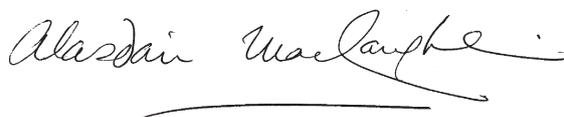
61 I do not intend to discuss further the findings of this important piece of work by HM Crown Prosecution Service Inspectorate, as the material concerned is in the public domain. Suffice to state that the Report articulates the eight basic principles of an effective complaints system identified by the Government's **Cabinet Office Best Practice** (COBP). This states that a complaints system should be:

- *easy to access and well publicised*;
- *speedy* – with fixed time limits for action and keeping people informed of progress;
- *confidential* – to protect staff and those who complain;
- *informative* – providing information to management so that services can be improved;
- *simple* – to understand and use;
- *fair* – with a full procedure for investigations;
- *effective* – dealing with all points raised and providing suitable remedies; and
- *regularly monitored and audited* – to make sure that it is effective and improved.

62 The Inspectorate in its Report summary states that **'the CPS complaints system, in its written guidance, satisfies four of these eight criteria'**.

63 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 effectively and merely catalytic. I therefore emphasise that the credit for achievement in Complaints Processing in PPS is 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. I confirm that in all matters, where I have required support and assistance, this has readily and willingly been made available by PPS. I would also wish to highlight the strenuous efforts made by PPS to ensure the integrity and independence of the role of The Independent Assessor.

64 Finally, I think it appropriate once again, as I have in the past, to emphasise that PPS remains a very low complaint organisation. Every complaint to PPS must continue to be regarded as important, and I confirm that the senior management of PPS has this as policy in its sights at all times. It is, with a case-load of 68,000, and the incidence of complaints arising at under 0.06%, a highly creditable performance at the second tier and worthy of note and commendation.



Alasdair MacLaughlin
31st March 2010

Appendix

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 and for the past six years, he has been The Lay Observer for Northern Ireland as well as being the Independent Assessor for the Public Prosecution Service. He is also an Assessor for the CCEA – the curriculum authority in Northern Ireland, and is a panel member of the Industrial Tribunals. In addition he is a Trustee of RELATE and the Belfast Association for the Blind.

He has recently stepped down as a Member of the Probation Board for Northern Ireland, where he chaired one of the two main committees of the Board. Also, he was Chairman and Director of CfA Ltd – the UK national company contracted to hold and develop National Vocational Qualifications (NVQs) in Administration.

Previous activity includes membership of the Council of the University of Ulster, 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, a member of the NI Economic Council, and 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.

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