



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

# **Annual Report**

**2016/2017**

*Mr. Alan Henry OBE*

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## Chapter 1:

### Background

*I was appointed to the post of Independent Assessor of Complaints (IAC) for the Public Prosecution Service (PPS) in May 2013. The role (see Chapter 6) entails investigating and reporting on complaints which are referred to me after they have been responded to fully within the PPS Complaints Procedures, and which are primarily non-prosecutorial in nature. I also carry out an audit function of all complaints to the PPS, and carry out benchmarking to ensure that the PPS complaints procedures are compatible with best practice throughout the public and private*

This is the 12th annual Report on the work of the Independent Assessor of Complaints for the PPS. The Report covers the period from 1 April 2016 to 31 March 2017, and the information is drawn from that period.

The Report provides information on complaints handling within the PPS, and statistical information for 2016/2017, along with comparisons with previous years.

Detailed reports on complaints referred to the Independent Assessor are shown at Chapter 2. I investigated and reported on all complaints which had progressed through the two tiers of the internal PPS Complaints Procedures, and which had then been referred to me. I reported on 3 cases during the year, which was a significant reduction on the numbers recorded in previous years, which had remained reasonably constant at 8 or 9. The reasons for this reduction are not entirely clear, but it is not unreasonable to assert that the quality of PPS internal complaints handling at Tiers 1 and 2 of the Complaints Procedures will have played a part in this, as evidenced by my two full audits of complaints, and my complaints handling carried out during the year.

Once again this year, complaints referred to me were generally lengthy and relatively complex. In all cases, the complainants were genuinely aggrieved, and felt that they had not received the quality or timeliness of service which they would have expected from the PPS, or the police, or the Courts Service or judiciary. While some complainants pursued their complaint at considerable length, in only one instance, did I feel that the complaint had been lodged vexatiously. The complainants invariably expressed themselves articulately and, with one exception, with courtesy. The PPS had responded professionally and in timely fashion throughout the process, and it was apparent that thorough investigations had been carried out, and responses were clear, transparent and comprehensive. Where lapses had occurred in the

service provided by the PPS, those aspects of the complaint had been upheld, and apologies offered to the complainant as appropriate.

As I have noted in my audits during the year, I welcome the fact that effective complaints handling is now embedded in PPS, characterised by thorough investigation, and clear, transparent, detailed and timely acknowledgement and responses to the complainant. Responses to complainants were generally handled by a Regional or HQ Assistant Director, and responses personally signed off by them. Where complainants remained dissatisfied with actions or decisions taken by the PPS, a number expressed satisfaction that their complaint had been taken seriously, and dealt with professionally.

The majority of all complaints originated from victims of crime, rather than from other sources, and in some cases these victims were vulnerable. This underlines the importance of thoughtful complaint handling, and clear and timely responses.

A number of aspects of complaints, related to prosecutorial issues, for example, decisions to prosecute or not prosecute, and while these issues are, quite properly, not within my remit as Independent Assessor, I noted that clear explanations of the PPS's actions were given, or reviews of the decision carried out.

The second stage of the internal Complaints Procedures, that is, Tier 2 investigations and responses are now carried out by Assistant Directors from a different part of the PPS, and this process continues to work effectively. I am satisfied that this system is fair and impartial, and is seen as such by complainants.

In January 2016, the PPS introduced a major restructuring of the organisation, including the reduction of Regional Assistant Directors from four to two. These Regional Assistant Directors were the natural recipients of the vast majority of all initial complaints, and they acknowledged, investigated and responded to these complaints. This Annual Report considers the impact of the first full year of the restructuring, and the significant reduction in Regional Assistant Directors, on complaints handling. As a consequence of these changes, I carried out two audits, one covering the first six months of the year, and a further one covering the second six months. My aim was to speedily assess the effect of restructuring on complaints handling. I welcome the outcome of my audits which demonstrated that there had been no diminution in the standards of timeliness, quality of investigation or responses to complainants. I commend the PPS, the two Regional Assistant Directors and the CCU on this outcome.

My Annual Report also provides information on the work of the Independent Assessor in relation to benchmarking which is part of my remit. (See Chapter 3) My aim is to ensure that the PPS's complaints procedures are fit for purpose and in line with best practice in both the public and private sectors. I have reviewed and considered the complaints procedures in a number of organisations. During the year I met with the Independent Assessor of Complaints for the CPS who carries out this role in England and Wales. The CPS Independent Assessor's remit and practices are somewhat different from the Independent Assessor in N.Ireland and I report more fully on this at Chapter 3. This was a useful meeting and we agreed to meet on an annual basis

A further element of the Independent Assessor's role is audit of all complaints received by the PPS. As stated, I received a total of 3 cases during the year, which had been specifically referred to me. However, there had been a total of 66 complaints made to the PPS, and I reviewed the majority of these cases in my two audits, to amongst other things, monitor complaints handling in general, identify any themes emerging, and to understand the full complaints handling situations across all PPS locations. My audit reports are at Chapter 3.

At Chapter 4 of this Annual report, I show an analysis of all complaints received, and my comments under headings as appropriate.

At Chapter 5 of the Report, I detail the PPS Complaints Procedures.

At Chapter 6, I lay out my role as Independent Assessor of Complaints for the PPS.

At Chapter 7, I lay out my Conclusions and Recommendations.

During the year, I met with the Director of Public Prosecutions, and other Senior Management, including the Regional Assistant Directors, to gain an understanding of the current issues facing PPS staff across N. Ireland.

***I would like to record my thanks and appreciation for the support and assistance which I have received from the PPS Central Co-ordination Team.***

## **Chapter 2:**

### **Case handling work of the Independent Assessor in 2016/2017**

I investigated and reported on 4 cases in the year as against 7 last year. Most of the cases were protracted and involved extensive investigations and communications by letter, email and telephone. I have made recommendations where appropriate and I would these to be acknowledged, considered and implemented. This year, once again, I have provided considerable detail in my case reports to illustrate how the PPS Complaints Procedures work in practice, and how a complaint may progress through the tiers of the Procedures, and subsequently to the Independent Assessor.

#### **Case 1**

In this case, the complainant had been a victim of historical sexual abuse in the 1970s. An offender had been charged with two charges of gross indecency and two charges of indecency. The complainant attended a consultation with a PPS barrister on 15 March 2016, just before an arraignment hearing on 16 March 2016. At this consultation, the complainant was advised that the defendant had been indicted on the two charges of gross indecency to which he had pleaded guilty. However, in discussions with defense counsel, it transpired that the defendant had agreed to plead guilty to the two lesser offences of indecency, with the two more serious charges left on the book. The defendant would also be placed on the Sex Offenders Register. The complainant expressed satisfaction with this course of action. He was also advised that he would be advised of the outcome of the court sentencing hearing to take place on 27 April 2016.

The complainant's solicitors wrote to the PPS on 26 May on behalf of the complainant, asserting that the complainant had not heard from the PPS on 27 April 2016, and it was only when he went seeking contact that he was advised of the outcome of the court hearing. He said that he had only been told in May 2016 that the offender had pleaded guilty and received a conditional discharge. The complainant felt that he not been treated well by the PPS, and that this was affecting his mental health, which had deteriorated in recent weeks.

The PPS responded on 2 June 2016. The Senior Prosecutor said that all the issues had been explained to the complainant at the consultation meeting on 15 March 2016, and the complainant had expressed his satisfaction. The Senior Prosecutor also said that a letter dated 28 April 2016 had been sent to the complainant, notifying him of the sentence, and that he had

telephoned the complainant in early May to explain the sentence.

The complainant's solicitors wrote again on his behalf on 25 August 2016. They sought to know why the offender had not been placed on the Sex Offenders Register, and said that if the complainant had known this he would not have agreed to the original arrangement. The complainant felt aggrieved and let down by the PPS.

The PPS responded on 7 and 14 September 2016. The Senior Prosecutor accepted the complainant's concern at the delay in providing clarity in relation to the offender being placed on the Sex Offenders register, and he apologised for that. He explained that the conviction stage, the offender had been placed on the Sex Offenders Register, but some weeks later at the sentencing hearing the District Judge had decided that, taking a number of factors into account, the offender should not, in fact, be subject to the requirements of the Register.

Further correspondence between the complainant's solicitors and the PPS ensued, in which the PPS acknowledged that a letter from the VWCU had not indeed been sent to the complainant. A VWCU official wrote to the complainant in October 2016, confirming that a letter had not been sent as it was felt that this was in the best interests of the complainant at the time, as they felt they were acting in a sensitive manner, and did not wish to cause further upset to him. He accepted that this was an error of judgement for which he apologised, and said that as a result, there would be changes to their procedures.

The complainant referred his complaint to the next stage of the PPS Complaints Procedures. An Assistant Director examined all the material on file, and reviewed the manner in which the complaint had been dealt with by the Senior Prosecutor. He detailed the full sequence of events which had taken place. He explained why the District Judge had acted as he had in changing his decision in regard to placing the offender on the Sex Offenders Register, and said that this was a matter for the Judge and not within the control of the PPS. The Assistant Director then focused on the communications between the complainant and the PPS. He said that he had established that the VWCU and the PPS barrister had spoken with the complainant on 28 and 29 April, and again in early May. The complainant had been advised of the outcome of the court hearing, the District Judge's decisions had been explained, as had the reasons why the offender was no longer on the Sex Offenders Register. As regards the letter from the VWCU to the complainant supposedly sent in April 2016, the Assistant Director said that while this would have been appropriate, the complainant had been informed orally on a number of occasions on the outcome of the court hearing. However, he did understand why the complainant felt aggrieved.

The complainant referred the matter to me and I carried out a full review of the files, papers and correspondence in the case.

In relation to the offender being placed on the Sex Offenders Register, I found that the complainant had understood that if he accepted that the offender would plead guilty to the lesser offences he would be placed on the Sex Offenders Register. While this had happened initially, the decision was subsequently reversed by the District Judge, which has caused

considerable distress to the complainant. However, this is clearly a matter for the judiciary and outwith the responsibility of the PPS.

A key element of this complaint is communications, and effective communications, between a complainant and the PPS. I was satisfied that staff from the VWCU and the PPS barrister had spoken by telephone to the complainant in late April and early May 2016, and explained the outcome of the court hearing. However, the PPS, in responses to the complainant, confirmed that a letter from the VWCU had not been sent to him, contrary to what he had been told. The PPS also accepted, and apologised for, delay in clarifying the issue of the offender no longer being on the Sex Offenders Register. On balance, I concluded that, on the basis of the telephone communications with the complainant in April and May, I could not uphold the complaint in this regard. However, I also found that there were a number of factors laid out above which could have caused confusion and doubt in the mind of the complainant, and contributed to his sense of grievance and anxiety. In the circumstances, consideration could have been given to providing a face to face meeting with the complainant. I also took cognisance of the fact that the complainant was a victim of sexual abuse, was receiving counselling, and, as his solicitor advised, suffered from mental health issues.

In relation to the PPS's handling of the complaint, they in large part responded promptly and in full to the complainant's solicitors, and the complainant himself. Where there was some delay, appropriate apologies were offered, as they were in relation to some inaccuracies in the PPS's correspondence. There was a considerable volume of correspondence and telephone calls from the complainant's solicitors and the complainant himself, particularly at the latter stages, and I am satisfied that the PPS dealt with these promptly and professionally.

I also noted that there had been amendments to the process in relation to the issuing of court result letters.

I reported my findings and conclusions to the Director of Public Prosecutions.

## **Case 2**

In the case, the complainant had been convicted on 5 May 2015, on a charge of harassment of an individual in Londonderry. He wrote to the Director of Public Prosecutions on 8 June 2016, listing a number of elements of his complaint, and seeking to have his conviction quashed. He alleged that letters which he had hand delivered to the PPS Londonderry Office had been ignored, and that he had not been treated with courtesy or respect. He also made an allegation of nepotism and religious discrimination against an official in the PPS Londonderry Office. The complainant laid out in detail what he considered to be multiple deficiencies in the actions of the police and the PPS, including his belief that the police files had not been closely examined



by the PPS, leading to, in his view, an unlawful decision to prosecute him. He considered that this amounted to perverting the course of justice, and gross misconduct in public office. The complainant also considered that, prior to his court case on 5 May, he had not received full disclosure of all documents. He alleged the PPS official in the Londonderry Office was corrupt.

The complainant further wrote on 22 June 2016, asserting the PPS case against him did not meet the Test for Prosecution. He accused officials in the PPS Londonderry Office of lying, deceit, collusion with the police, and in his words, utter corruption. The complainant also found the PPS time frame of 20 days to respond to a complaint too long, and repeated his claims of nepotism and religious discrimination

The Assistant Director (W&S) responded on 22 June 2016, firstly indicating that the issue of quashing the complainant's conviction was not appropriate for the PPS Complaints Procedures process, and advising that the complainant might wish to seek independent legal advice on this matter. The Assistant Director said that the complainant had in fact been written to on 22 December 2015, dealing with a number of issues raised by him. He did however apologise that, prior to this, the complainant had not received replies in a timely manner, and that the PPS official concerned had been spoken to about this. The Assistant Director said that a number of comments made by the complainant were incorrect and inappropriate and that in fact the official in question was not the person who had made the prosecution decision. The Assistant Director detailed the PPS Test for Prosecution, and he was satisfied that the Test had been met both on evidential and public interest grounds

The complainant wrote again on 4 July 2016, firstly pointing out that the Assistant Director's letter to him had been incorrectly addressed. He then posed a series of questions, 13 in all, both of a general nature, and specifically on the actions of the PPS in considering the police files and reaching the decision to prosecute him.

An Assistant Director at PPS HQ, who had not previously been involved in the case or the complaint at an earlier stage, responded to the complainant on 6 September 2016. The complainant had written on 5 September 2016, criticising the time taken to reply to him, and alleging that that this was all part of a cover up by the PPS. He also criticised the fact that they had received a satisfaction questionnaire from the PPS prior to the completion of the complaints process. The complainant had been advised of extensions to the timescale for a response owing to summer leave and the necessity to carry out a thorough investigation.

In her response of 6 September 2016, the Assistant Director said that, having reviewed all the files, she agreed with the decision to prosecute the complainant, and also noted that he had been found guilty by the Judge, and had not appealed. She then dealt in detail with the 13 issues raised by the complainant, confirmed again that the decision to prosecute was the correct one, and that she had found no evidence of impropriety by the PPS staff, and that they had acted fairly, independently and in an impartial manner.

Further correspondence ensued between the complainant and the PPS, with the complainant repeating his allegations of a cover up. He also sought to obtain the evidence considered by the PPS in reaching the prosecution decision. The Assistant Director advised that the material in the

police files remained the property of the PSNI, and that he should contact them directly. The complainant responded accusing the Assistant Director of being a liar and a criminal, along with her colleagues, and that the District Judge was not impartial and had colluded with the chief prosecution witness. He provided detailed commentary on each of the Assistant Director's responses to his 13 questions, refuting them all and again alleging impropriety by PPS officials. He alleged that the Assistant Director's letter was designed to pervert the course of justice, and he also made some derogatory personal remarks about her.

The Assistant Director responded on 4 October 2016, advising that all of the matters had been dealt with in line with the PPS Complaints Procedures, and that the correspondence would not be continued as there was nothing further which could be usefully added. She advised the complainant of his right to raise his complaint with the Independent Assessor of Complaints.

The complainant responded making further allegations of lying, and denial of his human and civil rights. He also said that the Independent Assessor's job title suggested that his independence from the PPS could be called into question, as it suggested that he was carrying out the assignment on behalf of the PPS.

The complainant then lodged all his complaint files with me and I carried out a thorough review and investigation into his complaint.

A number of elements of this complaint related to administrative matters summarised as follows

The absence of responses or delays from the PPS to correspondence from the complainant.

The use of an incorrect postcode in a letter to the complainant.

The sending of a satisfaction questionnaire to the complainant prior to the completion of the full complaints process.

Delay in sending a response to the complainant at the second stage of the complaints procedure.

As regards the first three issues, the PPS have accepted that there were deficiencies in the service provided to the complainant, and have apologised for these. Regarding the fourth issue, while there was some delay in relation to the timescale set by the PPS, owing to summer leave and the need for a thorough investigation, the complainant was advised on two occasions there would be extensions to the normal timescales, which is compliant with the PPS Complaints Procedures. The PPS apologised for the delay.

In relation to the substantive element of this complaint, which essentially relates to the complainant's belief that the PPS had erred in pursuing his prosecution, the actual decision on prosecution is not a matter for me. However, I am satisfied that the PPS behaved entirely appropriately in their actions to reach the prosecution decision, and there was no impropriety by any PPS staff, and that the decision was reached independently, fairly and impartially. The initial decision and the Test for Prosecution was reviewed by a senior PPS official, and found to

be appropriate. This was confirmed by a different senior PPS official who had not previously been involved in the case. The complainant was found guilty by a District Judge and he did not appeal.

I therefore did not uphold the substantive element of this complaint.

In relation to the PPS's handling of the complaint, I was satisfied that the PPS responses at the first and second stages of the Complaints Procedures were timely, comprehensive, clear, and well written, offering apologies to the complainant where appropriate. Letters from the complainant were acknowledged promptly throughout the complaints process.

The complainant made some very serious allegations on a number of occasions against the PPS, including corruption, deceit, perverting the course of justice and gross misconduct in public office. He also referred to PPS officials as liars and used a number of derogatory personal epithets in relation to PPS staff. I found the use of such language unacceptable. The complainant also made unsubstantiated allegations of nepotism and religious discrimination against a PPS official which again I found unacceptable and reprehensible.

I reported my full investigation and conclusions to the complainant and the Director of Public Prosecutions

### **Case 3**

This complaint arose from a series of incidents between the complainants and their neighbours from 2013. A number of incidents were reported by both parties, and investigated by the police. Police files were submitted to the PPS, as a result of which the PPS took prosecution decisions against both parties. The complainants were dissatisfied by the handling of these matters, both by the police and the PPS, and subsequently the complainants lodged a formal complaint to the PPs. The complaint was investigated and responded to through both tiers of the PPS Complaints Procedures, and as the complainants remained dissatisfied, they referred the matter to me as Independent Assessor.

The complainant's husband wrote to the PPS on 18 August 2015, expressing their frustration as to how the PPS and the police had been dealing with an ongoing case involving their neighbour, who had been on police bail since May 2014. He said that the case had been postponed on numerous occasions until it came to court on 10 August 2015. He said that on that occasion, the prosecutor had tried to dispose of the case by seeking binding orders on all of the parties without consulting the complainant or his wife. He said that the two cases, one against him and one against his neighbour were put forward on the one day, even though the complainant's

solicitor had attempted to have the two cases unlinked. The complainant referred to a witness who had accompanied his neighbour to court and, he alleged, had been involved with his neighbour in the harassment of the complainants. He alleged that this witness had never been questioned by the police, nor made a statement. The complainant felt that the police had not provided the PPS with all the evidence in the matter and questioned why the PPS had not pursued this with the police. The complainant also asked why he and his wife had also faced binding orders when their neighbour had already accepted a police caution for breach of a restraining order.

The complainant said that at court on 10 August 2015, special measures in relation to his wife were applied for, but, he said, on that morning, and at a subsequent hearing, nothing was in place, and that the prosecutor had advised his wife, a vulnerable adult, to accept the neighbour being cautioned, as the prosecutor believed that she was unfit to give evidence even though her husband was present. The complainant raised a number of other queries, including in relation to a complaint that his partner had lodged with the police alleging threats to cause criminal damage by their neighbour. He had sought access to the evidence held by the PPS on this matter which had not been available at the court hearing, and he felt that something inappropriate was going on, and that his neighbour and the witness may have connections in the justice system. The complainant requested that the PPS explain in detail how these matters had been conducted by the PPS since January 2015. He concluded by saying that these events were having a serious effect on his wife's health, and causing trauma for his whole family.

The complainant forwarded further updates and queries, and the PPS Senior Prosecutor provided a lengthy and detailed response dated 8 October 2015. Firstly, he said that the witness mentioned by the complainant had never made a witness statement despite repeated requests, and he had never been treated as a suspect by the police. He said that three complaints to the police made by the complainants about their neighbour in May 2013, and April 2014, had resulted in no further action by the police and no files were submitted to the PPS. The Senior Prosecutor then referred to the decision not to prosecute the complainant's neighbour in relation to an alleged breach of a non-molestation order. The police file contained only a statement from the complainant's wife and as no further information was forthcoming, there was insufficient evidence to justify prosecution. He said that he was satisfied that the decision not to prosecute the neighbour was the correct one as there was evidence of an independent nature and no real prospect of a Judge being satisfied beyond a reasonable doubt that the neighbour had committed a criminal offence. In relation to the conduct of the case, the Senior Prosecutor confirmed that an application had been made to the Judge to have both cases heard on the same day, on the basis that the two cases involved the same background issues. The Judge acceded to this request. However, this Judge was not sitting at the next hearing and the Judge sitting on that day took a contrary view, and the case was adjourned. The PPS maintained the position that both cases should be heard on the same day. The Senior Prosecutor referred to the suggestion that prosecuting counsel at court was seeking to have both the complainant and his neighbour bound over without having spoken to the complainant. He said that there

had been preliminary discussions about this, but the prosecutor needed authority before proceeding, and it was always his intention to consult with the complainant's solicitors.

The Senior Prosecutor then detailed the progress of these cases since early 2014, and agreed that this had been protracted. He said that there had been delays in receiving files from the police, the PPS had received a request for a review of the prosecution decision by the complainant's neighbour, and fresh material was submitted. The neighbour's partner then submitted a complaint against the complainant and a file submitted to the PPS by the police. Given this series of events, the case had been adjourned on a number of occasions. The Senior Prosecutor then conducted a review of both decisions and concluded that both decisions should stand. He concluded that there had been no undue delay in the handling of both cases given the history and developments which had arisen since early 2014. The Senior Prosecutor assured the complainant that all evidence had been served on the complainant's solicitors. In relation to special measures for the complainant's wife, he said that the prosecutor had spoken at length to her explaining what the administration of a caution to her neighbour entailed, and said that he would have made application for special measures if the complainant's wife had had to give evidence in a contested case, or sought an adjournment of the case until special measures were in place. The Senior Prosecutor said that he could find no basis on which to uphold the complaint.

The complainant submitted a further number of emails in October and November 2015. The Senior Prosecutor responded to these in detail and at length, and confirmed that the decisions to prosecute still stood.

The complaint was subsequently considered at the next tier of the Complaints Procedures by an Assistant Director at PPS HQ who had had no previous involvement in the cases themselves or the PPS's handling of the complaint. The Assistant Director reviewed all the papers, files and correspondence in this case. He advised the complainant that he was satisfied that the PPS had acted properly, that both decisions had been properly considered and reviewed, and that the comprehensive investigation carried out by a Senior Prosecutor at the first tier of the Complaints Procedures had been properly and thoroughly conducted. The Assistant Director agreed with the conclusions reached and was unable to uphold any of the complaints made.

The complainant's wife referred the complaint to me reiterating many of the issues raised and considered through the PPS Complaints Procedures. She detailed the effects all of these issues had had on her health, her family and her marriage. The complainants corresponded with me at length providing much additional information and updates.

I considered and reviewed all the voluminous correspondence, papers, files and file notes.

The complaint, and all of its various elements, arose from disputes between neighbours, and it is clear that there had been a complete breakdown in relationships between the parties, with numerous situations and allegations arising from both sides. This is always an unfortunate

position with the potential for incidents to arise on a regular basis.

In specific terms, the complainants remained dissatisfied with a number of actions of the PPS and asked me to investigate specifically, 1. The proposal to have two cases listed together for hearing on the same day 2. The PPS proposal to have both parties bound over 3. The availability of special measures at court hearings and 4. The intention of the PPS to have the same prosecutor acting in both cases.

As regards 1, this is a prosecutorial matter and therefore outwith my remit. However, in my comprehensive review of all the files, I was satisfied that the PPS considered the issue fully and fairly, and I found no impropriety or bias by the PPS in reaching their decision, which was accepted by the District Judge at the first hearing. In relation to 2, once again this is a prosecutorial matter. However, I was satisfied that the PPS prosecutor discussed the issue with the complainant, and explained the reasons for his proposal, albeit the complainants did not agree with it. Regarding 3, I was satisfied that the PPS prosecutor fully explained to the complainants his reasoning and actions relating to an application for special measures at court hearings, which would have been put in place if the circumstances warranted it. As regards 4, it is a matter for the PPS to decide whether one lawyer should handle both cases or not. However, I did not find any unfairness or impropriety by the PPS in reaching their decision.

In conclusion, I did not uphold this complaint. I was satisfied that the PPS gave every consideration to the decisions which they reached fairly and without bias. I found no evidence of impropriety by the PPS. I was also satisfied that they fully explained their reasoning to the complainants. Subsequently, all of the issues were raised through the PPS Complaints Procedures, and the complaint was investigated thoroughly, and responded to in detail and in timely fashion by the PPS through both tiers of the Complaints Procedures.

I reported my full investigation and conclusions to the complainant and the Director of Public Prosecutions.

## **Chapter 3:**

### **Audit and Benchmarking**

Audit

2016/2017

General

I carried out two audits during the year, one covering the first six months and a second audit covering the second six months. The reasons for completing two audits are set out below. In carrying out these audits, I reviewed the very large majority of all complaints received by the PPS.

Audit of Complaints

1 April 2016 - 30 September 2016

General

As part of my remit as Independent Assessor, I undertake an audit of a very large proportion of all complaints received by the PPS throughout the year. In the past, I have done this on an annual basis, and submit to the Director of Public Prosecutions. My audit forms part of my Annual Report. This year, in 2016/2017, I have decided to complete a six-monthly audit, covering the period from 1 April 2016 to 30 September 2017, and then a second audit covering the second six months of the year. I have done this primarily to make my audit more current, so that the overall picture will be seen more quickly, including any themes or issues which are emerging. This may be more useful generally, and more specifically for myself and the PPS, in oversight of the PPS Complaints Procedures. This year in particular a more current audit may be

useful in light of the very significant changes in the structures and staffing of the PPS in N.Ireland which were introduced in January 2016.

## 1 Report

I audited 27 of the 31 complaints received in the first six months of 2016/2017. Given that there were 68 complaints in the 12 months of 2015/2016, this would appear to indicate a slight drop in the overall level of complaints this year. However, historically, complaints tend to increase over the autumn/winter period, so the annual total this year may be quite comparable to that of last year.

## 2 Analysis

Of the 27 complaints audited in the first six-month period:

### 2.1 Region

Belfast/East Region	16
South/West Region	9
SCU	2

There is somewhat of a disparity in the number of complaints originating from the 2 Regional Areas. The reasons for this are not clear, and further analysis will be necessary to identify possible reasons.

### 2.2 Complaints Upheld/Not Upheld

Upheld/Partially Upheld	5
Dismissed /Other	22

It is notable that only 5 (19%) of complaints have been fully or partially upheld, and this represents a considerable decrease from last year.

### 2.3 Gender

Male	19
Female	8

I have not monitored the gender of complainants in the past, but this factor along with community background, ethnicity (see below) is valuable for an organisation particularly going



forward on an ongoing basis, as an indicator of trends in these areas.

#### 2.4 Community background/Ethnicity

The only source to allow determination of any of the equality areas is the satisfaction questionnaire which is sent to all complainants at the end of the Complaints Procedures process. In the past, very few of these questionnaires have been completed and returned to the PPS. In an attempt to address this situation, it is proposed that the satisfaction questionnaire to complainants is personally signed off by myself, which may encourage more complainants to complete it in full, not just giving us feedback on the PPS Complaints Procedures as a whole, but information on equality areas including gender, community background and ethnicity etc.

#### 2.5 Stage of the Complaints Procedures

Stage 1 22

Stage 2 4

Stage 3 (IAC) 1

The very large proportion (81%) of the total complaints received are resolved at the first stage. This reflects well on the handling of complaints at the initial stage, and equally at the second stage, as only one complaint has progressed to the Independent Assessor.

#### 2.6 Method of Complaint

Letter/Email/Telephone call 19

Web complaint form 8

The introduction of the web complaint form has been successful and has proved a useful and user-friendly means of accessing the PPS Complaints Procedures.

#### 2.7 Nature of complainants

In the past, I have not analysed the background to complainants to establish how many are actual victims of crime as distinct from those who, for example, feel aggrieved that they have been prosecuted. I intend to carry out this analysis for my full year audit in April 2017.

#### 2.8 Basis of Complaints

A very significant proportion of complaints refer to primarily prosecutorial issues and how the PPS conducted courses in court. The next most prevalent area of complaint relates to communication, either failure to respond to communications or the standard of written

communications. These complaint issues have remained consistent over the last few years and clearly these are areas which the PPS need to focus on. However, I am mindful of the fact that around 80% of all complaints are dismissed or otherwise resolved.

### 3 Commentary

In terms of timeliness, once again the initial acknowledgement process continues to work very effectively, with acknowledgements being issued either on the day of receipt of complaint, or the following working day. The 20-day target for receipt of a full response was largely met, and where the target could not be met, the complainants were advised of the delay, in accordance with PPS Complaints Procedures. In one case, a significant delay was attributable to summer leave, and the long-term absence of a prosecutor.

The handling of complaints at the second stage by Assistant Directors not involved at the first stage, continues to work very well in terms of timeliness, investigation and quality of response. Additionally, I noted one case where the second stage Assistant Director overturned the decision of the first stage AD, which is a demonstration of the independence of the complaints process.

As regards the quality of responses to the complainants, in the very large majority of complaints, a full, transparent and comprehensive reply was sent. Apologies were offered to complainants, where appropriate, at both Stages 1 and 2, and, where appropriate, complainants were offered the opportunity to pursue their complaint at the next stage of the Complaints Procedures.

Overall, therefore, it is satisfying to observe that the generally high standard of PPS complaints handling which I noted in my 2015/2016 Annual Audit and Annual Report, has been sustained. This is particularly commendable in light of the significant structural and staff changes which taken place within the PPS over the last year. I will continue to monitor PPS complaints handling over coming months, continue to benchmark externally, review the Complaints Procedures themselves, my own guidelines, and the complaints section of the PPS web site.

#### Audit of complaints

1 October 2016 -31 March 2017

#### General

This is my second six monthly audit for the 2016/2017 year. My first audit covered the period 1

April 2016 to 30 September 2016 (copy attached), this audit covers the period 1 October 2016 to 31 March 2017. As I explained in my first audit report, my purpose in carrying out two audits in 2016/2017 was to monitor and assess, in timely fashion, the effect on complaints handling, compliant with the PPS Complaint's Procedures, of the introduction of significant new structures and staffing in the PPS in January 2016.

## Report

I fully audited 21 complaints received in the second six months of 2016/2017. The total number of complaints has not been finalised, but the numbers seem comparable to 2015/2016.

## 2 Analysis

Of the 21-complaint audited:

### 2.1 Region

Belfast/East Region	8
South/West Region	9
HQ/SCU	4

The number of complaints is consistent between the two Regional Offices, which is welcome given the historical disparity noted in my previous audits and Annual Reports.

### 2.2 Gender

Male	15 (71%)
Female	6 (29%)

The proportion of male complainants to female is very consistent with the proportions noted in my first audit this year. I have no comparative figures for previous years as I did not collect the numbers. However, these figures will act as a base for future years to enable any trends to be identified and monitored.

### 2.3 Community Background/Disability/Ethnicity/Marital Status/Sexual Orientation

The only means by which I can monitor community background, and all other equality categories of complainants, apart from gender, is through the PPS Satisfaction Questionnaire

which is sent to all complainants after their complaint has been finalised. The Questionnaire seeks feedback from the complainant in relation to how their complaint has been handled, and if any improvements could be made. It also seeks information on the full range of equality monitoring areas. Unfortunately, however, very few of these questionnaires are completed and returned. Recently the forms were amended and signed by me as Independent Assessor, in an effort to elicit a greater response. It is too early to say whether this change has had any significant effect, and if not, other approaches will be considered. The numbers of returned questionnaires at present is too small to be statistically significant

#### 2.4 Stage of the Complaints Procedures

Stage 1	16
Stage 2	3
Stage 3	2

The large majority of complaints are resolved at the first stage. This reflects well on the handling of complaints at the initial stage, and equally at the second stage, as only 2 complaints progressed to the Independent Assessor.

#### 2.4 Method of complaint

Letter/email/telephone call	20
Web complaint form	1

Two complainants had attempted to use the PPS web complaint form, but had difficulty in doing so. Both complainants then communicated by other means. The web form has been a welcome addition to the methods by which members of the public can express concerns in relation to their dealings with the PPS. I recommend that regular checks are carried out on the effectiveness of the web complaint form process, to ensure it remains fit for purpose.

#### 2.5 Nature of complaint

Victim/Witness	17
Other	4

The PPS Complaint's Procedures may be utilised by any member of the public. In my role as Independent Assessor in dealing with Tier 3 complaints, and also in this and previous audits, I have noted that the proportion of complainants who are not victims or witnesses is consistently

around 25%. These complaints generally relate to individuals who are unhappy as to the process or fact of their prosecution, or that others have not been prosecuted. In this context, I note the PPS are more consistently dealing with complaints which are primarily related to prosecutorial issues outwith the PPS Complaint's Procedures, either by review under the Code for Prosecutors, or by correspondence. This is entirely appropriate.

## 2.7 Basis of Complaints

Although there is no persistent theme or themes emerging from this audit, the issues of communications and perceived behaviour of prosecutors at Court arose in a number of complaints. As regards communications, a number of complaints related to victims or witnesses who felt that they had not been advised of court hearings or other dates in relation to their case. PPS responses pointed out that in the majority of instances this had not been the responsibility of the PPS, the process was fully explained, and the complaints were not upheld. In two instances, the PPS had erred in not communicating with the complainant, full apologies were made and the complaint upheld. In relation to behaviour of prosecutors in Court, in all but one of these complaints, the complaints arose from a misunderstanding of the role of prosecutors in Court, which was fully explained in the PPS response, and the complaints were not upheld. In one instance, the PPS accepted that there had been a failure by the prosecutor in dealing with the victim, for which apologies were offered, and the Assistant Director undertook to remind the prosecutor of his responsibilities.

## Commentary

This second audit confirms the conclusions which I reached in my first six monthly audit this year, that is, that there has been no diminution in the quality or timeliness of complaints handling by the PPS since the introduction of the new structures in January 2016, despite the reduction of Regional Assistant Directors to two. This conclusion relates to the handling of complaints at Tier 1, by Regional Assistant Directors, and at Tier 2, by Assistant Directors in HQ, and equally to the work of the staff in the Central Management Unit. This is highly creditable, and I commend the PPS and the staff involved for continuing to deal with complaints from members of the public quickly and in a very professional manner.

Once again, the large majority of complaints are dealt with and completed at Tier 1, relatively few progress to Tier 2, and even fewer to the Independent Assessor.

First tier complaints are exclusively personally responded to by Assistant Directors, and the quality of responses is uniformly excellent, as they are at Tier 2. Responses are invariably detailed and comprehensive, reflecting a thorough investigation and review of the files and correspondence. Responses are clearly expressed, jargon free and aim to deal openly and honestly with the concerns of the complainant. Apologies are offered where there have been lapses in the quality of service provided by the PPS. The opportunity for the complainant to progress

their complaint to the second Tier and to the Independent Assessor, are invariably offered. Responses by the PPS are courteous, and helpful, and where appropriate meetings with PPS staff are suggested.

In terms of timeliness, the achievement of timescales as laid down in the PPS Complaint's Procedures, is greatly facilitated by the work of staff in the Central Management Unit, firstly by their invariably very prompt acknowledgement of correspondence from the public, and equally importantly, by their effective monitoring of complaints in the system, with reminders sent to Assistant Directors as deadlines near, as necessary, and the issue of holding letters to complainants where extensions of times for response are required, and the advice of a revised date for the dispatch of a full response.

I commend the PPS for their current performance in complaints handling and note that there has been a significant improvement over the last three years to the current uniformly high level. I will continue to monitor progress, and seek to address the issue of equality information in relation to complainants

## **Benchmarking**

Part of my role as Independent Assessor of Complaints is to influence the adoption of best practice by the PPS in dealing with complaints. The PPS Complaints Procedures have been adapted and amended over the last few years in order to ensure that they are truly fit for purpose and in keeping with best practice of complaints handling in the public and private sectors. The PPS Complaints Procedures are benchmarked against a variety of organisations, both private and public. The benefits of this approach are evidenced by the outcomes over a range of measures, for example, quality and clarity of response, and timeliness of acknowledgment and full response. These outcomes are measured by the PPS themselves and the Independent Assessor of Complaints. I welcome the fact that the outcomes over many of these measures have shown continued and sustained improvement over recent years, and in some instances, for example, the target set for initial acknowledgement of a complaint of 5 days, and the 20-day target for full response, have reached 99% and 91% respectively, which is highly commendable indeed. The outcomes for quality of responses to complaints from the PPS are somewhat more subjective, but my audits and case investigations and reports demonstrate responses which are courteous, clear, jargon free, detailed and comprehensive, and offering apologies where appropriate.

During the year, I benchmarked PPS Complaints Procedures against a number of organisations in the public sector, including the NHS Belfast Trust, the Northern Ireland Ombudsman and the Police Ombudsman. In this process, I was satisfied that PPS Complaints Procedures were of an equivalent or higher standard.

This year I visited the Independent Assessor of Complaints for the CPS in England and Wales. This benchmark visit was very useful in comparing procedures and practices in complaints handling for a prosecution service in a different jurisdiction. While the role and remit of the Independent Assessors in N. Ireland and England and Wales are similar in general terms there are differences in some respects.

In similar vein to N. Ireland, the Independent Assessor for England and Wales considers any complaints relating to service standards and conduct of CPS staff, but he cannot review complaints which are solely about prosecution decisions. This Independent Assessor may carry out investigations at the third stage of the CPS complaints procedures, that is, normally after they have been considered internally within the CPS at stages one and two, and the complainant remains dissatisfied. The Independent Assessor acts as the guardian of the CPS Complaints Policy and supports the CPS to develop best practice and improve service standards for victims and witnesses.

The CPS Independent Assessor considers around 65 complaints each year which equates proportionately to the number I normally consider set against the total number of cases handled by the PPS and the CPS. Given that there are 65 cases to consider, the CPS Independent Assessor has two and a half administration support staff, who are part of the CPS Casework Team. These staff prepare and submit case summaries, prepare relevant paperwork and background notes and provide other administrative support for the Independent Assessor. I do not consider dedicated support for the Independent Assessor in N. Ireland as necessary, apart from expert advice where appropriate, and ensuring that all case papers are made available to the Independent Assessor in relation to complaints referred to him.

In terms of remedies, the CPS Independent Assessor may make recommendations to the Director of Public Prosecutions, which may be an apology to the complainant where this has not been offered before, or is considered insufficient. He may also recommend changes, amendments or alterations to CPS policies, which is similar to N. Ireland. Additionally, the CPS Independent Assessor may make a recommendation to the Director of Public Prosecutions for the complainant to receive a compensatory or modest consolatory payment where there has been evidence of uninsured material loss, or severe distress arising from maladministration or poor service by the CPS. I do not consider compensatory or consolatory payments in N. Ireland as either necessary or appropriate. Indeed, in all of the cases which I have handled in recent years, with one exception, no complainants have sought compensation, but rather a thorough investigation of their complaint, and a clear open and honest response to the issues which they raise. In the one exceptional case, a compensatory payment would not have been appropriate in any case.

I will continue to benchmark complaints handling policies and practices of other organisations in

the public and private sectors with the aim of ensuring the PPS Complaints Procedures are compliant with best practice, and fit for purpose.

## Chapter 4

### Complaints Handling in the PPS 2016/2017

The PPS maintain comprehensive records of complaints, and an analysis and breakdown of the figures by various categories. These are shown below with my comments on each category, as appropriate.

#### Total Complaints

**Table 1: Numbers of complaints and written requests**

Year	Complaints Logged	Written Requests
2007	28	115
2008	41	137
2009	49	109
2010	65	107
2011	70	141
2012	70	160
2013 / 2014	73	147
2014 / 2015	89	138
2015/2016	67	126
2016/2017	66	105

The total number of complaints was very similar to last year, while the number of written requests fell by 17% to the lowest level for many years. It is not possible this year to compare



the number of complaints at Regional Offices with previous years given the Regional Office restructuring introduced in January 2016. Table 2: Outcome of complaints

Year	Upheld	Partially Upheld	Dismissed	Resolved Informally	No further action required	Outstanding	Total
2007	4	0	5	0	15	4	28
2008	8	3	12	0	5	13	41
2009	9	7	12	0	7	14	49
2010	12	2	19	1	3	25	66
2011	19	10	19	0	9	13	70
2012	14	6	27	17	6	0	70
2013/2014	11	2	15	32	13	0	73
2014/2015	8	4	44	25	6	2	89
2015/2016	6	6	38	7	10	-	67
2016/2017	3	14	33	4	11	1	66

Of the total of 66 complaints received by the PPS, I noted that 17 or 26% were upheld, or partially upheld, while 49 were dismissed, informally resolved or no further action was required. This is a greater % than last year (18%) through an increase in partially upheld complaints. I do not consider the increase to be statistically significant.

**Table 3: Complaints substantiated (partially or wholly upheld)**

Year	Number of Complaints	% Substantiated
2007	28	36
2008	41	27
2009	49	33
2010	65	20
2011	70	50
2012	70	29
2013/2014	73	18
2014/2015	89	14
2015/2016	67	18
2016/2017	66	26

**Table 4: Reasons for complaints**

	<b>2015/2016</b>	<b>2016/2017</b>
Case Handling/Delay	3	16
Primarily prosecutorial	14	30
Communication / Information	10	16
Standard of communication	10	6
Conduct of staff / Counsel	17	11
Court Performance	16	14
Complaints not dealt with	1	0
Other	13	4
<b>Total</b>	<b>84</b>	<b>97</b>

*NOTE: Complaints may comprise of a number of elements.*

Two areas which have shown significant increases over last year were those of case handling and primarily prosecutorial factors. In relation to case handling, I did note in my audits a few instances where complainants felt that their complaint had been responded to inadequately, or there had been a delay in the PPS response.

As regards complaints relating to mainly prosecutorial issues the increase has again been significant and over 100% (14 to 30). This concurs with my audits reports where I noted complainants who disagreed with prosecution decisions taken against them or the fact that others had been prosecuted, or the manner in which the prosecution decision had been taken. In these instances, I noted that detailed explanations for the decision taken had been provided to the complaints, in some cases reviews carried out where appropriate, and in a few appropriate instances, apologies offered.

I also noted and welcome the fact that complaints involving conduct of staff/counsel and court performance have fallen this year.

### **Complaints by Regional Area**

**Table 5: Total number of complaints received**

	Belfast/ Eastern	Western	Southern	SCU	Central & HCI	Other	Total
<b>2016/17</b>	27/66 (41%)	19/66 (29%)	5/66 (8%)	8/66 (12%)	2/66 (3%)	5/66 (8%)	66/66

The number and % of complaints received by the Belfast/Eastern Regional Office, and the Western/Southern Regional Office are comparable this year. It is unreasonable to draw any conclusions from one year's figures, nor the numbers of complaints received by the SCU/Central and HCI/Other.

**Table 6: Complaints substantiated (partially or wholly upheld)**

	Belfast/ Eastern	Western	Southern	SCU	Central & HCI	Other	Total
<b>2016/17</b>	8/27 (30%)	5/19 (26%)	1/5 (20%)	0/8 (0%)	0/2 (0%)	3/5 (60%)	17/66 (26%)

The numbers of complaints substantiated/partially upheld are comparable between the Belfast/Eastern and Western/Southern Regional Offices. The numbers involved are small, and once again it is too early to draw any conclusions based on one year's figures

**Table 7: Numbers of complaints acknowledged within 5 days**

	Belfast/ Eastern	Western	Southern	SCU	Central & HCI	Other	Total
<b>2016/17</b>	26/27 (96%)	19/19 (100%)	5/5 (100%)	8/8 (100%)	2/2 (100%)	5/5 (100%)	65/66 (99%)

It is highly commendable that the % of complaints acknowledged within 5 days has reached

99%, up from 90% last year. This is a huge improvement over recent years, and reflects the amendments made to the PPS Complaints Procedures whereby the very large majority of initial complaints are concentrated into the CCU, which issues the initial acknowledgement to complainants. Once again, in my audits, I was unable to identify a single case where the initial acknowledgement had not been sent on the day of receipt, or the following working day. Prompt acknowledgement is not simply a process issue but is widely accepted as an important factor in the positive perception of complaints handling by members of the public. Table 8: Numbers of complaints dealt within 20 days

	<b>Belfast/ Eastern</b>	<b>Western</b>	<b>Southern</b>	<b>SCU</b>	<b>Central &amp; HCI</b>	<b>Other</b>	<b>Total</b>
<b>2016/17</b>	27/27 (100%)	17/19 (90%)	5/5 (100%)	5/8 (63%)	2/2 (100%)	5/5 (100%)	61/66 (93%)

The number and % of complaints dealt within 20 days as specified in the PPS Complaints Procedures has risen to 93% this year compared to 81% in 2025/16 and 46% in 2014/15. This is a very significant improvement and I commend the Regional and HQ Assistant Directors for it. I am also conscious of the role of the CCU in this in monitoring response times and issuing reminders as necessary. There will always be cases where the 20-day response cannot be met both because a case is complex and requires extensive investigation or other factors. In these instances, I noted that letters had been sent to the complainant advising them that some additional time would be required and giving them a revised date for a response to be communicated.

## **Chapter 5**

### **Complaints Handling Process in the PPS**

#### **General**

The Case Handling Process in the PPS has been successfully in place for a number of years. The PPS is committed to providing a high standard of service at all times. If the PPS provide an ineffective or inefficient service or treat someone impolitely or unfairly or if there is a failure to adhere to the PPS' Code of Ethics or Code for Prosecutors, the complaints process provides a sound and practical mechanism for the PPS to learn about it. The really important aspect is that the PPS investigates the complaint thoroughly and, where it is justified, ensures that the lessons are learnt, and the PPS strive to put things right, and improve the overall standard of service it provides to the public. A key component of complaints handling is that the complaint is handled professionally, and with sensitivity and courtesy at all times.

#### **Definition of a complaint**

The PPS definition of a complaint is:

*“Any communication which expresses dissatisfaction with, or criticism of, the service provided to the community by the PPS.”*

Such complaints may relate to:

- The effectiveness and efficiency of the work of the prosecution service; for example, the time taken to process a prosecution case or the promptness of payment of witness expenses.
- The manner in which a person was treated by a member of staff of the PPS or by

someone acting on behalf of the PPS (for example, a barrister instructed by the PPS).

- Any failure to adhere to the PPS Code for Prosecutors or Code of Ethics, that is, which does not relate to a prosecutorial decision. The PPS Code for Prosecutors, which includes the Code of Ethics, is available through the PPS website at [www.ppsni.gov.uk](http://www.ppsni.gov.uk).

It should be noted that the PPS complaints procedure is not the appropriate mechanism for defendants to seek to have the cases against them withdrawn or to overturn their convictions. If you are a defendant in this situation your complaint will not be considered as part of our complaints procedure. You should instead seek independent legal advice.

Where a complaint relates to ongoing criminal cases, we may only be able to provide limited information. We reserve the right not to deal with a complaint in relation to an ongoing case if it might prejudice the proceedings.

### **Who can make a complaint?**

Any person who has had contact with the PPS in whatever capacity can make a complaint. A complaint can be made directly by an individual or through their nominated representative, for example, a family member, solicitor, support group or public representative.

### **How can a complaint be made?**

There are a number of ways in which to make a complaint. These are listed clearly in the PPS Complaints Handling Procedures displayed on the PPS website, and copies may be obtained in a variety of formats. Essentially, complaints may be made by email, letter or directly via the PPS website, by telephone, and by SMS text.

### **What information will I need to provide?**

To help us in dealing with your complaint, the following information would be appreciated:

- Your name, address and contact details; this may include details of any representative whom you may want to have with you or speaking for you.
- Full details of the complaint, providing as much information as possible, including dates, the sequence of events which gave rise to concern and, if known, the

names of persons involved.

- If applicable, the PPS reference number quoted in any previous correspondence you may have received.

It would also be helpful if a preferred means of contact was included, as well as an indication of the most suitable time for our staff to contact you.

In order to help you to provide all necessary information, a complaint form is available to download from the PPS website. Central Co-ordination Branch will also forward a copy of the form by post or e-mail on request.

Please note that depending on the nature and/or complexity of the complaint, it may be necessary to ask you for further information at a later stage.

### **How quickly will my complaint be dealt with?**

The PPS will acknowledge receipt of your complaint, via your preferred method of contact, within 5 working days. We will normally seek to make a full response within 20 working days.

If it is not possible to make a full response within 20 days, you will be informed why the response has been delayed and given a revised target date for a full response.

### **How long do I have to make my complaint?**

Unless there are exceptional circumstances, a complaint will only be dealt with if it is made within 6 months from the date of the incident in question.

### **Can the matter be resolved informally without making a complaint?**

Some individuals who are dissatisfied with the service that we have provided will simply want someone to review their concerns as quickly as possible – without the need to lodge a formal complaint. In such instances, it may be possible for the cause of the dissatisfaction to be resolved immediately and we will aim to do so by providing an explanation, apology or other appropriate outcome.

The initial step is to contact us in order that the matter might be resolved informally. If you are interested in an informal resolution, please contact us either by telephone (02890 897100) or by email to [info@ppsni.gsi.gov.uk](mailto:info@ppsni.gsi.gov.uk).

If we are unable to resolve your concerns satisfactorily via this process, then you may wish to pursue a formal complaint following the outlined procedure.

### **What can I do if I am dissatisfied with the way my complaint has been dealt with?**

Most complainants are satisfied at the initial investigation stage (Tier 1). If you are not satisfied with this response, you must tell us within one month of receiving our explanation. Complaints received outside of this timescale will not be considered.

In such circumstances, your concerns should be set out in writing to:

Head of Policy and Information  
Public Prosecution Service  
Belfast Chambers  
93 Chichester Street  
Belfast BT1 3JR

Normally your complaint will be referred to an Assistant Director from a different area of the organisation (Tier 2) For example, where your complaint is in relation to a regional office, the review will be conducted by an Assistant Director from PPSHeadquarters.

### **Is there any appeal against the way the PPS has decided to deal with my complaint?**

There is an external independent assessor who will review a complaint where the complainant is not satisfied with the way in which the PPS has decided to deal with the matter. The Independent Assessor operates with full independence from the PPS.

The Independent Assessor can investigate your complaint only:

- After the matter has been investigated by the PPS, and that having been concluded, you are still not satisfied; and
- If it is not primarily prosecutorial in nature. While the remit of the Independent Assessor allows for the consideration of failures against the PPS Code for Prosecutors or Code of Ethics, he is unable to comment on matters which relate directly to a prosecutorial decision. A prosecutorial decision includes the decision whether or not to bring a prosecution and any decision made in the course of criminal proceedings which relate to the conduct of the prosecution.



The Independent Assessor operates a confidential and secure service. On receipt of your complaint he will deal with you directly and will make available to you a copy of a leaflet which explains his role and remit in more detail. The PPS will permit the Independent Assessor access to the files relating to your complaint and will seek to meet his requests in full as he investigates your concerns.

### **Policy on unacceptable actions or behaviour by complainants**

The PPS understands that individuals may act out of character in times of difficulty or distress. Indeed, a complainant may have encountered upsetting or distressing circumstances prior to bringing a complaint to the PPS. Therefore, the PPS does not view actions or behaviour as unacceptable simply because a complainant is assertive or determined. However, the actions or behaviour of complainants who are angry, demanding or persistent can result in unreasonable demands on the PPS or unacceptable behaviour towards PPS staff. Whilst there are relatively few complainants whose actions or behaviour the PPS will consider to be unacceptable, the Service reserves the right to restrict complainant contact, particularly where the actions or behaviour present a threat to the safety of PPS staff.

A copy of the PPS Policy on Unacceptable Actions or Behaviour by Complainants is available on request. Alternative formats of this policy are also available.

### **Complaints about partner organisations**

The PPS works in partnership with a number of organisations to provide a range of services, for example to victims and witnesses. Complaints about the delivery of services by partner organisations should be directed in the first instance to these bodies. The PPS website includes a range of useful contact points in this regard.

### **Can I ask about prosecutorial decisions or request reasons for a decision not to prosecute?**

Requesting a review of a decision:

People should be able to rely on decisions taken by the PPS. Normally if the PPS tells a suspect or a defendant that there will not be a prosecution, or that the prosecution has stopped, that is the end of the matter and the case will not start again. However, there may be reasons why the PPS will review this decision, for example where new evidence or information becomes available or a specific request is made by a person, typically a victim, involved in the case. Requests may be made directly by an individual or through a nominated representative

(for example, a family member, solicitor, support group or public representative).

When requesting a review, a person may be able to provide further evidence or information which has not previously been taken into account. In such a case, the public prosecutor who made the original decision will carry out the review taking into account the additional evidence or information. However, if no new evidence or information is provided the review will be conducted by a different public prosecutor to the person who made the original decision.

The public prosecutor conducting the review will decide whether the original decision should stand or whether a fresh decision is required. In either event the person requesting the review will be informed.

Requesting reasons for a decision not to prosecute:

In all cases where it does not prosecute the PPS provides reasons for its decisions, albeit in the most general terms. In a range of more serious cases the PPS goes further and gives more detailed reasons. In any case it is open to a member of the public or interested person to ask for further details of why a decision was made not to prosecute. If you wish to request a review of a PPS prosecutorial decision or to make an enquiry regarding the reasons for a decision not to prosecute, please write to Central Co-ordination Branch (address as above) or send an email to [info@ppsni.gsi.gov.uk](mailto:info@ppsni.gsi.gov.uk).

The Independent Assessor of Complaints does not have any role in the review of prosecution decisions or in the giving of reasons for decisions.

### **Complaint handling: Monitoring arrangements**

The PPS is committed to ensuring that these complaint handling arrangements are effective. Therefore, on completion of each complaint case, we will send you a short follow-up questionnaire asking you to provide feedback on the way your complaint was handled.

Monitoring will of course be undertaken in a confidential way. All information provided will be held securely and questionnaires can be submitted anonymously (that is, we will not require your name). However, we will ask you to provide some information about yourself (for example, your age and gender). As set out in the PPS Equality Scheme, drawn up in accordance with section 75 of the Northern Ireland Act 1998, the PPS is committed to monitoring any adverse impact as a result of any its policies to which section 75 applies. Monitoring of complaints is essential in this regard and can assist the PPS to deliver a better service.

## **General principles to be followed by the PPS**

The complaint handling process will be open and accessible.

- Complaints will be dealt with in a timely, effective and consistent manner.
- Complaints will be considered fairly and impartially in line with the policy and procedures set out in the PPS Complaint Handling Policy.
- Complaints will be investigated by individuals other than those about whom the complaint was made.
- Members of the public making a complaint will be dealt with professionally and with sensitivity and courtesy at all times.
- The complaint handling process will deliver continuous improvement.
- The Independent Assessor will consider all complaints properly referred to him and also report annually to the Director of Public Prosecutions. He may make recommendations, and the Director is obliged to respond to these recommendations.
- The Independent Assessor will audit a proportion of all complaints received. The purpose of this is to identify any patterns and to obtain a clearer picture of the types of complaints being received.

## **Chapter 6**

### **Role and Remit of the Independent Assessor**

The Independent Assessor oversees not only the PPS complaints handling arrangements themselves, but also the development of guidelines and protocols relating to complaints handling. He can also comment on the procedures used and how they were applied, including quality of service, and can make recommendations for improvements to the Director of Prosecutions as Head of the PPS.

The Independent Assessor can investigate a complaint only after that complaint has been investigated by the PPS, and that having been concluded, the complainant remains dissatisfied. An overview of the PPS complaint handling arrangements is shown at Chapter 5. The Independent Assessor will produce a report for each case he investigates, to include his findings, and, where appropriate, his recommendations. These will be forwarded to the Director of Public Prosecutions, for him to consider and respond.

The Independent Assessor will not act as a complainant's advocate, and cannot enforce the complainant's rights. His role has to do with determining whether or not a complaint was handled fairly, thoroughly and impartially by the PPS, and also to influence the adoption of best practice in dealing with complaints. The PPS is obliged by its policies to aim for the highest standards in all that it does, including handling complaints.

As well as handling complaints properly referred to him, the Independent Assessor reviews and audits a proportion of all complaints made to the PPS. The purpose of this is to identify any patterns or themes and to obtain a clearer picture of the types of complaints being raised, as well as changes in patterns year by year.

The Independent Assessor is required to report annually to the Director, and may also make recommendations. The Director is obliged to respond to these recommendations.

### **Complaints which may be investigated**

The Independent Assessor may investigate all complaints, with the exception of those which are mainly prosecutorial in nature that is where they are primarily in relation to a decision by the PPS to prosecute in a particular case. All requests for the review of a prosecutorial decision should be directed to the PPS.

The types of complaints investigated by the Independent Assessor may include:

- The effectiveness/efficiency of the work of the prosecution service (for example, the time taken to process a case, or the promptness of payment of witness expenses).
- The manner in which a person was treated by a member of the staff of the PPS, or by someone acting on behalf of the PPS.
- Any failure to adhere to the PPS's Code of Prosecutors, or Code of Ethics.

### **Length of time the process will take**

The Independent Assessor will take a maximum of 8 weeks to investigate, progress, and conclude a complaint. At the outset of the investigation, the complainant will be told the likely timetable for the case and the complainant advised on any changes in the original estimates for the time required.

### **What the complainant needs to do**

The complainant should normally submit their complaint in writing. This may simply be by letter, providing an outline of the complaint, or he/she may submit by it by email, on tape, in Braille, or other media, or in a language other than English.

The Independent Assessor has discretion to interview the complainant and/or their representative in person, but will not normally do so.

### **The cost of making a complainant**

The process is free to the complainant. The complainant does not need independent or legal advice when making a complaint to the Independent Assessor. The Independent Assessor cannot award costs or compensation.

### **Completion of the investigation**

When the Independent Assessor has completed the investigation, he will communicate the outcome and his findings to the complainant.

### **Remedies available to the Independent Assessor**

The Independent Assessor may make recommendations to the PPS. The Director is obliged to consider these, and to respond to the Independent Assessor, however, he is not obliged to implement the recommendations.

## **Chapter 7**

### **Concluding Notes and Recommendations**

This is my 4th Annual Report as Independent Assessor of Complaints and again this year I am pleased to record overall a continuing improvement in complaints handling by the PPS. This is particularly noteworthy given that this is the first full year following the major restructuring of the PPS in January 2016, including the reduction in number of Regional Offices, these Offices being the natural recipients of initial complaints from the public. I welcome the fact that there has been no diminution in the quality or timeliness of complaints handling, both at the first and second tiers of the PPS Complaints Procedures. As I have commented in this Annual Report, the outcomes for acknowledging complaints within 5 days, and responding in full within 20 days have risen to 99% and 91% respectively, both all-time highs. This is highly commendable, and reflects the importance which the PPS places on handling complaints in a professional and courteous manner. In this Annual Report, I have also commented on the quality and thoroughness of investigations carried out by the PPS. In my two audits of complaints carried out this year, I reviewed around 85% of all complaints received by the PPS, and dealt with through Tiers 1 and 2 of the Complaints Procedures. I was satisfied that these complaints were being dealt with as thoroughly and effectively as those reaching the Independent Assessor. It is also of interest that 80 % of all complaints are completed at the first tier, only 15 % proceed to the second tier, and this year only 8 % proceeded to the Independent Assessor at the third tier.

As Independent Assessor of Complaints, I received 3 complaints which had progressed through the first two tiers of the PPS internal Complaints Procedures. This is approximately half the number I have dealt with in the previous few years. It is not clear why there has been such a

reduction, but it would not be unreasonable to suggest that complaints being acknowledged promptly, investigated thoroughly, and responded to clearly, openly and comprehensively internally by the PPS may have a bearing on the reduction.

At Chapter 2, I detailed all complaints which came to me as Independent Assessor. All of them were protracted and time consuming for both the PPS and myself. At Chapter 3 I detailed the two audits which I carried out during the year.

Aspects which I would draw attention to are:

Once again, most complainants felt genuinely that they had been treated unfairly either through PPS operational processes, or by court prosecutors, or that their complaint had not been handled satisfactorily. Complainants generally expressed themselves articulately and courteously and the PPS responded in similar fashion. The very large majority of complaints were dealt with and completed at tiers 1 and 2. I am confident that this reflects and underlines the importance of prompt acknowledgement and clear and timely responses to complainants at the earliest stage.

Complaints which I would consider vexatious are very rare, but even in these few cases, responses from the PPS should be courteous, timely and professional. I would add the caveat that it is appropriate for a limit to be imposed on the time and resource expended on investigations and responses in these cases. It is a matter of judgement for the PPS as to when this point has been reached.

The importance of benchmarking cannot be underestimated, and it is equally important to review both the Independent Assessor's and the PPS's Complaints Procedures, and to make any amendments as necessary. This will be part of my work in 2017/2018.

Associated with comments already made in this Annual Report, I recommend that attention is given to the following points:

- The excellence of written communications which is apparent in most areas of the PPS, particularly by Regional and HQ Assistant Directors is shared with other areas of the PPS to ensure a uniformly high standard.

- Full and unqualified apologies are offered to complainants in a timely fashion, and where appropriate

- Correspondence with complainants is checked to ensure that misspellings, particularly the



complainant's name, or address, or other errors are eliminated

-Complainants are advised at the appropriate stage of the facility to progress their complaint to the second tier, or to the Independent Assessor of Complaints.

In terms of operational issues

-Prosecution decisions are taken and communicated within the PPS target timescales.

-Reviews of prosecution decisions are completed in timely fashion, and the outcome advised to the individual.

-The issue of the provision of special measures for vulnerable victims or witnesses is given appropriate and careful consideration

-Victims and witnesses are advised in advance and in good time of court or other meeting dates.

Finally, as I have noted in my previous Annual Reports, the PPS receive less than 1% of complaints in relation to the total number of cases handled each year. This compares very favourably with the situation in other organisations in the public and private sector. Most complaints received by the PPS are handled very well, and many in an exemplary fashion. While a number are not, I have noted throughout this Report that the overall picture demonstrates a continuing improvement in complaints handling throughout the PPS for the public which it serves, and I commend the PPS for this.

### **About the Independent Assessor**

Alan Henry OBE was appointed as the Independent Assessor of Complaints for the PPS in May 2013. He has 25 years' experience in human resources, organisational development and equal opportunities.

He was formerly a Commissioner of the Equality Commission and the Human Rights Commission and was a Civil Service Commissioner. He was an Independent Assessor for the Commissioner for Public Appointments. He was a Lay Panelist for the Office of Industrial and Fair Employment Tribunals. He is a Member of the Doctor's and Dentist's Remuneration Board. He was also a Governor of the South Eastern Regional College and is a Governor of an Integrated College. He is Chair of the N. Ireland Council for Integrated Education.