

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

SIXTH FORMAL REPORT

**for
2010**

**Alasdair MacLaughlin
31st March 2011**

Mr James Scholes
The Acting Director
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31st March 2011

I have the privilege of presenting to you this my sixth Formal Report as the Independent Assessor for Complaints for the Public Prosecution Service of Northern Ireland (PPS). The period of the Report is from 1st April 2010 to 31st March 2011, while the statistics presented refer to the calendar year 2010. 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 in June.

The 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 PPS in the period concerned. It seeks to give pointers for the future handling of complaints and I also give information relating to my own activity during the year. Of particular note is that my Report provides a key measure of public accountability for the PPS.

In general, the period concerned was a time of considerable flux for PPS. There have been many changes in personnel and responsibilities at senior level. Added to this, I have been aware of the very high degree of politicising of PPS as a result of the bedding in of Devolution, and of the appointment of the Attorney General for NI and later of the Minister for Justice. Consequently, there has been significant public debate around Criminal Justice matters.

Despite all these pressures, PPS continues to pay careful attention to Complaints Handling, and also to the ways in which the lessons learned contribute to improved service. I have nevertheless encountered a number of systemic inefficiencies during the year, but fully recognise and accept that the internal Review of Complaints Handling will, when implemented, solve most of these difficulties. One issue which I was particularly concerned about was the discovery that my fifth Formal Report for 2009 was not distributed in the agreed fashion; I believe that this was a much delayed opportunity at a time when it has been crucial to ensure that the role and performance of PPS in this aspect of its work is well understood.

I am happy to confirm to you that PPS continues as an organisation that attracts an extremely low incidence of complaints, even though we agree that one 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

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BACKGROUND

This is my sixth 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 2010 to 31st March 2011. Statistical data however has been drawn from the calendar year 2010.

The Report provides information on Handling Complaints within PPS for the period concerned, and in comparison with previous years. It provides information also on my work as the Independent Assessor. There is an emphasis on promoting and reflecting on improving the service PPS provides to its stakeholders, that arises from the processes of Complaints Handling. Of note is that my Formal Report provides an important contribution to the public accountability of PPS.

The timing of my Report for the calendar year 2010 at 31st March 2011 takes account of the fact that the Director reports on the activity of PPS on an annual basis in June. My publication date permits the 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 2010 in June 2011.

Note:- The following paragraphs are as noted in my previous Formal Report. They are important in defining the overall Complaints Handling Process in PPS. They are therefore repeated here to facilitate the reader.

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 are made with other types of enquiry when a prosecutorial complaint/request for information, reasons or review, or a Freedom of Information query is involved. These are dealt with under separate arrangements.

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 at regional or central levels. If at this stage, the complainant remains dissatisfied after the conclusion of the complaint which must be in writing **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. At the first, second and third tiers, a written complaint must always be acknowledged also in writing by PPS within **five** working days of receipt.

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, after immediate receipt and/or at any time, if there appear to be non-prosecutorial elements connected with a complaint or request. 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 in the system that the Director places on a thorough investigation of all complaints.

A complaint can in practice be accepted directly at the second tier, but if so, it must 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 - where it may be desirable to accelerate the process, and so bypass the second tier.

Concluding responses are given in writing, at the second and third tiers, and these may be where necessary by face-to-face meetings and discussions with complainants. The Director has made it plain to all staff that every complaint must be treated at every level seriously, in a timely fashion and with due consideration; and 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. Nevertheless, the PPS have adhered to an unrealistic target for concluding second tier complaints within **fifteen** working days. I believe that this figure is generally unattainable in most cases. Whatever else, the Director has made it plain that the processes employed must be of the highest standards of excellence.

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, as well as to improve the overall service PPS provides, and at every level.

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 about 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

The right that I have been given to **audit complaints** which are received and concluded by PPS and which are never referred to me at the third tier, is unusual for independent complaints assessors/examiners. The granting of this remit 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 2010

During the twelve-month period 1st April 2010 to 31st March 2011, I have concluded or in so far as it is possible to do so part concluded, **five cases**. During the year also, I received a Freedom of Information Act request. This sought personal contact information for all those persons who had come to me over two years with complaints. On the grounds that my contacts with individual complainants relate to Court proceedings and further are entered into on the understanding that there is full confidentiality in their relationship with me, I had no difficulty in refusing the request. I should point out incidentally that I do correspond with complainants in such a way that there is nothing to stop **them** publicising what I have written.

Two further complaints have still not been concluded from previous years. As there has been no further movement in these cases, I now regard these as closed.

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

- The **first** complaint began on 10th May 2010, and was concluded on 1st July 2010
- The **second** complaint began on 26th May 2010, and was concluded on 2nd June 2010
- The **third** complaint began on 1st November 2010, and was concluded on 1st December 2010
- The **fourth** complaint began on 1st December 2010, and was concluded by me on 15th December 2010
- The **fifth** complaint began on 26th February 2010, and remains to be concluded

In the following paragraphs these cases are described in more detail.

The **first** complaint was a complex case which involved alleged wrong doing in the workplace of a former employee of PSNI. The complainant had taken related complaints to the PSNI and to the Police Ombudsman. He had come to the conclusion that there had been an attempt inside PSNI to pervert the course of justice. He felt that the PPS should investigate this. By the time he had contacted PPS he had also taken the matter to internal PSNI appeal, to the Police Ombudsman, and to the NI Human Rights Commission.

The process of engaging with PPS had begun in October 2008, and this matter seems to have rather ‘rumbled on’. In point of fact, my investigation discovered that PPS had not picked up clearly stated misperceptions in this whole matter about the role of the PPS, and how it could respond in such matters. That this was the case meant that the complainant and the PPS were communicating ‘past each other’ back and forth into 2010. Requests for additional information by the PPS from the complainant in relation to his appeals to PSNI and the Police Ombudsman were ignored by him, and so in addition to the misperceptions between the complainant and PPS, the latter was unable to progress the matter in other ways.

This was a clear case of two way mis-communication, which had the result of prolonging a complaint process which should not have been started in the first place. In the end, an explanation was given to the complainant in a letter dated 1st June 2010 from senior management in PPS.

This complaint resulted in a Recommendation from me to the Director that an apology should also be made to the complainant. I have heard nothing further on this matter from the Director.

The **second** complaint turned out not to have been entered into the PPS Complaints Handling Process. This fact was not instantly evident from the very large quantity of material sent out by the individual concerned to PPS and to me. On careful study of all this material it became evident that the would-be complainant was confused about the respective roles of the different institutions in the criminal justice system. He had indeed written to the PPS for information, which had been speedily provided in response. In effect he had complaints about a barrister in his case, as well as against others who were involved, but he had no complaint about the PPS. I was able to steer him in the right direction, with suggestions on how to access appropriate other institutions.

In this case, it might be thought that I was stepping outside my remit. **I take the view however that my role includes helping complainants to obtain satisfaction, and if they believe wrongly that the PPS can provide it, then the would-be complainant should be clearly advised, and channelled to the correct destinations.** As there had been no problems with the contact the complainant had had with PPS, I had no recommendations to make in this case.

The **third** complaint was from an individual who, as the result of an action by a youth, had crashed his car and had then apprehended the fourteen year old by citizens arrest. When the matter had been dealt with by the PSNI, the complainant found himself prosecuted, and the youth had not been charged. Fundamentally, the complaint was about a prosecutorial decision, in which I have no remit. However, my investigation made it clear that there had been little attempt to explain the prosecutorial decision by the prosecutor concerned, and no reference had been made to the Code for Prosecutors. This excellent document, which has been the subject of several recommendations in my previous Formal Reports, and which is written in clear English, was not called into play in this case. If it had, the complainant, while still not being happy about what had happened in his case would at least have had the means in his possession to understand why he was dealt with as he was.

I made **two recommendations** resulting from this complaint to the Director. The **first** was that the appropriate Senior Prosecutor should be asked to write a proper, clear and full explanation to the complainant, making appropriate references to the Code for Prosecutors. My **second** recommendation was that all senior prosecutors should be reminded of the importance of writing clearly, fully and appropriately when corresponding with PPS stakeholders who seek information, or who are complainants. To date I have heard nothing further from the Director in this matter.

The **fourth** complaint was from an individual who had been prosecuted, but who believed that various institutions around the criminal justice system, including the PPS, had conspired against him. He also took the view that there were other persons whom he believed were wrongdoers and whom he wished PPS to bring to justice. He sought the involvement of his Member of Parliament.

Essentially the complainant had originally been prosecuted for breaching a non-molestation order. He brought his complaint to PPS in writing, by telephone and presented himself in person, unannounced. In the process of the latter, he accused a prosecutor of being a liar. In addition, he had managed to obtain multiple telephone numbers for PPS staff, whom he subjected to combative calls. When he complained to me, he took the view that the Regional Prosecutor had not spoken with him in a courteous manner. In the accounts given to me of what took place, there was no evidence of such lack of courtesy, and in fact the tone used had been positive and helpful. The Regional Prosecutor concerned spoke to the individual by telephone and explained matters to him, and then wrote with a clear, restrained, courteous and well presented explanation.

As a consequence of this complaint, I was able to write to the Director telling him that this matter had been dealt with by PPS correctly and that therefore I had no recommendations to make in its context. Accordingly I did not accept any element of discourtesy by the Regional Prosecutor had existed. In fact when I wrote to the Acting Director in this case, I was able to describe the way the complaint had been handled as 'having been conducted in an exemplary manner'.

The **fifth** complaint involved a person who had been prosecuted, but who believed that the case had been lopsided against her. Essentially, she had sought a prosecutorial review. However there was an allegation that a communication from the complainant had not been acknowledged. This complaint is still in process.

In all of these cases, it has been evident that there has been something for me to investigate, or alternatively things have not been particularly clear, thus necessitating me in each case accessing files in PPS. But in addition to those cases, there were a number of other references to me which it was evident should be directed elsewhere, or which had come prematurely to me. In all such instances I have ensured that the persons so enquiring have been directed to the appropriate place in the system.

Also as noted I received a request under the Freedom of Information Act. How precisely I am subject to the Act has yet to be tested, but as previously, I have no hesitation in complying with the Act on the assumption that I am fully subject to its tenets. In this case an enquiry from a lobbying group sought the names, addresses, and other personal information about all those who had brought enquiries to me to date from 1st January 2009. My answer took cognisance of the fact that in every case there were court cases either directly or indirectly arising, or that such actions had been, or would be considered. I also noted that in all cases, those who complain to me are assured of a totally confidential process so far as I am concerned either on the

facts of, or actuality of, a complaint. This extends to keeping confidential the fact of the existence of a complaint attaching to a person.

I have a formal role to audit all complaints made to PPS during the course of the year, and not simply to see those that reach me at the third tier of the Complaints Handling Processes. This is still a privilege that is not accorded to many Complaints Handlers/Assessors in these Islands, and is highly sought by them. However, it also provides for the Director PPS a regular, independent window into how complaints are being dealt with in PPS, as well as an overview to the Independent Assessor to add to his third tier experience, and so better inform his comments annually to the Director. For the period concerned with this Formal Report, I have as promised previously, given particular and detailed attention to the Audit in 2010.

Accordingly, my sample in 2010 was 100% of the 66 complaints dealt with by PPS at the second tier of the Complaints Handling Process in my audit. This has provided me with a picture which indicates that in general PPS is dealing with such complaints as arise to a high standard. There are however many administrative lapses in correct procedures in dealing with these complaints. Such lapses as have occurred relate in the main, but not totally, to the central recording of complaints. In short I regard these as serious inefficiencies which prevent proper control by PPS management of the internal Complaints Handling Processes.

In my Formal Report for 2009, my second Recommendation was 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. I am pleased to report that an internal Review has been concluded. In the process of the Review I have been asked at two distinct phases of completion for my views. This is referred to elsewhere, but at this point I am happy to confirm that it is my opinion that the shortcomings arising from my audit are substantially and effectively addressed in the Recommendations advanced by the internal Review. It is my understanding that PPS Management Board and senior management are currently considering the Review, which is extensive and involves giving effect to 19 Recommendations.

COMPLAINTS HANDLING in PPS DURING 2010

The accumulated database now has five complete years upon which to base comparisons, judgements and comments about Complaints Handling in PPS.

In 2010, PPS logged 66 complaints at the second tier, compared with 49 in 2009, 41 in 2008, 28 in 2007, and 39 in 2006. In addition, there were 107 requests for review/information/reasons during 2010, compared with 109 in 2009, 137 in 2008, 115 in 2007 and 126 in 2006. The full case-load for 2010/2011 in PPS was in excess of 74,000, which represents a rise in the number of cases over the previous year of around 9%, as against a rise in the number of complaints of around a third at the second tier.

Despite the percentage rise in the number of complaints logged at the second tier, 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. 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. Also, a low incidence of complaints must never lead to the complacent view that there is never any 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, not least as the essence of the complaint is of all consuming importance to the complainant. I know that the Director and Deputy Director, and those in acting capacities 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. I can confirm that this approach is generally shared throughout PPS in this matter.

In response to my comments in previous years, I am aware that the PPS Team at top level have been at pains to ensure that management at all levels are made regularly aware of the importance of good Complaints Handling. Regular mention I am informed is made of complaints at monthly management meetings with Regional Prosecutors and other Assistant Directors. This is vital good practice, and consideration should be given to continuing consistent efforts on these matters.

Despite all this, an analysis of the very few complaints with which I have had to deal with at the third tier in 2010 along with the analysis of 100% of the cases dealt with at the second tier 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 recording complaints than should be the case. Clear thinking about, and awareness of, the established procedures – which are really not complex and have a rationale based in logic – need constant emphasis to raise awareness in order to eradicate more of the complaints that do arise. In particular it is evident that recording centrally what is happening at the second tier is lacking in too many cases.

This is particularly evident in the initial acknowledgement of complaints, where the standard is to ensure that this is done within five days of receipt. In fact, it is the case that the central record shows that in 2010 only **SEVEN** out of 66 cases were acknowledged within 5 working days – **a totally unacceptable achievement**. In 2009, the figure was considerably better than this at around 60%, but nonetheless was then unacceptable.

This issue along with the unrealistic target that complaints must be dealt with within 15 days, has been addressed in the Review of the internal Complaints Handling Process (which I deal with in the next chapter of this Report), where I believe that an appropriate and effective solution has been recommended.

It is now possible to make comparisons over the past five years about the nature and outcomes of complaints that are centrally registered at the second tier of the Complaints Handling Arrangements. The general figures over the last five years are as follows:

Outcome of Complaint/second tier	2006	2007	2008	2009	2010
• Upheld		9	4	8	12
• Partially upheld		5	0	3	2
• Dismissed		10	5	12	19
• Resolved informally		1	0	0	1
• No action required		12	15	5	3
• Apparently incomplete		2	4	13	25
• TOTAL		39	28	41	66

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 once again only **five** of the complaints arising at the second tier of which there were **66** (or 7.5% in 2010, 10% in 2009) were referred on to me at the third tier as was the case in 2009.

I note a number of obvious points that arise. In 2010 there were of the order of 74,000 cases for decision, while in 2009 there were of the order of 68,000 cases in PPS. It is reasonable to note the equivalent rise in the number of complaints taken to the PPS and indeed the number of complaints rose from 49 in 2009 to 66 in 2010 – a percentage rise of just over 33%. 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 less than 0.25%.

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 remains undoubtedly an organisation which gives rise to a very low incidence of complaints at all levels.**

It must be noted that the number of cases at the first tier will never be capable of measurement, unless disproportionate bureaucracy is applied, and this must be resisted. This is due to the fact that the vast majority of encounters at this level are sorted out before ever developing into a complaint – that so few of these encounters result in second tier complaints is a very great tribute to the effectiveness of PPS front line staff.

I can report no complacent tendency evident in PPS even though the organisation attracts such a low incidence of complaints. It is sobering to continue to note that in PPS, of the relatively few complaints that arise, a high proportion of those that were centrally logged and have been completed were **upheld/partially upheld** (20% in 2010 and 33% in 2009. This compares with 27% in 2008, 36% in 2007, and 14% in 2006 that were upheld or partially upheld. A proportion of this magnitude is of vital importance not only to the complainants concerned, but also for those who handle complaints within PPS, and is another indicator of how important it is to have a proper Complaints Handling Process 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. In all cases, whether upheld or not, there has been scope for at worst incorrect action towards a complainant, or at best a mis-understanding by the complainant.

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 Complaints Handling in PPS. **It is vital now to ensure that every complaint or request from a stakeholder in writing at any level is acknowledged within five working days.** This target appears to be seldom achieved.

In so far as dealing with the substance of a complaint is concerned, the minimum standard that must 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 been achieved. The PPS literature states that PPS –‘will normally seek to make a full response within 15 working days’ - in 2010 only 11 cases were concluded within this timetable. This is simply not a realistic target in most cases. A complainant should be given an appropriate timetable at the start of his/her particular complaint, and if this needs to change the complainant should be told at once. I am pleased to confirm that the Review of the internal Complaints Handling Processes has dealt with this matter with an appropriate recommendation.

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 may be acceptable 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.

Additionally there is an increasing need for reference by prosecutors, in cases where there have been complaints, to the existence of the relevant PPS Codes and Policies. During 2010, these have been further complemented with new guidance documents. I have pointed in particular 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 an authority independent of the prosecutor concerned.** I would however like to see yet more, and more frequent, mention of and reference to the relevant Code as standard practice particularly where there are questions raised about Complaints Handling Processes in PPS. **I have to report that in 2010 there was almost no mention of these important documents in the conclusion of complaints at the second tier when I carried out my audit for 2010.** I regard this as totally unacceptable, however excellent the text of letters sent out – which were in general otherwise of a very high standard. In order for PPS staff to demonstrate a thorough approach, it is of real value for an individual prosecutor, however eminent or senior, to provide independent sources. In an increasingly cynical world, I believe that this is an important protection for any professional person of which to take advantage. It is very easy to refer to the key document when it is so readily to hand and so readable for the lay person. **In fact I find it difficult to understand why prosecutors would not seek to utilise these excellent documents.**

There are excellent leaflets available relating to PPS Complaints Handling Processes and also to the way I operate the independent third tier. Specific reference should also be made to these aids. Copies of the PPS leaflets 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?

In relation to the leaflet provided to explain my role, I did not find in my audit one single mention of my role, let alone of the leaflet itself being issued. This is unacceptable. If PPS is to continue to have a three tier Complaints Handling System, it is essential at the very least that on the conclusion of a complaint at the second tier, reference should be made to the existence of the third tier to which a complainant has resort if he/she remains dissatisfied. I hasten to point out that in no sense should the Complaints Handling Processes conducted within PPS or operated by me be promoted as such. But equally, no-one should feel excluded from the Processes; all three tiers must simply be clearly accessible to all stakeholders.

Once again, planned workshops on the Complaints Handling Processes did not in fact take place in 2010, as had been the case in the previous year. This was for a variety of reasons, which I understand and accept, including an unusually high change rate within the cadre of Assistant Directors, and other senior management. It was also agreed – and I concurred with this view - that it would be more sensible to await any new or revised structures arising from the Review. I have been assured that matters to do with the Complaints Handling System were raised regularly and discussed at Regional Prosecutor Meetings during the audit period.

I continued in 2010 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 continue to do so both independently, and through the British and Irish Ombudsman Association (BIOA), and the UK Inspectorates Forum, and I am grateful indeed for the support that PPS gives me, thus enabling me to attend at appropriate workshops and working meetings of colleagues carrying a similar remit.

During 2010, I have had formal and informal meetings with the Director and the Acting Director as required by my formal remit, but it is a further measure of their commitment to the Complaints Handling Processes that they have been willing to meet me informally whenever requested. I thank the Director (and the Acting Director) for the ready access and support provided.

My operational relationship with PPS is conducted through regular contact with the Acting Deputy Director, Mr Raymond Kitson CBE, on both a formal and an informal basis. I have to say that he is readily available to discuss matters with me, and I thank him for this open access. In addition I link with Mr Peter Grant, the Departmental 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.

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 out 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 incidences 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.

My final comment in this chapter is to note that for the vast majority of cases, the ways in which PPS deals with complaints remains creditable and commendable. It is however five full years since the PPS was formally set up in June 2005. Accordingly the internal Review to which I have made reference, and on which I comment in the next chapter of this Formal Report, is timely indeed. The Recommendations for modification and early implementation are therefore most apt at this time, and I am aware that PPS Management Board and Senior Management Team are giving consideration to the Recommendations the Review contains.

REVIEW of PPS COMPLAINTS HANDLING ARRANGEMENTS

In my Formal Report for 2009, I recommended that there should be a review of the internal arrangements for PPS Complaints Handling (Recommendation Number 3). The Management Board, taking the view that after five years experience with the current system, duly agreed to initiate a Review involving a small group of three persons chaired by Mr Peter Grant. Quality was overseen by Dr Richard Scullion. This task was completed on time by 31st December 2010 when a Report was issued.

The agreed **Remit** of the Review was to:

- Consider the current internal PPS complaints handling process and guidance, including existing recording mechanisms and monitoring arrangements
- Identify and scope issues around the process, for example in terms of reporting mechanisms, timescales for acknowledgment and completion, escalation procedures, communication to complainants, guidance and training requirements
- Benchmark current polices and processes against other NICS departments and agencies
- Define and evaluate solutions and make recommendations to senior management in line with best practice

It was noted that the Review did not extend to the role of the Independent Assessor or to existing arrangements to do with requesting a review of a prosecutorial decision.

The benchmarking exercise was carried out between the PPS and the Compensation Agency, the Northern Ireland Courts & Tribunals Service, and with the Office of the Police Ombudsman. The Team examined current policies and processes and issues relating to best practice.

In the course of the process of fact finding, analysis, and finalising the Report, the Group sought my views at two points in the process. The final Review is now under consideration by the Management Board and by senior management. I hope that implementation will soon be underway.

Overall, the Report advanced 19 Recommendations for change in the overall arrangements. These Recommendations all seem to me to address the pertinent issues to be considered, and I congratulate the Team on what it has considered and the various solutions it has advanced. The recommendations fall into several categories. **Firstly**, there are those issues which relate to structural matters to do with how stakeholders best access the Complaints Handling processes, who should have responsibility for progressing and tracking the processes, and how relationships with stakeholders who complain should be timetabled in future. **Secondly**, there are those issues which relate to the protocols and philosophies of Handling Complaints through the systems within PPS. **Thirdly**, there are those issues which relate to quality assurance and sound management of the Complaints Handling Processes within PPS.

In my opinion the Recommendations most likely to contribute to improvement are those connected to ensuring that business managers in the various Directorates take responsibility for ensuring the proper passage of complaints through tier two of the Complaints Handling Processes; also, the concept that there should be what might be termed 'essential elements' in letters that are sent out at various stages to Complainants in the Complaints Handling Process, is a most valuable one. This should ensure that the various omissions that I have detected in my audit are less likely to occur. However, all the recommendations are important and will lead to a more efficient system, that can properly be understood, supervised and managed effectively at all levels within PPS.

I commend those who have carried out the Review, PPS for initiating it so expeditiously, and I would wish PPS well for early and full implementation. Doing so will place the Processes in the forefront of good practice as outlined in various publications, and in particular as laid out in the guidance provided by Her Majesty's Government Cabinet Office. Not to do so will continue to perpetuate what I regard as serious inefficiencies that have developed within the current system.

Finally, I have suggested that the role of the Independent Assessor for Complaints for PPS should also be reviewed. However, it has been agreed that in the light of the recent retirement of the Director Sir Alasdair Fraser CB QC, this matter should be left to the decision of whomsoever is appointed as the next PPS Director.

RECOMMENDATIONS

In my fifth Formal Report for 2009, I advanced a set of four Recommendations. The **first** referred to previous years' Recommendations that were developmental, and urged PPS Management to continue to apply emphasis to the matters mentioned in all of these.

The **second** Recommendation related to arrangements being made during 2010 for workshop(s) on Complaints Handling for appropriate PPS managers. These arrangements are now in hand to cover all the elements of the Complaints Handling System as developed as a result of the Review.

The **third** Recommendation proposed the internal Review that has now been completed, and is currently being considered. As already noted the PPS has been swift and effective in its response to my Recommendation in my fifth Formal Report and is to be commended accordingly.

The **fourth** Recommendation related to an examination and review of the timetables relating to acknowledging and concluding complaints and to providing effective responses to complainants in a timely manner. This matter has been found in my audits to be wanting, and again this is so in 2010. However, I am satisfied that all of these matters are very well dealt with in the Recommendations contained in the internal PPS Review of Complaints Handling.

In my sixth Formal report, I now advance a further set of three Recommendations:

- The **first** Recommendation is that the consideration and subsequent implementation of the Recommendations contained in the internal PPS Review is achieved at the earliest possible time
- The **second** Recommendation is that refresher workshops are mounted for appropriate members of PPS staff on the Complaints Handling Processes as soon as possible during 2011 in PPS. These workshops would reflect the requirements of the new processes proposed in the internal PPS Review and should be led by PPS with participation from the Independent Assessor
- The **third** Recommendation is that when the new PPS Director is appointed, he/she should be urged to review the role of the Independent Assessor for Complaints for the PPS. This would include the reporting arrangements for the Independent Assessor to PPS, as well as the question of public accountability in relation to Complaints Handling, including promulgating my Formal Reports.

I now urge the Director and senior management to consider these my Recommendations at an early date.

CONCLUDING NOTE

I was appointed in June 2005, on the date that PPS was formally launched. At that time, the Director specifically charged me with providing the highest possible standards in my work of independent oversight of the Complaints Handling Processes of PPS. I confirm that I continue to 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, which I have made available in PPS. Perhaps even more importantly I have sought to achieve those standards laid down by the guide and criteria laid down by Her Majesty's Government Cabinet Office – see Appendix 2 of this Formal Report. I also seek to achieve the highest standards that are consistent with those expected within PPS.

During the year I was able to specify timetables for my own investigations to all third tier complainants, all of which were achieved within the timeframes I provided.

Last year I made reference to 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 important document reveals and analyses pertinent material that is likely to be relevant to all public prosecution services, and should continue to be noted by PPS. That Report articulated the eight basic principles of an effective complaints system identified by the Government's **Cabinet Office Best Practice** (COBP) referred to above. I shall continue to have these principles in mind as I review the work of PPS. I confirm that it is my opinion that PPS maintains a high level of quality in its work in Complaints Handling. However, there are two of the eight principles which PPS in my opinion does not achieve (see Appendix 2 of this Report). One is the first principle which deals with *publicity*, and the other is the fourth principle which relates to being *informative*.

The Cabinet Office states in its first criterion that a complaints system should be *easy to access and well publicised*. I believe that the system in PPS is generally easy to access, but that the question of being *well publicised* leaves many aspects to be desired. The leaflets provided should be made more available, and should receive appropriate mention in communications with stakeholders who have complaints about PPS. Also, the question of publicising the Formal Report of the Independent Assessor for Complaints for the PPS must be reviewed, as explained above.

During 2010, it came to my attention that the approach agreed with the Director for distributing my Formal Report was abandoned unknown to me. It had been agreed initially with the Director that my Formal Report should be properly published and printed and should then be distributed with a covering letter from the Director to an agreed list of recipients throughout the political, legal and criminal justice systems. I would then distribute copies to other key persons in this and other jurisdictions. In the event, at the agreed time immediately after the publication of the Annual Director's Report, in June only the Attorney General had received a copy of my Report. The many others on the list of recipients did not receive their copy until Autumn 2010.

When this matter came to light in August 2010, copies were immediately sent out by the Director as had been originally agreed. **This must not be allowed to happen again if proper public accountability is to be maintained.**

It should be obvious that the excellent story that the very low incidence of complaints and their generally acceptable processing which is related in my Formal Report for 2009, and again for 2010, should not be allowed to go untold. I feel that the question of whether I should be responsible for the distribution of my Formal Reports should be reviewed by the new Director when appointed.

Like everyone providing a service which is funded under the public purse, I have found it appropriate to review my own call on public funds for the achievement of my remit. One contribution that will lead to a reduction in the costs of my operation is to ensure maximum use of e-technology. Increasingly I now communicate with PPS by e-mail, and while I do willingly receive communications from complainants and enquirers, I do like to ensure that there is a hard copy audit trail for my contact with complainants. In 2011, it is my intention to publish and distribute this, my sixth Formal Report, using e-methods for the most part. This will reduce considerably the cost of printing, while at the same time taking cognisance of Government policy in using e-technology. While this will make only a modest contribution to cost saving, mine is fundamentally a low cost operation, and provides I believe good value to the public in providing an accountability opportunity to the operations of PPS.

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 third 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.

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 running at a level of 74,000 per annum and the incidence of complaints arising of 66 at the second tier, and only 5 cases being referred to the third tier, a highly creditable performance and worthy of note and strong commendation.

Alasdair MacLaughlin
31st March 2011

Appendix 1

The Independent Assessor for Complaints for the Public Prosecution Service

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 Complaints for the Public Prosecution Service of northern Ireland. He is also an Assessor for the CCEA – the curriculum authority in Northern Ireland, and is a panel member of the Industrial Tribunals. He is also an independent self employed complaints examiner. 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.

Appendix 2

Principles of an effective complaints system

Eight basic principles of an effective complaints system have been identified by HM 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.