



**The
Independent
Assessor**

The Independent Assessor of Complaints for the Public Prosecution Service

Annual Report 2022/23

Delivering an Independent and Confidential Service

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About the Independent Assessor

Sarah Havlin was appointed to the role of Independent Assessor of Complaints for the Public Prosecution Service in June 2019.

Wholly independent from the PPS, Sarah is a solicitor by profession, but she has never been employed by the PPS. As the Independent Assessor she is not under the employment of the PPS and provides an independent service through a procured services contract.

Sarah's role is to investigate and report on complaints once they have been responded to fully under the internal stages of the PPS Complaints Process.

In this report, the Independent Assessor has summarised her activities during the reporting period and set out summaries of all complaints investigated by her and their outcomes. She has also conducted an evaluation of the complaint process and a performance audit of PPS complaint handling.

The formal terms of the role and the remit of the Independent Assessor can be accessed [here](#).



*Sarah Havlin
Independent Assessor*

Chapter 1:

Organisational Complaints and Feedback - The Mutual Power of Accountability

Auditing and Benchmarking Method

In my fourth year of reporting as Independent Assessor, I am using the matrix and measures based on the principles outlined in the *'Complaint Standards for Northern Ireland Public Bodies'* as recently developed and published by the **Northern Ireland Public Services Ombudsman (NIPSO)**.

Previously I have reported using the 'Good Complaint Handling Guide' from the Ombudsman Association, both in 2019/20 and again two years later in 2021/22. In 2020/21 I audited the PPS complaint handling system through the lens of 'Leadership' using Dr Brene Brown's assessment matrix from her 'Dare to Lead' programme of testing courageous leadership in organisations. The results of these audits are set out in my previous reports.

It is a useful opportunity to benchmark the complaint handling system of PPS against the new standards developed by NIPSO. PPS is a public body which is intentionally excluded from the remit of NIPSO oversight in terms of its complaint handling. This is for important legal reasons. PPS is a prosecuting authority, and its service complaints can often be a complex blend of issues which often include matters of legal challenge, rather than being straightforward service delivery complaints. For this reason, PPS has embraced a method of independent accountability for dealing with feedback and complaints about service delivery by the creation of the IAC, as a third and independent level of scrutiny in unresolved complaints. The remit of the IAC is the independent assessment of service delivery issues within PPS complaints but it entirely excludes complaints about PPS operational matters which are only legal/prosecutorial in nature (for which citizens must pursue a formal legal method of challenge).

I think it is important for PPS to endeavour to mirror the standards which are set out by NIPSO, despite not having a formal accountability to NIPSO. Comparing the PPS complaint system and complaint handling to the NIPSO model of practice will inform PPS as to how well its own system compares and if the recommended standards set out by NIPSO are embedded in its own practice of complaint handling and assessment.

In using the NIPSO standards and practice benchmarks, I have found that the PPS continues to demonstrate a very positive institutional attitude to complaints. The organisation demonstrates a commitment to open and honest complaint handling,

which is not always common to organisations outside the remit of NIPSO. This includes a designated staff team (the Information Management Team) assigned to managing customer complaints and the feeding back of learning into overall organisational practices.

The data analysis shows that PPS actively demonstrates a willingness to learn from the intelligence contained in each complaint as an indicator of scope for improvements, not just in the context of its complaint scheme, but across its entire operational policy, processes and approach and interaction with its stakeholders. This demonstrates that the organisation uses its complaint scheme as a driver of organisational learning and as part of a quality assurance process of evaluating performance across all of its areas of business delivery. Complaints are therefore not managed in a 'vacuum' but are an integrated part of reflective practice at senior level, and which are used as a positive driver for change.

The Experience of Service Users

Many people who come into contact with PPS will be going through the worst experience of their lives and may, very understandably, have little awareness of anything other than their own experience. Complaints about PPS are often rooted in the distress caused by the intimidating and highly emotional experience of going through the criminal justice system. Some complaints made have a wider focus on the structure and culture of the entire justice system – from police to courts to sentencing outcomes. Much of this is not within the gift of PPS to change alone, nor is it within my remit to assess.

However, I have noted this year that new developments have shown that PPS is up for the difficult conversations about its role in improving the overall systemic experience, particularly for victims of crime with its delivery partners including its engagement with the newly created office of the Victims of Crime Commissioner (VOCC). The Commissioner, Ms Geraldine Hanna, was appointed by the Minister for Justice in this reporting year and this has been an extremely positive development for victims of crime.

Many complaints I receive from the public cannot be treated as complaints because they are legal matters. This can sometimes be related to a disagreement with an outcome of a prosecution decision, and these are managed outside the complaint process under the Code for Prosecutors (more about this below). I have also found that complaints about decisions taken in the course of a prosecution are also often raised with me, such as a victim's perceived quality of case preparation by PPS lawyers and raising questions about decisions taken which they feel were wrong.

Victims and families of victims often feel aggrieved that they cannot use the PPS complaint process to challenge the decision and authority of PPS in how it has approached and managed the course of a prosecution. This year, I have welcomed the ability to sign post people who raise these issues to the new Office of VOCC, where they may find that their concerns can feed into overall systemic reviews on victim experience. PPS have welcomed my interaction with the new Commissioner in respect of my dealings with PPS complaints, and indeed the Director personally invited the Commissioner to our annual workshop on complaints in this reporting year, which was an excellent opportunity to open dialogue with Ms Hanna about areas of mutual interest.

Due to the legal complexity of the PPS work, I often find myself spending more time telling people what I **can't** deal with rather than what I actually **can** help them with. My scrutiny of PPS practice is not limited to the small number of unresolved complaints which I personally assess, but I also annually audit the way in which Stage 1 and Stage 2 complaints have been handled internally through random sampling and case studies across all complaints lodged with PPS.

Many service delivery complaints are focused on how PPS has interacted and communicated with people, and how its systems and staff have made people feel. These complaints have often provided very constructive and insightful feedback, the raising of which has been motivated by people with inquiring minds and those who wish to use their own negative experience in order to improve user experience for others.

The Response of PPS

In all cases assessed and audited this year, I have found that PPS actively listens to all complaints equally, provides a complaint system that is well structured and enables the voice of the complainant to be heard. I have also found an open and confident organisation in which its people are open and courageous in accepting error and conceding where things could have been done differently.

In this reporting period I have noted many instances where complaints have directly resulted in a change to PPS policy and it is my assessment that complaints are taken very seriously at the top of the organisation. This is not done in a 'blame or shame' manner which seeks to place accountability for error on individual staff, but in a constructive way that is reflective and collective in its acknowledgement of organisational accountability, which is an integral part of a quest for corporate improvement, and always respecting the perspectives of both service users and PPS staff.

The Director of Public Prosecutions has always demonstrated an openness to direct engagement with me in cases where complaints have been upheld and where opportunities for learning can be found. The Senior Assistant Director with responsibility for Corporate Services has implemented several changes to policy and process as a direct result of learning from complaints and improvement recommendations which I have put forward over the last four years.

The PPS approach to complaints is embedded within corporate structures and reporting mechanisms which demonstrates an even stronger commitment to learning from complaints and treating the intelligence gained from complaints as a call to action for process improvements. I have observed a consistent open and curious attitude to learning from complaints across the organisation. This is compatible with the organisation's stated values:

- Independence and Integrity
- Openness and Honesty
- Respect
- Excellence
- Partnership

I have encountered managers, individual prosecutors and the most senior leaders in the PPS who have conceded points quickly, where it was appropriate. I admire the professionalism of staff who are brave and open to recognising that something could have been done better, where an opportunity was missed, where conduct should have been better or when a communication was flippant or poorly executed.

It is often the sign of a dysfunctional organisational culture when staff are afraid to admit mistakes. In the course of my investigations, I have never found any staff at PPS who have been reluctant to admit mistakes or to offer an apology when one is due. I have found that staff, right up to the most senior level, are curious about how their work is perceived by others, especially those who are not used to the legal system and who may find it to be complex and intimidating. PPS staff are always open to reflecting on how their written and verbal communication style is perceived and how it can be improved. I have also found that officials are keen to learn from different perspectives and they look for areas of common ground in a complaint, that they concede points where they can, and show willingness to do this at the earliest stages of dealing with a grievance. Considering the combative and adversarial nature of the criminal justice system in which they are working, this candour is even more admirable.

Measuring and Evaluating

My evaluation of the PPS complaint process contained in the following chapters of this report is not simply limited to measuring the performance of a process-based system

according to the efficient processing of the number of complaints received, in a purely quantitative transactional manner. It is more important, in my view, to conduct a quality assessment of:

- How people feel and experience the complaint process. This can be difficult to measure as feedback questionnaires have historically shown a very low response rate but I have picked up on some anecdotal feedback from service users contained in communications with complainants and I have evaluated the language and tone used in communications and front facing messaging.
- Whether the process is principled, consistent and fair.
- How PPS responds to upheld complaints in terms of being a reflective organisation, one which can honestly evaluate the feedback from a complaint as a tool for continuous improvement. This can be measured against organisational responses to upheld complaints.

Complaints are an extremely valuable tool in the overall analysis of quality assurance and the information contained within complaints can help PPS gain insight into how successful it has been in terms of 'living its values' and to inform its continuous improvement agenda as a 'learning organisation'. Instead of limiting the value of complaints as an inconvenient diversion that needs to be closed down quickly or only useful as a warning to management about how things can go wrong, a strong organisation understands that complaints contain rich intelligence which enable the organisation to 'stress test' the strength of its culture and values, to feed into the analysis of overall organisational performance and to gain insight into how willing its people are to embrace a culture of candour, accountability and continuous improvement.

The PPS team responsible for complaints not only handle and manage complaints, but who also record and analyse the data in terms of themes, business locations where complaints arise and the overall numbers of complaints over a five year period for comparative analysis. This is an excellent management method to use complaints effectively as part of an overall quality assurance audit, because it enables leaders to identify any concerning trends in numbers of complaints and repeat problems in certain contexts; for example delay, communication and case handling. Further the complaints are tracked across business areas which may be experiencing unusual numbers of complaints. This use of data analytics allows the senior leadership of the organisation to immediately see any areas of concern and to respond accordingly.

It is also very encouraging for the public to see that the PPS has developed comprehensive Prosecution Quality Standards in which it is stated that complaints

enable the PPS to continually strive in providing high standards of service. The Director states within the Quality Standards:

‘Your comments are important as the information you provide helps us to put things right if they have gone wrong and to improve the overall standard of our service over time’

In my experience of auditing PPS complaint handling, and particularly the management response to upheld complaints, this statement from the Director is genuine in practice, as well as being a stated position. It is not merely a statement which has been declared without intention.

I have compared the user experience within the complaints I have investigated this year and my wider audit of complaints received, in order to test whether the PPS does indeed hold true to these stated standards in the context of listening to complaints and using the learning that comes from them as lever of change and improvement to service delivery. This will be demonstrated in the following chapters which will provide a detailed exposition of the PPS complaint system.

Victims of Crime

It is also important to assess the work done by the PPS to improve victim experience, particularly against its commitment to the Victim Charter – a wider policy of the Department of Justice - and the PPS internal policies on victim and witness care.

Many victims of crime look to the PPS as being their personal advocate or having the role of the victim’s own legal team. This is not the case, because PPS is a strictly impartial organisation acting on behalf of society, not just the individual victim. In bare legal terms, the victim is a witness for the prosecution.

Thus a prosecutor is always balancing a range of factors and different interests, which does of course include victim care, but also includes the need to provide a value for money service to the tax payer, a service which is absolutely impartial, one which upholds the operation of the rule of law and which respects the rights of accused persons to rigorously defend the charges against them as a person presumed innocent until proven otherwise.

These are often very difficult interests to balance at the same time and these complexities in the role of the prosecutor will not be obvious to those coming into the justice system for the first time. The PPS is not a victim’s champion, but this can be a common misperception across society, which often leads to a situation where victims feel ‘let down’ by the prosecution, and this is not always a view that is justified.

I have found that this misperception is a very common theme of complaints against the PPS and often the expectation that some people hold as to what the role of a Public Prosecution Service should be, does not always correspond with its actual legal role within the system. Many of the victims I have engaged with, both this year and in previous years, have struggled to understand the difference and the legal boundaries, between public prosecution and victim representation.

It is also in this area of victim grievance where I find that people struggle the most with understanding the separate and distinct pathways of raising a complaint and/or challenge to PPS. Thus, I want to set out as clearly as possible the two different and separate routes of internal challenge to the PPS which is available.

Complaint or prosecutorial matter?

There are two distinct routes for bringing a grievance within the PPS internal system and these are:

- By submitting a complaint; and / or
- By raising a prosecutorial matter (for example where a victim requests the review of a prosecutorial decision, as set out in the Code for Prosecutors).

There are important legal reasons for the distinctions between them and they are two very different mechanisms:

A '**complaint**' is limited to issues of quality of service and the operation of PPS systems but it does not relate to matters of 'prosecutorial' decision making. A complaint is ultimately escalated to me as the Independent Assessor of Complaints if it cannot be resolved at the earlier stages of the internal procedures of the PPS Complaint Policy.

It should be noted that a 'prosecutorial' decision is a legal issue that has been decided by the prosecutor according to his or her professional judgement during the course of the prosecution.

Prosecutorial matters may be raised by either victims or persons accused or prosecuted for an offence. These are not treated in the same way as a complaint:

A '**request for review**' is the PPS internal mechanism which enables a victim (or their representative) to challenge a decision of PPS not to prosecute. Where a review is to be conducted, the approach will depend on whether or not new information has been made available in connection with the request to review the decision.

If no new evidence or information is provided, the case will be considered by a prosecutor other than the individual who took the original decision. Having considered the available evidence and information the reviewing prosecutor will apply the Test for Prosecution and take a new decision, the reasons for which must be recorded in writing. That decision may be to allow the original no prosecution decision to stand or to direct that a prosecution should now be taken.

Alternatively, the prosecutor may decide that the matter is to be dealt with by way of a diversionary disposal. Where new evidence or information is provided, the review will be carried out by the prosecutor who took the original decision. The prosecutor will consider all the evidence and information now available and will apply the Test for Prosecution and take a new decision.

There are two possible outcomes of such a review:

- It is concluded that the Test for Prosecution is now met and criminal proceedings are commenced (or the matter is dealt with by way of a diversionary disposal); or
- It is concluded that the Test for Prosecution remains not met. In this situation the case will be referred to another prosecutor who will apply the Test for Prosecution and take a new decision.

Full details of the review process can be found [here](#).

It should be noted that this review process does not apply to decisions to prosecute. A defendant who is being prosecuted can ask that the PPS give consideration to stopping a case or dealing with the offence by way of a diversionary disposal. However, any such request will be considered as part of the duty of the PPS to keep all decisions to prosecute under continuing review.

Prosecutorial matters of this kind, whether being raised by a victim or defendant, are distinct from a complaint investigation. The Independent Assessor is **never** able to investigate complaints about the professional decisions and judgements of prosecutors on legal issues as these are purely prosecutorial issues.

Blended Complaints

Whilst I do not deal with or report on the prosecutorial process, it is important to highlight that many complaints present a 'blended' complaint. This is when a complaint has been made in which the context of the complaint involves both these methods of challenge. So, for example, someone might complain, after an incident in which they were an injured party, because the PPS decided not to prosecute the accused person. In the letter of complaint, the person might say that:

- the decision was wrong because there was evidence that was overlooked, and they might also say that;
- the prosecutor was rude, abrupt and patronising to them.

In a *blended* grievance like this, PPS will often refer the whole complaint to a separate senior prosecutor, usually an Assistant Director, who was not involved in the case and who will respond to both the prosecutorial challenge (the decision not to prosecute) by way of a **review** (under the Code for Prosecutors), AND also evaluate the quality of service complaint (the manner and style of prosecutor's communication) as a **complaint** (under the Complaint Policy of PPS).

The matter will be responded to in its entirety by the PPS via its internal stages, **but only the quality of service complaint can be escalated to the Independent Assessor for Complaints if it remains unresolved.**

The prosecutorial challenge has no further stages of escalation within PPS structures and victims or defendants must take their own legal advice if they wish to bring an external challenge to prosecutorial decision making, for example by way of an application for Judicial Review.

If a *blended* grievance like this comes to myself as Independent Assessor of Complaints, I must separate out the prosecutorial matters from the service-related complaints and I will only investigate the service related matters which are within my remit.

Helping People Understand the Difference Between Prosecutorial Matters and Service Complaints

There are legal and policy reasons why the IAC does not have a role in assessing complaints about prosecutorial matters. This is because the decision making of a prosecution authority is highly specialised and legally complex. Only another experienced prosecutor has the required skills and experience to make assessments about prosecution decision making, so it is extremely difficult for others without that experience to make a fully informed and credible assessment. For this reason, the Code for Prosecutors creates a professional internal peer review mechanism to give additional assurance to the prosecutorial decision making process. Other than an application for Judicial Review of PPS decision making, there is no other available method of external and independent assessment of PPS prosecutorial decision making. It is specifically excluded from my remit and, as outlined above, The Northern Ireland Public Services Ombudsman does not have any remit over PPS to evaluate how it has handled complaints or to investigate complaints of maladministration.

I have found that complainants and their legal representatives do not always understand this distinction fully and so I always ensure that this is fully outlined and explained to complainants prior to the commencement of my investigation.

As a result of my previous recommendations, PPS has done quite extensive work on simplifying this issue for complainants. The Information Management Team has provided excellent communications and resources on the [PPS website](#), which can be provided to each complainant at the outset to help them understand and navigate this complex situation. In particular, a separate one page diagram/process map as well as a new and improved guidance to PPS complaints procedures has been produced, which makes the separation of service complaints and reviews of prosecutorial decisions much easier for people to read and to understand.

Whilst there are some limitations on my remit, what I **can** look at on behalf of complainants are important matters of service experience including matters impacting on personal feelings and issues of human dignity which can include:

- How complainants have been communicated with.
- How they have been treated by the PPS.
- How they have been kept informed of the progress of a case.
- How promptly requests have been dealt with.
- How well decisions have been explained, especially to lay people not familiar with the justice system and those who are vulnerable.
- Whether staff have acted in accordance with PPS stated policy and corporate values including the Code for Prosecutors and the Victim and Witness Policy.

Common Themes in Service Delivery Dissatisfaction

In many of the cases which have been referred to me this year, I have found some excellent practice on the part of PPS staff. I have also audited random samples of complaints resolved at Stage 1 and Stage 2 as well as looking into the internal Complaints Action and Recommendations Log.

The most common themes for unresolved distress felt by people such as victims, witnesses and defendants is mainly rooted in difficulties with:

- Communication/Information/Misunderstanding.
- Conduct of the prosecution team including independent counsel
- Delays/Case Handling.

I have found that it is never the case that complaints are caused by intentional disrespect, under performance or lack of professionalism on the part of PPS staff.

Mutual Benefit of Good Complaint Handling

Complaints may begin with a negative experience but in most cases within PPS, they have been positive drivers for awareness raising of the part of PPS staff, particularly in terms of recognising the importance of kindness, empathy and fully embracing the dignity of all people with whom they are engaging and corresponding.

The Carnegie Trust 2018 publication ‘Kindness, Emotions and Human Relationships: The Blind Spot in Public Policy’ by Julia Unwin identifies these issues very sharply:

‘As our society becomes more transactional and we communicate with our smart phones at least as much as we do with real people, it is tempting to use a technical or technological response. But we are all frail and complex people, and our actions and responses are shaped by our emotions – our history, our expectations, our sense of power – as much as they are by a rational assessment of the issue. And at times of vulnerability and weakness, just the time at which most of us experience public services, our need for a kind, human and emotionally astute response is the greatest.’

I am very pleased to see a trend towards resolving complaints as early as possible, a genuine care and human touch in the communication and approach of complaint assessors. This year, because of the first principle of the NIPSO Complaint standards being ‘*Fix It Early*’, I have paid particular attention to the complaints that do not reach me and, instead of a sample, I audited 100% of the complaints which were resolved at Stage 1. I also noted that **more complaints were resolved informally this year than ever before and I noted that there was a more proactive approach to early engagement and attempts at informal resolution.**

It must also be remembered that this audit concerns a period when the organisation has been stretched beyond capacity to deliver its critically important services. The post-Covid period has been exceptionally difficult for all involved in public service delivery and this has been acutely the case for those working in both Health and in Justice. Health and Justice are often the two public service delivery areas which most acutely demonstrate the pressures that communities are bearing.

The post-Covid years are proving to be extremely traumatic across communities and there is no doubt that our Health and Justice workers are particularly bearing the brunt of the impact of that trauma and pressure. I personally commend the staff of PPS for their dedication and commitment to the administration of Justice, as well as dealing efficiently with service complaints during a time of extreme pressure and increasingly limited resources. These are working conditions that even the most long serving staff will never have experienced before.

My sense is that the greatest learning for the staff of PPS through the intelligence I have gathered from auditing both the complaint system and complaint management practice, has been the need for kindness and understanding in the handling of people who are emotional and stressed. Whilst PPS interaction with its users must be professionally capable, it must also be shaped and managed by an understanding of the human condition, by emotional intelligence, by the values of empathy and solidarity and an understanding of full humanity.

This kind of rich organisational learning demonstrates that the value of complaints cannot be underestimated as part of an overall quality assurance audit of an organisation in terms of improving culture and making change happen. I therefore wish to thank all the complainants who came forward this year to enable honest reflection on the part of the PPS. Whether a complaint is upheld or not, all feedback contained within user communications is useful to an organisation. I also wish to commend the attitude of the staff of PPS to the complaints made which has been consistently positive and always with a desire to find lessons to be learned in every complaint.

I wish to particularly thank Dr Richard Scullion (Head of Policy and Information) and the Information Management Team within the PPS Policy and Information Unit. Whilst I am independent of the PPS, their support is invaluable to the support of my investigations and written reports.

Sarah Havlin
Independent Assessor of Complaints
February 2024

Chapter 2: Evaluation of How Well the Complaint Process Works

Background

The PPS has a 3 tier complaints process which is detailed within the complaints policy. PPS staff endeavour to resolve complaints at the earliest possible stage which is processed in stages:

- Informal/Local Resolution.
- Stage 1 Formal Assessment .
- Stage 2 Formal Assessment.
- Complaints unresolved at Stage 2 are escalated to the Independent Assessor of Complaints (IAC), who can review a complaint at the request of a complainant and report their findings to Senior Management.

Guidance on the PPS Complaint Policy can be found [here](#).

Independent Oversight and Assurance

The Northern Ireland Public Services Ombudsman (NIPSO) does not have any oversight role in the assessment of complaint handling by PPS, nor is there a basis to bring a complaint about PPS in the context of maladministration via NIPSO. PPS is therefore the exception to the norm in public sector organisations. However, **this does not mean that PPS is subject to less accountability oversight than other public bodies.**

In addition to accountability oversight and external auditing of PPS by the Department of Justice, further independent oversight of PPS operations is carried out by The Chief Inspector, Criminal Justice Inspection (CJI) who provides regulatory oversight by way of themed reviews on how PPS is performing. Furthermore, the newly created Office of the Victims of Crime of Commissioner listens and actively responds to victim experience in the criminal justice system and reports directly to the Minister and Department of Justice. Both of these independent oversight bodies can make recommendations for change and improvement at Departmental policy level.

The IAC provides a different kind of independent input to PPS. It has no statutory role or powers but can carry out a third-tier independent review and audit of service user complaints with a focus on:

- Resolution of unresolved complaints by the invitation of independent scrutiny.

- Promoting the learning and development opportunities which can be derived from upheld complaints as part of the PPS continuous improvement cycle.

The IAC must exclude herself from assessing prosecutorial/legal decisions of PPS and instead focus on finding out how PPS can restore confidence in its service delivery by responding appropriately and proactively to valuable feedback which may be derived from the service delivery aspect of complaints.

By the time it comes to my attention, a complaint about PPS will have been investigated and assessed by two different PPS senior managers at Stage 1 and at Stage 2. If, after the PPS has given a properly considered view, differences remain between PPS and the complainant, I will often try and resolve issues. Sometimes there are new heads of complaints at this point which are rooted in perceived shortcomings in how the complaint itself was handled. Sometimes a complainant may have an unrealistic expectation or an incomplete understanding of his or her rights and responsibilities and may wish to persist against all the evidence.

Whatever the individual circumstances in each complaint, it is vital that complainants have confidence that issues will be considered impartially, on their merits and that independent judgement will be brought to bear. In this regard the creation of the role of the IAC by PPS as a final stage in their complaint process is to be commended. It is a model of good practice of openness and a recognition of the mutual power of accountability for both service user and service provider.

According to the *'Guide to Principles of Good Complaint Handling'* by the Ombudsman Association, the best complaint schemes are *'firm on principles, flexible on process'*. This guide was a key measuring matrix in my previous assessments of the effective operation of the scheme of complaint handling in PPS. The lessons learned included discovering that the needs of people and resolving differences should be the core focus of building a good scheme, rather than building a scheme which is overly formulaic and a slave to processes. The success of a scheme is not measured merely on how well it is structured, but primarily on the quality of the underpinning values and principles which enable those managing the scheme to evaluate and solve problems.

Complaint handling takes a common shape in most organisations. Most schemes follow familiar basic stages:

- Receipt of complaint.
- Providing an initial response.
- Trying to resolve a complaint as quickly as possible.
- Carry out an investigation which makes conclusions.
- Feeding the outcome of systemic findings into improving practice.

The process, of itself, cannot deal with complaints efficiently without underpinning key principles to support the pathway to resolution. The matrix I have developed for this year's assessment is a similar principle based approach but is based on that which is set out in the best practice model developed by NIPSO under its recently published '*Complaint Standards for Northern Ireland*'.

Like the Ombudsman Association, NIPSO has set out a statement of principles for good complaint handling. It is stated that these principles are '*not a checklist to be applied mechanically*'. The Statement of Principles are overarching basic principles that the complaints handling procedures of public bodies should reflect and comply with.

Therefore, my audit of PPS this year is to compare the evidence of PPS complaint handling and its underpinning framework against these six core principles, which are:

- **Start off right.**
- **Fix it early.**
- **Focus on what matters.**
- **Be fair.**
- **Be honest.**
- **Learn and Improve.**

PPS Complaints: Audit Results Under The NIPSO Six Standards

NIPSO Standard 1: Start off right

Evidence assessed:

- Structure of Complaints Team.
- Resourcing and Support.
- Documentation in 100% of all complaints resolved at Stage 1 or earlier by PPS internal complaint assessors.
- Complaints Log for Senior Leadership Team.

Conclusions:

- There is effective leadership and governance of complaints.
- PPS creates a culture which embraces complaints.
- Staff are equipped and appropriately trained to handle complaints. All PPS staff participate in regular mandatory training in areas such as section 75, disability awareness, unconscious bias etc. Staff have also participated in additional training, focusing specifically on complaint handling and dealing with difficult situations. IAC

workshops have promoted best practice / positive behaviours and the sharing of ideas within the Service.

- Complaint handling is managed under a well-structured and time bound complaints process.
- There is clarity of process, roles and responsibilities.
- PPS provides a clear point of contact in its designated complaint management team.
- Complainant's expectations are managed and complaint response are very comprehensive in all cases.
- The complaints team sets and measures targets for ensuring effective and timely communication.
- Complaint assessors sometimes signpost complainants to advocacy and support services, where appropriate, but there is scope for improvement and I have made a recommendation in this context.

NIPSO Standard 2: Fix it Early

Evidence assessed:

- Records in 100% of all complaints resolved at Stage 1 or earlier by PPS internal complaint assessors.
- Upheld complaints – responses and actions.
- Early Resolution attempts.

Conclusions:

- PPS endeavours to address complaints early and acknowledges mistakes where possible.
- Complaint handlers provide an apology, where appropriate.
- Complaint handlers provide prompt, appropriate and proportionate remedies (within the limitations of the scheme).
- Consideration is given to alternative methods of resolution, although this is not always achievable particularly in complex and sensitive prosecutions.

NIPSO Standard 3: Focus on what matters

Evidence assessed:

- Internal complaint response letters.
- Resourcing.
- PPS equality policy and promotion of access to complaint process.
- Training and development of staff.
- Stakeholder Engagement Forums.

Conclusions:

- PPS puts the complainant at the heart of its process and considerable effort and resourcing is invested in complaint handling.
- PPS accommodates different complainant's needs, where possible, for example alternative formats and translation services can be provided on request.
- PPS complaints team members help the complainant access and use the procedure.
- Staff in both functions of administration and complaint assessment, listen to people with respect and treat complainants with dignity.
- The scheme provides a safe, secure and confidential service.
- Examples show that staff inform complainants if timescales cannot be met and why.

NIPSO Standard 4: Be fair*Evidence assessed:*

- Complaint Responses.
- Data on Response Targets.
- Public Facing Documents and Guidance.
- Staff training and development.
- Internal Audit Report.

Conclusions:

- All investigations are fair and in accordance with applicable law policy and guidance.
- IAC referral is clearly stated in all Stage 2 responses, thus PPS provides impartial and objective complaint handling where possible and within the limitations of its role as a prosecution authority.
- PPS endeavours to deal with complaints within the agreed timescale and target achievement is measured.
- 100% of all complain responses showed a thorough and proportionate investigation of complaints.
- PPS always delivers complete, comprehensive and appropriate complaint responses.
- PPS complaint responses show clear and evidence-based outcomes.
- Complainants and staff complained about are always treated fairly.
- The scheme is well managed by the complaints team which ensures consistent practices across the handling of all complaints.
- PPS provides alternative formats on request. This is stated in all publications and applies across all document types, policies (e.g. the Code for Prosecutors),

guidance for service users, statistical bulletins etc. A request for the Complaint Scheme in a different format has never been made.

- A significant achievement was noted in the PPS Audit cycle by the Department of Justice. PPS achieved a satisfactory assessment of its complaint handling scheme without any recommendations, not even at priority 2.

NIPSO Standard 5: Be Honest

Evidence assessed:

- Complaint responses.
- Complaint Log.
- Consistency of Practice – comparative analysis of complaint responses.
- Published PPS standards, commitments, and obligations.

Conclusions:

- PPS is committed to being open and accountable and an entire section of its website is dedicated to raising complaints and giving feedback.
- PPS maintains full and accurate records of all complaints logged.
- PPS always provides full, honest and clear reasons for decisions.
- PPS has published procedures on its complaint system but consideration could be given to developing service standards for handling complaints, and I have made a recommendation in this context.

NIPSO Standard 6: Learn and Improve

Evidence assessed:

- Complaint Responses
- Complaint Action Log to Senior Leadership Team (including learning points and completed improvement actions).
- Reviews of Practice.
- Training and Development .
- Stakeholder Forums.

Conclusions:

- PPS regularly reviews its complaints handling procedures and it is led by a clearly identified team.
- PPS provides complaints handling training for relevant staff and conducts an annual review of learning from complaints facilitated by the IAC.

- PPS cannot publish complaint outcomes for important confidentiality reasons but there is demonstrated use feedback to help improve service delivery and to act on issues highlighted by upheld complaints.
- PPS records, analyses and learn from complaints which is clear from the Complaints Log to Senior Leadership Team.
- It has proved difficult to review the complainant's journey and satisfaction rates as PPS complaints are often very contentious and can be extremely sensitive. Surveys have been attempted in the past with extremely low engagement by complainants.
- However, good use can be made of the PPS Stakeholder Engagement Forum and the new Office of The Victims of Crime Commissioner is a new opportunity for better understanding of user experience, particularly to promote complaints handling networking opportunities with major stakeholders.
- PPS has a Stakeholder Engagement Forum and after my report last year, the Director suggested that the IAC could be included in the SEF meetings as a method of promoting awareness of the PPS. I have recommended that this idea should be implemented to give the IAC direct access to a wide range of stakeholder groups, reflecting different perspectives and interests. I have made a recommendation in this context.

Anonymous Complaints

PPS has a stated policy on its approach to managing anonymous complaints and whistleblowing complaints. The PPS has a robust whistleblowing procedure which covers both PPS staff and members of the public. Relevant guidance is available on the PPS website.

Anonymous reports will of course be investigated, but the preference is always for individuals to come forward so that we can ensure we have full details of the incidents reported and are in a position to provide feedback.

Chapter 3

Complaints Referred to the Independent Assessor

The Position in 2022/23

In this reporting year it is noted that I dealt with a total of 8 complaints reported to me by individuals, all of which were assessed by me as being out of scope and could not be assessed either in whole or in part by the IAC.

- **Upheld/Partially - 0**
- **Not Upheld - 0**
- **Withdrawn - 0**
- **Out of Scope - 8**

This was an unusual situation in my four years acting in the IAC role. In previous years, there have been a number of complaints each year which I have accepted and fully assessed (either wholly or in part), resulting in either upholding or not upholding complaints. In this reporting year I did not accept and fully assess any complaints, but instead I was involved in liaising in 8 matters with dissatisfied service users that were outside my remit under the PPS complaint policy.

The issues raised included matters such as:

- dissatisfaction with a prosecution outcome at court.
- continuing dissatisfaction with the correctness/fairness of decisions not to prosecute.
- an allegation of corruption of officials and deliberate mishandling of a prosecution in court.
- the retraumatising nature of the application of the prosecution test in sexual offences cases.
- the legality of disclosure access.

It should be noted, as per the statistics in **Annex 1**, that this year saw a significant increase in the number of requests for review of prosecution decisions. This noticeable spike in the number of cases going through the review process can perhaps explain why the IAC was contacted more frequently about issues which are not 'complaints' but which are in fact legal matters which can only be dealt with under the Code for Prosecutors or by way of formal legal challenge. It also suggests that this was a more challenging year for the PPS in terms of the totality of grievances raised by victims, whether they be complaints or challenges to prosecutorial decision making.

As a result of the high number of matters coming to the IAC which were legal and/or policy matters, including reviews under the Code for Prosecutors, I undertook extensive engagement with the Head of Policy and Information at PPS to examine the possible causes of this trend and I included this area for further reflection and staff training at my annual complaints training workshop with all Assistant Directors and Branch Heads.

Training Workshop

Several recent cases where victims have been dissatisfied with the outcome of their request for review (i.e. where the no prosecution decision has been upheld) were fully discussed with a view to improved handling and awareness raising to manage expectations of the public and to avoid wasted time and resources on matters which were not appropriate for the IAC, but which presented as challenging unresolved situations with service users. This included:

- increased use of face-to-face engagement.
- improvements to drafting and style of written responses.
- developing easy read resources to explain complex issues and use of sign posting to other routes to remedy outside the complaint process (such as the Victims of Crime Commissioner).

It was noted that several complaints were nominally submitted to the IAC in respect of service delivery / case handling issues, but in effect the complaints were used as a mechanism to extend the aggrieved person's line of questioning about a 'no prosecution' decision. The cases were escalated through the PPS complaints process and considered by the IAC as being out of scope. The Stage 2 responses, whilst comprehensive, had not resolved the conflict and the continuing correspondence added a significant additional resourcing requirement. Discussion focused on how such cases may be better managed, with input from the complaints team, Assistant Directors/Heads of Branch and the IAC.

New strategies were devised as a result of the workshop, particularly on parallel complaints and the challenge of managing vexatious complaints, unacceptable actions and behaviours. It was also recognised that many individuals found the system to be confusing and complex and many complaints were based on a lack of understanding and a perceived imbalance of power, particularly for victims of crime who did not feel adequately represented in a prosecution. The key learning from the IAC workshop has fed into my key recommendations for PPS as contained in the final section of the report.

Engagement with Victims of Crime Commissioner

It should be noted that the Director of PPS invited the newly appointed Victims of Crime Commissioner (VOCC), Ms Geraldine Hanna, to the first part of the workshop which was a very welcome development. This has enabled PPS and me to open a dialogue with the VOCC so that PPS can more effectively sign post victims who may wish to raise issues which are outside the scope of the PPS complaint process but which may be important issues that can feed into wider analysis of experiences within the system.

A specific example of this welcome dimension to managing ‘out of scope’ complaints is set out below in an extract from a letter that I sent to a victim is as follows:

“Even though some of your grievances with the PPS and the Police are outside the remit of the PPS complaint policy, I can see that you have some real insights into victim experience going through the system.... You have mentioned some recurring issues for victims experiencing the processes of the criminal justice system including the gaps between Police and PPS in terms of victim and witness care and the problems with communication and explanation provided to victims at each stage of the process... The gaps between criminal justice agencies is not something I can deal with as I only look at PPS. Also, as you know I cannot comment on how the PPS conducts prosecutions and makes legal decisions (or how the PSNI investigate). However, whilst your grievances may go to those bigger policy issues that can’t be fully addressed in the PPS complaint process, they are very real issues about which the Department of Justice has some awareness and is seeking to do better. A Review is currently ongoing across the whole system from the point of view of victim experience which looks as the victim’s journey from report of the incident right up to disposal....

Accordingly, I mentioned your case to the newly appointed Victims of Crime Commissioner (Designate) for Northern Ireland. Her appointment is the first of its kind in NI and is part of the wider DOJ strategy referred to above. The Commissioner would like to engage with you. As discussed, and with your consent, I have provided your email address to her office and they should be in touch with you shortly.”

Further Engagement with the Department of Justice on Victims’ Complaints

During this year, the Department of Justice was conducting research through a multi-organisational victims and witness information sub-group and compiling feedback on the key information gaps and issues that victims and witnesses face when attempting to navigate the criminal justice system. The Chair invited me to present to this sub-group and this was another worthwhile initiative to feed into improvement in managing all of the issues raised by victims and witnesses under PPS complaints.

The Chair of the sub-group reported back to me on the key issues identified in their research, most notably the identified need for a ‘single point of contact’ for victims and witnesses.

I responded to the Chair with my own observations about this:

“I think that the ‘single point of contact’ is a very strong point. But I would add that a ‘single point of contact’ approach is in fact required across the system as well as within individual agencies such as the PPS. This would create an invaluable quality assurance and improvement culture managed by an overarching body within criminal justice which is focused on victim experience. The Victims of Crime Commissioner Designate is perhaps the first step to such a body.

My experience is that the public don’t often make distinctions between the different key players in the criminal justice system, and there is an expectation of much more joined up and cross cutting work between police, prosecution and courts. One authority to deal with complaints about criminal justice would make it easier for the public to raise concerns and for a central complaints team to collect and understand data around issues in the system – not just individual and silo managed complaints about police, PPS and courts.

For example, many complaints raised by victims with the PPS are extremely broad and often tap into systemic problems or are legal in nature and excluded from the complaint process. These matters are often dismissed as being outside a complaint process, but they can provide instant intelligence for diagnosing critical systemic problems for example in certain types of cases in which several victims are complaining about similar issues and problems.

Many policy studies in healthcare have advocated the same approach to centralising user experience intelligence (most of which comes from complaints) in terms of reducing harm and poor outcomes. Centralising the intelligence from user experience is a key issue to identifying systemic problems when they are occurring as opposed to waiting for a serious crisis to bring issues to the attention of leaders and policy makers.”

Observations of the IAC

Extensive work has been done in this reporting year in improving the method of using complaints for improvement and better equipping the PPS system to manage complaints which are out of scope and to improve sign posting to other routes to remedy.

Even when complaints are out of scope, it is recognised that user experience and feedback has a critical role to play in the improvement of service provision and in analysing key trends that are often only discernible through the critical analysis of what is expressed through multiple channels of dissatisfaction.

This is a critical issue, especially for victims and witnesses. The future of the role of the Victims of Crime Commissioner has yet to be fully developed and understood but it is encouraging to see that PPS leadership has embraced the potential of partnership working with the Commissioner. As IAC, I have found this new policy development within Justice to be extremely useful for referring victims, who may have unresolved issues with PPS or complaints about different agencies in criminal justice. Such grievances may not in fact be appropriate to treat as PPS 'complaints', but it is important that victims and witnesses are listened to and encouraged to explore other routes to raising issues and sharing their experiences in a meaningful way.

Chapter 4:

Performance Audit of Complaint Process

Complaint Numbers and Outcomes

A statistical analysis of the complaints received during 2022/23 is presented in detail at **Annex 1**.

The very clear positive statistic for PPS complaints is that during the reporting period 44,687 files were processed by the PPS and a total of **58** complaints were received which is 0.1% of cases resulting in a complaint.

Of the 58 complaints received:

- 9% were resolved by means of early/informal resolution.
- The vast majority of the remaining complaints were resolved at Stage 1.
- 14% were not resolved at Stage 1 and proceeded to Stage 2.

The IAC did not uphold any complaints at Stage 3.

Some positive findings can be drawn from these statistics:

- Only 0.1% of the total files processed by PPS gave rise to a complaint.
- The vast majority of complaints received were satisfactorily dealt with at Stage 1 or before.
- Only 8 out of 58 complaints proceeded to Stage 2.

In respect of this evidence, it is reasonable to conclude that:

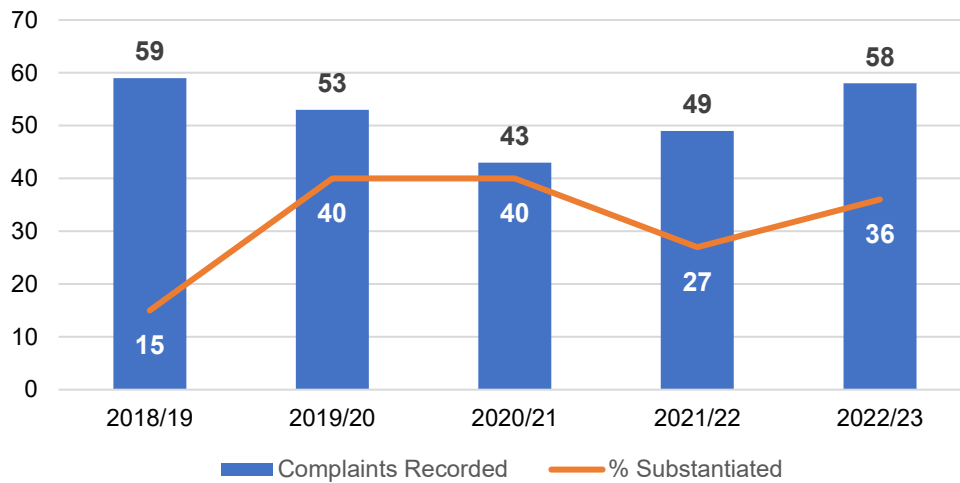
- PPS continues to have an extremely low level of complaints.
- PPS actively seeks to resolve and concede where possible in its approach to complaints.
- The internal process is effective at resolving the majority of complaints, particularly at the early stage.
- No complaints required investigation by the IAC (8 complainants who referred their unresolved issues to the IAC resulted in a finding of 'out of scope' as detailed in Chapter 3).

My observation of this evidence is that the PPS carries out its extensive work with an extremely low level of complaints received, and, when it does receive complaints, they are dealt with openly and honestly with concessions made as early as possible.

Benefits of Early Concessions and/or Dialogue

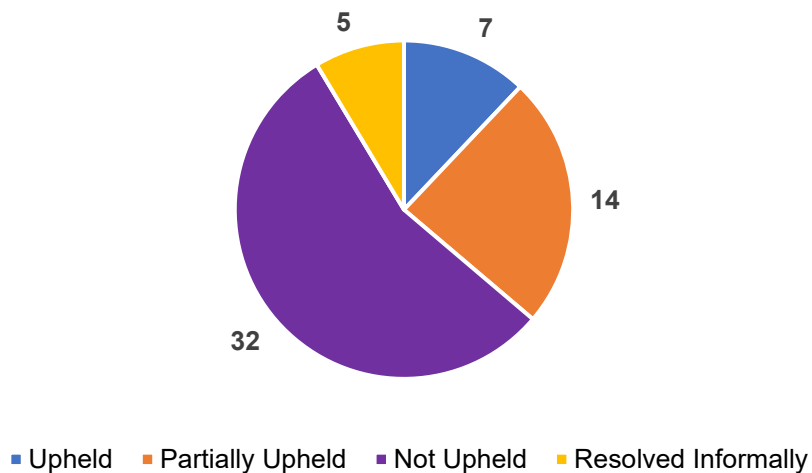
This year saw the second highest number of total complaints received in the 5 year period (58 complaints this year compared to 49 last year and 43 in the year before that).

Chart 1: Complaints Logged and Percentage Substantiated 2018/19 - 2022/23



The amount of people who feel the need to complain has increased, **but** the attitude of candour on the part of PPS in early recognition of where things could have been done better or done differently is evident in the marked difference in the proportion of **complaints conceded**. For example, Five years ago, the same number of complaints were received but out of the 59 complaints received in 2018/19, only 15 were upheld (25%). Out of the 58 complaints received this year, 21 complaints were upheld (36%).

Chart 2: Complaint Outcomes by Type 2022/23



This suggests a reassuring level of organisational maturity and an ability to concede and compromise with complainants on the part of PPS. It also demonstrates a transition from a more combative and defensive approach to a more conciliatory style. A noticeable improvement for PPS is the continuing trend towards improving upon the number of complaints resolved informally before Stage 1. It has been a recurring recommendation to PPS to try and improve this figure and it has increased gradually year on year to the highest level in this reporting year which is very encouraging.

I think this is still an area for improvement because conciliation is always preferable for resolution of complaints. That said, I observed in my sampling audit that attempts at dialogue had been offered in several complaints and I note that there is a real collective effort within PPS to improve on face to face engagement to try and resolve complaints.

The use of informal resolution methods may be something that is outside the control of the PPS, because not all complainants may wish to participate in informal dialogue, and many prefer to go straight to a formal mechanism. I also acknowledge that in a criminal justice context, complaints can touch on extremely complex legal issues, emotions are often very high, and an informal discussion may not always be appropriate.

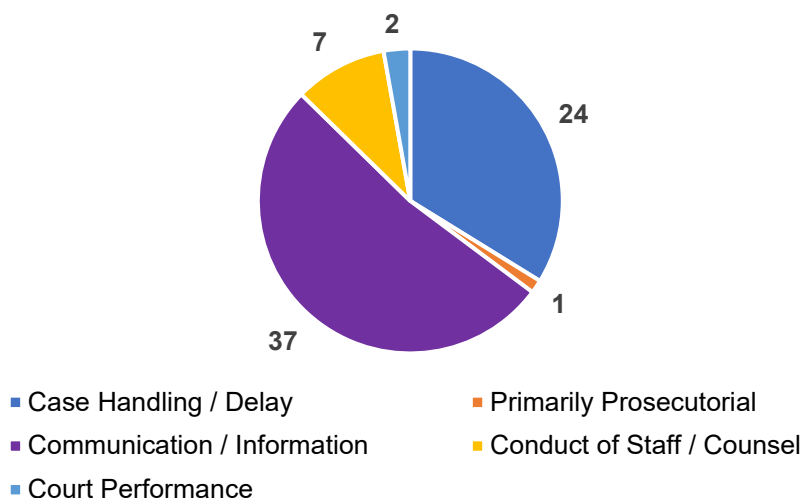
I made a recommendation to the Director of Public Prosecutions in 2019/20 that a more proactive strategy should be adopted in order to find ways of informal resolution at the earliest stages of a complaint, which can often reduce the number of complaints escalating and provide better overall rates of satisfaction in complaint handling. This was fully accepted in principle and the increase in complaints dealt with by way of early resolution is encouraging. It would be good to see further delivery in terms of outcomes and I have made a recommendation in the final section of this report that effort should be made to record all attempts at informal resolution, such as any invitations issued which may have been rejected, as this could be an uncaptured measure of the organisational openness to early resolution strategies.

Complaint Themes

In descending order, the most common themes of the complaints received were:

- Communication/Information.
- Case Handling/Delay.
- Conduct.
- Primarily Prosecutorial.
- Court Performance.
- 'Other'.

Chart 3: Complaint Themes 2022/23

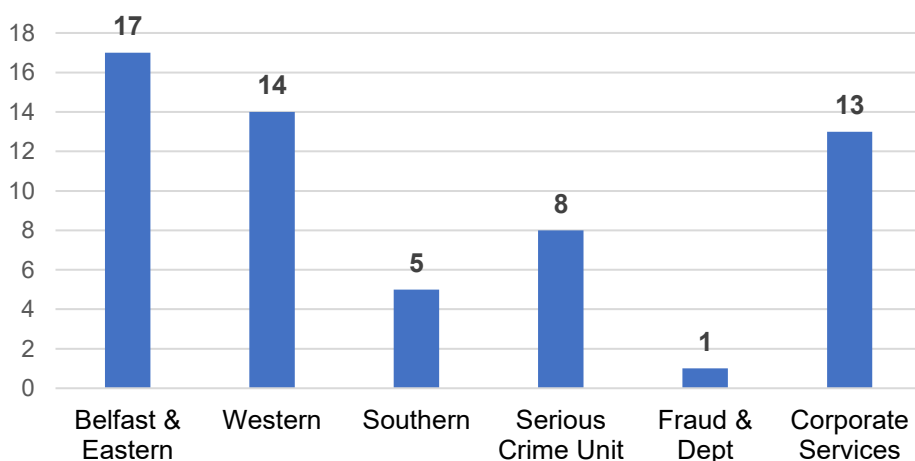


These themes are broadly consistent with the most common themes in the previous year, but there is a notable spike in communication based complaints.

Complaints by Business Area

Belfast and Eastern Region is where the highest number of complaints originate and given the amount of business conducted there this is not surprising or unusual. Complaints appear to be originating evenly and proportionately across business areas, except for the Western Region where there has been a significant spike in the number of complaints.

Chart 4: Complaints Logged by Business Area 2022/23



Timeliness

The target for Acknowledgement of complaints is 5 working days. This target has been fully achieved across all business areas which is excellent.

The target for complaint response is 30 working days and shows some areas of concern.

The analysis of this target highlights 3 areas of concern in the Serious Crime Unit, Western and particularly Southern, which has significantly struggled to meet this target.

Complaint investigation can be extremely time consuming. The reasons business areas find the 30 day response target challenging possibly relate to the complexity of some complaints and other work pressures. Western had a significantly higher number of complaints at 14 in total. This number is only 3 fewer than the total of complaints in Belfast, which may explain why this region may have found the target challenging in terms of resourcing, having only achieved the target in 50% of its complaints. However, Southern Region handled only 5 complaints, yet has only achieved this target in 40% of complaints. Whilst this appears to be anomalous, it should be pointed out that the same Assistant Director manages both regional offices, adding to the pressures being experienced.

Who Is Complaining?

- The most common category of complainant were victims of crime, relatives of victims and legal representatives of victims, which accounts for 84% of complaints.
- This is followed by defendants in prosecutions at 9 % of complaints.

There has been a **noticeable increase in the level of complaints by or on behalf of victims and families of victims** since last year.

The total number of complaints about PPS is the second highest in the five year period since 2018/19. It is also noted that there has been a substantial year on year increase in the number of requests for review of prosecution decisions (+35% on last year). Although reviews are outside the remit of the complaint process, the two are closely linked, particularly in capturing the level of dissatisfaction on the part of victims. When looking at these two statistics together, the picture of information suggests a decline in victim's confidence in PPS.

PPS should reflect on this noticeable spike in victim's grievances given that the majority of the 58 complaints received (49 in total) were from victims or the families of victims. Given that the review process is used by victims who are unhappy with 'no

prosecution' decisions, there is a significant spike in the level of dissatisfaction with PPS as expressed by victims - the combined total of victim complaints and requests for review stands at over 300.

Perspectives of Complainants

Feedback from complainants about their experience of the complaint process is difficult to gather and has low to zero response rates in past attempts to conduct surveys.

I have made a recommendation that PPS should consider stakeholder engagement forums to discuss complaints with frequent service users and victim/witness support groups as this may be an effective way of capturing feedback.

What Is their Remedy?

As stated in my opening observations, there is reassurance for service users of PPS in terms of its standards, evidenced by the PPS policy around Victim and Witness Care, its adherence to the Victim Charter as well as its comprehensive policy documents – the Prosecution Quality Standards and the Code for Prosecutors.

It is also reassuring to find that in the complaints brought by victims which have been upheld or partially upheld, firm action has been taken to offer an apology, confirm that staff training will be improved, or policy and procedures will be changed and developed.

Complainants therefore can achieve:

- Closure from having a complaint recognised and upheld.
- Restoration through an unequivocal apology being offered.
- Satisfaction that the complaint has changed attitudes, raised awareness, improved practice and/or changed PPS policy.

Looking at the Complaint Action and Recommendations Log, I have been impressed by actions taken at the most senior level of the PPS in response to remedying and learning as much as possible from the **complaints upheld at Stage 1 and Stage 2 in this reporting year.**

Specific Examples of excellent practice:

- Full acceptance by PPS senior leadership of all upheld or partially upheld complaints
- Unequivocal apologies offered in all cases upheld.

- The Actions and Recommendations Log for Complaints 2022/23 contains management suggestions for improvement, Learning points and Progress Update Monitoring.
- A review is to be carried out on manner which victims are written to in sensitive cases.
- Implementation of improved letters to victims.
- Handling of Data Review carried out of processes with PIU as a result of complaint about incorrect address.
- VWCU Case Officers supported and reminded of level of service expected (managing customer expectations was covered in training provided by VSNI to all VWCU staff).
- Communication with PPS staff on PPS phonenumber. Staff informed of better practices for future management of phone conversations.
- A Directing Officer advised of processes which fell below standards in a complaint to ensure no reoccurrence.
- Incorrect letters issued by VWCU in an upheld complaint resulted in a process review by VWCU.
- Service of VWCU, Lack of communication via phones. Management reviewed phones being covered/answered. Regular checks by management and use of Jabber reinforced.
- Handling of case, poor communication which VWCU Foyle conceded regarding updates on court case and court dates. VWCU speaking with ICT to rectify issue regarding court updates not coming through on CMS.
- Communication issues with individual VWCU Case Officer. Performance of case officer is under review from their manager.
- Contact and communication with VWCU Belfast. Performance of Unit has been addressed to provide better service in the areas highlighted.
- Communication with VWCU Foyle. Issue relayed back to VWCU Management to avoid future issues.

Should complainants have other internal remedies?

In some complaint policies there is provision for a remedy of financial redress. The complaint policy of the Crown Prosecution Service in England and Wales provides for the consideration of such a remedy in certain cases. In the Crown Prosecution Service, the Independent Assessor and indeed CPS lawyers may decide to make consolatory payments to individuals 'where there is clear evidence of uninsured material loss or severe distress caused by maladministration or poor service by the CPS'.

In Northern Ireland, the only further route of remedy for a complainant is often by way of an external challenge by taking legal advice and pursuing a case in the civil court system. This route is not always known or accessible to many people, and it can be costly.

An internal compensation mechanism may not be suitable for the PPS, which is operating in a small jurisdiction like Northern Ireland, whereas in the CPS, the volume of complaints is significantly larger. The small number of complaints received by the PPS may not justify the resource required to establish and operate this type of financial payment system and such matters are for policy consideration.

Some people I have engaged with think that the limits on challenge to PPS is very unfair and that PPS has too much 'unchecked power' and 'too little operational oversight'. It is often said by victims that 'Judicial Review is no remedy at all because it is unaffordable for ordinary people'. In this regard, it is very welcome for victims that they have a new option of contacting the Victims of Crime Commissioner.

Examples of Exemplary Practice in Audit of Communication in Complaints at Stage 1 and Stage 2

- Letter dated 17 June 2022 to a victim from Stage 1 Complaint Assessor in Victim and Witness Care Unit (Belfast):

'Having reviewed the correspondence I would like to take this opportunity to apologise to you as it was certainly not our intention to write to you in a way which could be considered cold and lacking in empathy...we have initiated a review of the way in which we write to the families in such cases...I hope my response has provided you with some reassurance that we do take complaints very seriously and will attempt to rectify situations when concerns are raised'

IAC Comments: An early and direct apology with an attitude of honesty, candour and expressing the value placed on the perspective of the person complaining enabled the immediate resolution of this complaint. I note the expressed intention to treat the complaint as call to action improvement which is also an example of best practice.

- Letter dated 29 July 2022 to a victim from Stage 1 Assessor in Victims and Witness Care Unit (Foyle):

'This is below the standard of service expected from a case officer. The case officer has been reminded of his responsibilities to you as a victim of crime and the service you should expect under the Victim's Charter'

IAC Comments: an early and direct acknowledgement of an unacceptable situation (the emails from the victims had gone unanswered) has enabled an early resolution and a restoration of confidence in PPS standards.

- Letter containing a comprehensive explanation and analysis from Stage 1 Assessor in Western and Southern Region in response to a complaint from a victim:

'I fully acknowledge your disappointment and frustration that you were not given an opportunity to record and submit a Victim Personal Statement (VPS) until after the defendant had been sentenced. I have spoken to the prosecution counsel who dealt with the case...your statement together with [medical evidence] which included specific details of the very serious injuries you sustained, were contained within the depositions which were before the court prior to the sentencing. I understand that the Judge was specifically referred to the statement setting out your injuries and treatment'.

IAC Comments: This is an excellent example of a complaint response in which the complaint itself was not upheld but the complainant was shown that **their experience mattered**. The issue of a VPS is not in fact the responsibility of the PPS but of the Police. Nevertheless, this did not end the matter for this complaint assessor and the care and time taken to evaluate the entire experience from the perspective of the victim, to explain the process and to give assurance that the matter was treated seriously, has no doubt enabled the early closure of the complaint despite it not being upheld.

Early Resolution Examples

The majority of complaints have been resolved at Stage 1 or Stage 2. In previous reports I have encouraged PPS to attempt to resolve as many complaints at an even earlier point if possible through the use of face to face meetings and dialogue. During this audit I was pleased to see several examples of effective engagement and de-escalation strategies particularly in complaints handed by VWCU. I noted offers to meet complainants in cases which ultimately went a formal Stage 1 response and there was evidence of efforts to resolve complaints as early as possible.

By way of example I noted a 12 page response from a Stage 1 assessor in the Serious Crime Unit to a victim in a serious sexual offences case, in which an offer to meet the Assistant Director had been made. This letter was comprehensive and successful in answering the concerns of the victim in a very complex matter.

It may often be the case that a written complaint response is required in most PPS complaints but through this audit I have noted the regular attempts to at least offer an early meeting to discuss matters and explore the possibility of achieving informal resolution which is to be commended and encouraged as an approach.

Chapter 5:

Concluding Observations and Recommendations

My two key recommendations are as follows:

- PPS should consider developing and publishing its own 'Complaint Standards'. This document should capture and explain matters such as stated expected behaviours on the part of PPS staff and participants in the complaints scheme, clear information on what is NOT a complaint AND clear sign posting of the routes available for those who wish to pursue grievances which are outside the complaint process including the Review process under the Code for Prosecutors, the Victims of Crime Commissioner and the oversight bodies of both PPS and other agencies who may be able to assist in complaints outside the remit of PPS, such as the Police Ombudsman. Publishing its own 'Complaint Standards would also provide PPS with the opportunity to recognise the effort and commitment of the complaint management team and capture and promote a lot of the good work that is done in the context of learning from complaints that may currently be unknown by stakeholders. A key example being the existing PPS practice of using intelligence gathered from complaints in its 'Complaints Action and Recommendations Log,' which is scrutinised and managed at senior leadership level. This commitment to learning and improvement is a prime example of something that should be incorporated into the formal PPS 'Complaint Standards', and could be framed as: 'PPS will learn from every complaint and every upheld complaint will feed into the PPS quality assurance strategy at senior leadership level'
- Increased use of the PPS Stakeholder Engagement Forum (SEF) in the context of value of complaints. This can include the discussion of PPS complaint handling, promoting awareness of what can be treated as a complaint and how to approach grievances which are not complaints as well as encouraging increased dialogue and feedback from a more diverse range of perspectives via key representative bodies and user voices such as disability services, Women's Aid and other victim representative groups.

Two further minor recommendations in terms of improving the capturing of data which demonstrates the work and effort which has gone into increasing early resolution of complaints by use of engagement and dialogue:

- PPS complaint handlers should record and count every attempt at informal resolution in a complaint, such as any invitations issued, direct phone calls made or offers to meet complainants which may have been declined. Such actions are uncaptured indicators of the organisational openness and commitment to early resolution strategies as opposed to defaulting to formal correspondence in all

cases. I think that the capturing of this data would be a strong indicator of the willingness of PPS staff to be accountable and open to dialogue because I can see that this coming across strongly when looking at individual complaints in detail, but it does not come across in the data and therefore goes unrecognised. The 'headline' remains that many complaints are not resolved informally, but this may not be due to lack of effort by PPS staff.

- PPS should reflect on the 3 regions of concern highlighted in the timeliness of providing complaint responses and consider supports which may need to be put in place to assist in achievement of the 30 day target. Management may find that this data is an indicator of increasing pressure of workloads on staff as this is the first time in my 4 years of reviewing PPS complaint targets that these targets have fallen to such low levels. It is a striking difference to the standards which are usually achieved across departments.

I think that these actions would raise the standards of the PPS complaint system even higher and would provide invaluable intelligence on performance standards to the leadership of the organisation through effective complaint analysis, together with better management of those issues which fall outside the complaint process but which are important matters, particularly in the context of supporting victims.

My overall opinion of the PPS complaint process, having thoroughly reviewed its performance this year, is that the complaint system has consistently performed to a high standard and is a model of best practice in both complaint management and as a tool of continuous improvement. In terms of organisational performance management, PPS leadership approaches complaints as containing vital intelligence and levers for change as part of its overall quality assurance strategy. However, there are some areas where practice and standards can be raised even higher as summarised above and discussed throughout this report. The appetite for making further improvements in the scheme and the practice of complaint management will of course have to be balanced with other considerations, such as budget, staffing, and working priorities.

PPS, like many frontline essential service organisations, has been extremely challenged by impacts of the post- Covid 19 Pandemic period, and this reporting period covers events from a critical period of Covid recovery. Extreme challenges have been placed on the Justice system and it is testament to the professionalism of PPS staff that the number of complaints throughout this highly challenging period remains very low when compared to the total number of prosecutions.

I commend the Director and all his staff teams for their ongoing commitment to working on the front line of our justice system and ensuring that such an important service continues to deliver as it faces these challenges. I am impressed by the evidence

which confirms the level and scale of change and improvement to the complaint scheme, the management of complaints, and openness to feedback which I believe has been a contributing factor to the commitment to continuous improvement of organisational culture and performance throughout the organisation.

Using the NIPSO standards and framework to assess the PPS complaint system has been very illuminating. The NIPSO model of practice anticipates that *'all organisations will have arrangements (including information and training) in place that make clear to staff the importance of candour, honesty and openness when dealing with and investigating complaints'*. I can fully commend the PPS scheme as complying with NIPSO standards in this context.

NIPSO further states that *'guidance for staff should also make clear that the organisation's approach to complaints is non-defensive and complaints should be received with a willingness to listen to challenge about services and/or service delivery. Staff should be trained and encouraged to build trust with customers who have raised a complaint as an effective way of promoting the organisation's values'*.

Again, I can fully commend the PPS scheme as complying with NIPSO standards in this context.

NIPSO also recommends that *'Organisations may wish to set out the behaviours they expect from staff when dealing with complaints. This may include a commitment that staff will behave in a professional manner and treat customers with courtesy, respect and dignity.'* As set out above, it is a key recommendation from myself as IAC, that PPS gives some thought to developing and publishing its own 'complaint standards' which should include stated principles and expected PPS behaviours in the handling of complaints.

The PPS complaint management system is not an isolated area of business but an integrated and responsive system which is used by leadership as a strategic enabler of conscious risk management, continuous improvement and quality assurance practice for the whole organisation. For example, PPS is committed to progressing data analysis within its knowledge management system for complaints, which exchanges intelligence through peer to peer reporting and which also identifies patterns and trends over a five year period. This use of data allows for comparative analysis across business areas, complaint themes and the potential for case studies to be shared which can increase consistency of practice and inform individual approaches. These patterns within the data can be studied, measured, and understood by leadership to enable specific interventions which is designed to reduce or eliminate them.

It may be difficult or impossible to eradicate service complaints, but it is the treatment of complaints which is the critical factor for the confident organisation which is courageous enough to always be open to learning and to treat that learning as a call to action and as a lever for making change. This culture and practice produces a range of broader benefits such as establishing trust, giving citizens confidence and raising the morale of staff who are not being called to account for mistakes individually but who are being empowered to be collective change makers. Development and public declaration of PPS complaint standards in the forthcoming year may be way for PPS to embed and further strengthen its commitment to learning and reflection.

Annexes

Annex 1: Complaint Statistics

Table 1: Numbers of Complaints / Requests for Review Received

Year	Complaints Logged	Requests for Review
2018/19	59	186
2019/20	53	195
2020/21	43	194
2021/22	49	197
2022/23	58	267

Table 2: Outcome of Complaints

Year	Upheld	Partially Upheld	Not Upheld	Resolved Informally	No Further Action Required	Outstanding	Total
2018/19	2	7	44	3	2	0	59
2019/20	7	14	28	3	0	0	53
2020/21	5	12	24	2	0	0	43
2021/22	7	6	32	4	0	0	49
2022/23	7	14	32	5	0	0	58

Table 3: Complaints Substantiated (Partially or Wholly Upheld)

Year	Number of Complaints	% Substantiated
2018/19	58	15
2019/20	53	40
2020/21	43	40
2021/22	49	27
2022/23	58	36

Table 4: Reason for Complaint

Reason	2021/22	2022/23
Case Handling / Delay	25	24
Primarily Prosecutorial	5	1
Communication / Information	26	37
Conduct of Staff / Counsel	15	7
Court Performance	3	2
Other	2	1
Total	76	72

Note: Several reasons may be recorded for an individual complaint.

Table 5: Complaints Received by Region / Section

Year	Belfast	Western	Southern	Serious Crime Unit	Central	Corporate Services	Total
2022/23	17/58 (29%)	14/58 (24%)	5/58 (9%)	8/58 (14%)	1/58 (2%)	13/58 (22%)	58/58

Table 6: Complaints Substantiated Partially or Wholly Upheld)

Year	Belfast	Western	Southern	Serious Crime Unit	Central	Corporate Services	Total
2022/23	3/17 (18%)	8/14 (57%)	3/5 (60%)	1/8 (13%)	0/1 (0%)	6/13 (46%)	21/58 (36%)

Table 7: Complaints Acknowledged within 5 days

Year	Belfast	Western	Southern	Serious Crime Unit	Central	Corporate Services	Total
2022/23	17/17 (100%)	14/14 (100%)	5/5 (100%)	8/8 (100%)	1/1 (100%)	13/13 (100%)	58/58 (100%)

Table 8: Complaints Dealt with within 30 days

Year	Belfast	Western	Southern	Serious Crime Unit	Central	Corporate Services	Total
2022/23	16/17 (94%)	7/14 (50%)	2/5 (40%)	4/8 (50%)	1/1 (100%)	13/13 (100%)	43/58 (84%)

Note: Corporate Services includes the Victim and Witness Care Unit (VWCU)

Table 9: Complainant Type

Complainant Type	Number
Victim	46
Victim's Relative	2
Victim's Legal Representative	1
Defendant	4
Defendant's Relative	1
Witness	4

Table 10: Number of Complaints Received by Region / Section and Complainant Type

Complainant Type	Belfast	Western	Southern	Serious Crime Unit	Central	Corporate Services	Total
Victim	13	12	4	6	0	11	46
Victim's Relative	0	0	0	1	0	1	2
Victim's Legal Representative	0	1	0	0	0	0	1
Defendant	1	1	1	1	0	0	4
Defendant's Relative	1	0	0	0	0	0	1
Witness	2	0	0	0	1	1	4

Table 11: Number of Complaints Received by Region / Section and Reason for Complaint

Reason	Belfast	Western	Southern	Serious Crime Unit	Central	Corporate Services	Total
Communication / Information	9	9	2	3	0	14	37
Staff / Counsel	5	1	1	0	0	0	7
Court Performance	1	0	0	0	1	0	2
Delay / Handling	8	7	3	6	0	0	24
Prosecutorial Matter	0	1	0	0	0	0	1
Other	0	0	1	0	0	0	1

Table 12: Number of Complaints Received by Reason for Complaint and Complainant Type

Reasons	Victims	Victim's Relatives / Representatives	Witnesses	Defendants	Defendant's Relatives / Representatives	Other	Total
Communication / Information	31	2	2	2	0	0	37
Staff / Counsel	6	1	0	0	0	0	7
Court Performance	0	0	1	0	1	0	2
Delay / Handling	19	2	0	3	0	0	24
Prosecutorial Matter	1	0	0	0	0	0	1
Other	1	0	0	0	0	0	1

Table 13: Number of Complaints Received – Outcome of Complaint by Complainant Type

Outcome	Victims	Victim's Relatives / Representatives	Witnesses	Defendants	Defendant's Relatives / Representatives	Other	Total
Upheld	5	1	1	0	0	0	7
Partially Upheld	13	1	0	0	0	0	14
Not Upheld	23	1	3	4	1	0	32
Resolved Informally	5	0	0	0	0	0	5
No Further Action	0	0	0	0	0	0	0
Outstanding	0	0	0	0	0	0	0

Table 14: Number of Complaints Received by Region / Section and Method of Complaint

Means	Belfast	Western	Southern	Serious Crime Unit	Corporate Services	Central	Total
Email	13	11	3	7	10	1	45
PPS Web Portal	2	0	2	1	2	0	7
Letter	2	3	0	1	0	0	6
Phone	0	0	0	0	0	0	0

Second Tier Complaints

Over the course of the 2022/23 financial year, 8 files were escalated to the second tier. All of the findings at the second tier concurred with the findings of the initial complaint. Seven of these were from victims and one from a witness.

The complainants originated from the following areas:

Serious Crime Unit **1**
Belfast & Eastern **4**
Western **2**
Southern **1**

Annex 2:

Useful Links

- Guidance on the PPS Complaint Policy can be found [here](#)
- The Role and Remit of the Independent Assessor and Biography of Sarah Havlin can be found [here](#)
- The Code for Prosecutors can be found [here](#)
- PPS Prosecution Quality Standards can be found [here](#)
- PPS Victim and Witness Policy is [here](#)
- Complaints about the Police Service of Northern Ireland can be made to the Police Ombudsman and can be found [here](#)
- Complaints about the professional conduct of barristers acting for the PPS can be made to the professional regulatory body, the Bar Council of Northern Ireland, and can be found [here](#)
- Complaints guidance about the Northern Ireland Courts and Tribunal Service can be found [here](#)
- Complaints about Judges can be made to the Office of the Lady Chief Justice [here](#)
- Complaints about the Prison Service Northern Ireland can be made [here](#)
- Complaints about the Probation Service of Northern Ireland can be made [here](#)

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