



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

Annual Report

2017/2018

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Contents

		Page
Chapter 1	Background	2
Chapter 2	Case Handling Work of the Independent Assessor 2017/2018	5
Chapter 3	Audit and Benchmarking	13
Chapter 4	Complaints Handling in the PPS 2017/2018	20
Chapter 5	Concluding Notes and Recommendations	24
Annex A	Complaints Handling Process in the PPS	27
Annex B	Role and Remit of the Independent Assessor	34

Chapter 1

Background

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

This is the 13th Annual report on the work of the Independent Assessor of Complaints for the PPS. The Report covers the period from 1st April 2017 to 31st March 2018, and the information, and statistics are drawn from that period.

The Report provides information on complaints handling within the PPS, and statistical information for 2017/2018, along with comparisons with previous years.

Detailed reports on complaints referred to the Independent Assessor are shown in Chapter 2. I investigated and reported on all complaints which had already been processed through Stages 1 and 2 of the PPS Complaints Procedures.

I also dealt with a number of enquiries and complaints from members of the public. As regards enquiries, I either responded to these personally where I was in a position to do so, or referred them to the PPS. In relation to complaints, where these had not been dealt with fully through the Complaint's Procedures, I referred the complaint back to the PPS to deal, assuring the individual that if they remained dissatisfied with the responses from the PPS, they would be able to refer the matter to me, at that stage.

During the year I received and dealt with 3 complaints which had been dealt with through the PPS complaint's Procedures, and the complainant remained dissatisfied. This is the same number as the previous year, 2016/2017, but considerably fewer than all previous years, where, on average the Independent Assessor handled 8 or 9 complaints. This significant reduction does not appear to be linked to a reduction in the total number of cases handled by the PPS, or the total number of complaints received by the PPS, which, at 90 was increase of 22% over the previous two years, but similar to that in 2014/2015. I discuss this increase in complaints at Chapter 4 of this report. The reasons for this trend of significantly fewer complaints being referred to the Independent Assessor are not entirely clear, but it is not unreasonable to assume that a major

factor may be the quality and timeliness of complaints handling by the PPS at Stages 1 and 2 of the Complaint's Procedures. This quality and professionalism of complaints handling is evidenced in my Annual Audit of the majority of all complaints received by the PPS (see Chapter 3).

Once again, complaints referred to me were invariably lengthy and somewhat complex, comprising a number of elements. The complainants genuinely felt aggrieved in all cases, at the level of service they felt they had received from the PPS, but also from the police, the courts service or the judiciary. In all three cases, the complainants pursued their complaints at considerable length, which is their right, and in 2 of the cases I was satisfied that the complaints had substance and merit, while in the third case, the complaint, as I concluded in my findings, bordered on the vexatious. The complainants invariably expressed themselves articulately, and in two of the cases, with courtesy. The PPS had responded professionally, clearly and openly, at Stages 1 and 2 of the Complaints Procedures, and in timely fashion. I was satisfied that thorough and detailed investigations had taken place. Where less than satisfactory service had been provided by the PPS, full explanations had been given, and these aspects of the complaint upheld. Apologies were offered to the complainant where appropriate,

I note this this year that effective complaints handling is now well embedded within the PPS, from the initial acknowledgement stage, generally by the CCU, through to the investigation and responses to the complainant, by Assistant Directors. The Complaints Procedures are fit for purpose, and implemented throughout the organisation and I commend the PPS for this. Thorough investigations are carried out, and clear, open, detailed, courteous and timely responses communicated to complainants. Responses are most often handled by Assistant Directors at Stages 1 and 2 of the Complaints Procedures, at both Regional Offices and at PPS HQ, and personally signed off by them, which is best practice.

As noted in my Annual Audit, the majority of complaints originate from victims of crime rather than other sources, and in some cases the complainants are vulnerable. This underlines the importance of thoughtful complaints handling, and clear, open and timely responses.

Once again, I record that the system of Stage 2 complaints being handled by Assistant Directors from another part of the PPS, and who have had no part in the original investigation, is working effectively. I am satisfied that Stage 2 investigations are carried out independently and impartially, and a different conclusion or view reached if appropriate.

It is now over two years since the PPS carried out a major restructuring of the organisation, resulting in a significant reduction in the number of Regional Assistant Directors, who were the natural recipients of the large majority of initial complaints. This report confirms that these major changes have not led to any diminution in the standards of timeliness, quality of investigation or responses to complainants. I commend the PPS, the Assistant Directors at Regional Office and PPS HQ, and the CCU for this.

My Annual Report also provides information on the work of the Independent Assessor in relation to benchmarking, which is part of my remit (see Chapter 3). It is clearly important to consider how other organisations both in the public and private sectors deal with complaints handling, and to ensure that the PPS is in the forefront of best practice. I have communicated with the Independent Assessor of Complaints for the CPS for England and Wales, to share best practice, although the role of this Independent Assessor is somewhat different from that in Northern Ireland. I have also communicated with departments dealing with complaints in the Scottish and Republic of Ireland Prosecution Services, and with other public and private organisations (see Chapter 3).

A further element of the Independent Assessor's role is to carry out an audit of complaints received by the PPS. This year I carried out one full year audit and considered 60 of the 90 complaints received. My purpose is to monitor complaints handling generally within the PPS across the organisation, to identify any themes or issues emerging, and to better understand the nature of complaints, and, indeed, complainants themselves. My Audit Report is at Chapter 3.

At Chapter 4 of this Annual Report, I show an analysis of all complaints received, and my comments under headings, as appropriate. At Chapter 5, I record my conclusions and recommendations.

At Annex A, I detail the PPS Complaints Procedures.

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

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

Chapter 2

Case Handling Work of the Independent Assessor in 2017/2018

Introduction

I investigated and reported on 3 cases in the year, the same number as last year. Most of the cases were protracted and involved extensive investigations and communications by letter, email and telephone. I have made recommendations where appropriate and these have been acknowledged, considered and, if agreed, implemented. This year, once again, I have provided considerable detail in my case reports to illustrate how the PPS Complaints Procedures work in practice, and how a complaint may progress through the tiers of the Procedures, and subsequently to the Independent Assessor.

Case 1

In this case, the complainant was involved in a driving incident in Co Down in March 2016. The complainant overtook another vehicle, the occupants of which alleged that the complainant had cut in sharply in front of them, as oncoming traffic was approaching, causing them to brake sharply. The police investigated the incident, and prepared a file for the PPS, who considered the evidence and decided to prosecute the complainant. The case came to court in March 2017, where the complainant contested the charge. The District Judge having heard the evidence, and viewed the dashboard camera footage from the complainant's vehicle, dismissed the charge.

The complainant lodged a formal complaint to the PPS in June 2017, which was considered by the temporary Deputy Director of the PPS. The complainant remained dissatisfied with the response from the PPS, and referred the matter to me as Independent Assessor.

The complainant felt strongly that he should not have been prosecuted, and the evidence recorded on his dashboard camera showed beyond all doubt, in his view, that he had not been at fault in the incident. At a court hearing in March 2017, the complainant approached the PPS prosecutor to enquire whether she had viewed the video evidence. The prosecutor replied that she had not viewed the video evidence as she was not the Directing Officer in the case. The matter was adjourned to allow the complainant, who was representing himself, to contact the Directing Officer. A major element of the complaint was the nature of communications between the complainant and the PPS both before and during the court hearing. The complainant asserted that he tried without success to contact the Directing Officer by telephone, and left voicemails, on a number of occasions, without response. The complainant eventually spoke to the Directing

Officer at the end of March 2017, and he perceived that her manner was abrupt, and that she appeared agitated, and refused to discuss the matter further. The Directing Officer advised that she had viewed the video footage some time before, and could remember little of its content.

The adjourned court case was held on 29 March 2017. Again the complainant felt that he was treated unsatisfactorily by the prosecutor who was presenting cases at court that day, and with whom he had spoken on the telephone. The complainant alleged that he attempted to speak to the prosecutor to clarify issues regarding the video evidence with her, but described the prosecutor as adopting a hostile tone, and he felt her conduct towards him throughout the case was “grossly unprofessional and obstructive “.

The complainant wrote to the Director of Public Prosecutions on 8 June 2017, iterating his complaints about the manner in which he felt he had been treated by the PPS before and on the day of the court hearing, and emphasising his view that the video evidence was clear and that the matter should never have been brought to court.

The temporary Deputy Director responded to the complainant on 3 July 2017, advising that he had arranged for a full investigation to be carried out by the Assistant Director (Belfast). The Assistant Director reported that the Directing Officer had said that she was unaware of any phone calls or voicemails, and would have replied if she had. She suggested that the complainant may have been put through to the wrong extension, which was somewhat supported by the fact that contact was eventually made on a different extension number. The Directing Officer recalled advising the complainant that the evidence threshold was still met, the contest would proceed and she could not continue to discuss it. The Assistant Director noted that there was no independent evidence to substantiate the complainant’s claim in this regard. At court on 29 June 2017, the Assistant Director concluded that the Directing Officer spoke calmly at all times, and was not rude or unprofessional, and that witnesses did not observe any inappropriate conduct or language by her.

The temporary Deputy Director said that as regards the video evidence, the Assistant Director had concluded that the decision to continue with the prosecution was a reasonable one, and said that there was no doubt that the complainant had pulled in sharply in from of the other vehicle. He confirmed that the District Judge had dismissed the charge but commented that not all prosecutions resulted in convictions, as the Judge had to be satisfied of guilt beyond all reasonable doubt. He said that the District Judge had made no adverse comment or suggestion that the prosecution had been improperly brought.

The complainant remained dissatisfied with the PPS’s response and referred the matter to me. In his email he reiterated the main elements of his complaint to the PPS and asked me to review the behaviour of the PPS lawyer, and additionally, the tone of the response from the temporary

Deputy Director, and the investigation by the PPS.

I thoroughly reviewed and considered all the files and correspondence in regard to this complaint. In relation to the complainant's contact with the PPS prior to the court hearing I have no doubt that the complainant did attempt to contact the PPS on a number of occasions, but was unable to get through to the PPS lawyer for reasons which are unclear. As regards the telephone conversation which did subsequently take place, the complainant asserted that the prosecutor was abrupt in her manner, had become agitated, and refused to discuss the matter further. The Directing Officer commented that she remained calm, advising that the evidential test for prosecution was still met, that she could take the matter no further, and could not continue to discuss it. In the absence of independent evidence, I could not make a finding on this issue.

As regards the alleged behaviour of the prosecutor at court on 29 June 2017, the complainant referred to her as unprofessional, rude and hostile to him. The Directing Officer described the complainant as a very rude man, very persistent, and would not accept what she was saying. She found him aggressive and difficult to deal with. A key factor in my finding in this regard was evidence of three witnesses, a court official and two PPS staff. All of the witnesses described the complainant as very persistent and he would not accept any of the prosecutor's explanations. Uniformly, all three witnesses commented that the prosecutor was never rude, or used inappropriate language. She had advised the complainant that the issue of guilt was a matter for the District Judge to decide, and attempted to conclude the conversation.

Having considered all the information, and while it was clear that the complainant felt anxious that the prosecution should not proceed, and was further aggrieved when the Judge dismissed the charge, I was satisfied that the prosecutor did not act unprofessionally, nor in a hostile or rude manner. I did not therefore uphold the complaint.

In his letter to me the complainant had described the temporary Deputy Director's response as a half-hearted attempt to conduct a proper, thorough and transparent investigation into his complaint. He was also dissatisfied with the tone of the response. I did not subscribe to that view. The temporary Deputy Director went to some lengths to ensure that a prompt and comprehensive investigation was carried out, and his response was full, fair, comprehensive, courteous and balanced. I did not, therefore, uphold this element of the complaint.

In relation to the PPS's overall handling of the complaint, the complainant wrote to the PPS on 8 June 2017. This was acknowledged, and a full response sent to him on 3 July 2017. All of the complainant's issues were addressed, and a full investigation was carried out by a senior lawyer. A full report was prepared after the lawyer had viewed the video evidence, and spoke to witnesses at court, and the prosecutor who was the subject of the complaint. The complaint was handled in exemplary fashion.

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

Case 2

In this case, an incidence of indecent behaviour had taken place in the Belfast area in July 2011. The complainant had been accused of making an indecent comment to a female walking her dog. Following a police investigation, the PPS considered the police file and decided to prosecute. At court in April 2012, in a contested case, the complainant was convicted of indecent behaviour. He appealed the conviction, and the conviction was upheld at the appeal hearing in November 2012. The complainant made representations to a number of bodies including the Department of Justice, the Police Ombudsman, the PSNI and the PPS. Extensive correspondence ensued between these bodies and the complainant. The main element of the complaint was in relation to redactions which had taken place in the notes of the complainant's original interview with the police. The PPS had communicated with the complainant since 2015, and responded at Stage 1 of the Complaint's Procedures in June 2017, and at Stage 2, also in June 2017. The complainant remained dissatisfied and referred the complaint to me in September 2017.

The complainant had communicated with the Police Ombudsman and the PSNI in relation to redactions to his police interview notes on numerous occasions following his unsuccessful appeal in November 2011. By 2015, the Police Ombudsman had concluded no wrongdoing, and the PSNI had also closed the case. The complainant visited the PPS Office in June 2015, and telephoned the office in July 2015, raising the same issues which he had raised with the Police Ombudsman and the PSNI. The PPS responded by letter in July 2015, advising the complainant that as the conviction had taken place over 3 years previously, it was not possible to identify who had made redactions to the interview notes, but assuring the complainant that there had been no prejudice caused to him at his trials. Following further correspondence, the PPS wrote again in December 2015, advising that no further meetings would take place, and the case was now closed.

The complainant's MP made representations on his behalf, and the complainant and his MP met with the Director of Public Prosecutions in June 2016. The MP outlined the complainant's grievance at what he considered to be a miscarriage of justice, highlighting that the complainant's main grievance was that the police Investigating Officer had manufactured and misrepresented her evidence. The complainant maintained that there had been a cover up and his conviction was unsafe. He also asserted that there was no sexual element to his conduct. The MP was concerned that the Investigating Officer had perjured herself and potentially had been guilty of misconduct in public office.

Following this meeting, a PPS Assistant Director carried out a detailed, extensive and

comprehensive investigation into all elements of the complainant's concerns. This involved reviewing the entire police investigation files, all of the prosecution files, speaking to the prosecutors at both trials, and, with the complainant's permission, the solicitor who had represented the complainant at both trials.

The complainant wrote again to the Director of Public Prosecutions in May 2017, and the PPS Assistant Director wrote to the complainant in detail by letter dated 6 June 2017. The Assistant Director laid out the chronology, developments and communications with the complainant over recent years. She advised that the prosecutor at the first trial had confirmed that she had not made any redactions to the interview notes and that she had put all the points from the summary interview notes to the complainant in cross examination. She did not have any concerns about the Investigating Officer's evidence, and was satisfied that the evidence was not manipulated in any way. The Assistant Director had also established that a second police officer was present when the complainant's statement of complaint was recorded, and at his interview, where he was legally represented. The Assistant Director had also confirmed that the complainant's solicitor had had possession of the unredacted interview notes from the outset of the case, and that the complainant had been convicted at the first instance on the basis of the unreacted interview notes.

The Assistant Director had been unable to establish who had made the redactions to the interview notes, when they were made or whether the redacted version had had ever been used in any of the proceedings. What she had been able to establish was that it appeared that the unredacted notes had been used at the initial court case. She said that by the time the appeal took place, the Investigating Officer had become the subject of a complaint by the complainant to the Police Ombudsman's Office. Her evidence was not relied upon at the appeal, which was why reference to her may have been redacted from the papers. The Assistant Director said that this did not indicate any wrongdoing and that redactions made from the interview were simply the Investigating Officer repeating the evidence that the victim gave in her statement, and directly in oral evidence.

The Assistant Director concluded that she was satisfied that there had been no impropriety, or miscarriage of justice, and that the case had been conducted properly and the court was satisfied of the complainant's guilt at the first instance and at appeal.

The Deputy Director wrote to the complainant by letter dated 14 June 2017. He confirmed that while it not had been possible to identify why the redactions were made, who made them, or whether they were used at any stage in the proceedings, he was satisfied that such redactions would not have influenced or materially impacted on the complainant's conviction or appeal. He said that the redactions were in no way prejudicial to the complainant or made the conviction unsafe. The Deputy Director apologised that the PPS investigation could not have been completed sooner, but it had been most thorough and attempted to establish the facts and provide as

comprehensive an explanation as possible. He refuted the complainant's suggestions that the Assistant Director had told any deliberate lies, or treated the complainant with a less than professional attitude or acted in a partial manner. The Deputy Director said that he now considered the matter closed.

The complainant referred the matter to me in a number of emails in August and September 2017. He reiterated the main element of his complaint in relation to redactions. He also made a number of serious allegations against the police and the PPS.

I carried out a thorough investigation and review of all the papers and correspondence. In relation to the issue of redactions of interview notes, while the substantive issue is an operational matter for the police and the PPS, and therefore not within my remit, I was satisfied that the PPS had carried out a very extensive and thorough investigation and provided the complainant with a clear and comprehensive explanation of all the circumstances surrounding the matter. Significantly the PPS had concluded that the redactions issue had not impacted on the complainant's conviction, nor adversely affected or prejudiced the outcome. I was therefore unable to uphold the complaint. The complainant had made a number of allegations against the PPS including corruption, cover ups, intimidation and harassment. He had also accused the PPS of lying. I found no evidence to support any of these allegations and advised him that I therefore found them unacceptable and reprehensible.

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

Case 3

This complaint arose from an incident in 2013 when the mother of a 23-year-old female with severe learning difficulties reported that her daughter had been raped by her uncle. The alleged assailant was charged by the police with sexual assault and rape, and the case was eventually heard in 2017, when the defendant was acquitted of all charges. The victim's mother lodged a complaint with the PPS in June 2017 claiming that the police and the PPS had mishandled the case both before and during the trial.

The complainant wrote to the PPS on 20 June 2017, without response. Her solicitor wrote again on 31 July 2017, seeking a meeting with the PPS to discuss the outcome of the case. Essentially, the victim's mother wanted to know why her daughter had not been called as a witness at the trial, why her recorded interviews were not presented at court, and why there had been a change of barrister during the trial. She was also concerned that the PPS had failed to adequately communicate with her and her family, or provide information on the trial process, the presentation of evidence and decisions made.

Following some further exchanges of correspondence, a meeting was arranged on 7 September 2017, between the complainant and her husband, and Counsel and the PPS Directing Officer. Notes of this meeting record that Counsel advised that the complainant and the victim had met twice with a clinician and his reports did not support the victim as a credible witness. He further advised that in the Achieving Best Evidence interviews the police had asked leading questions and therefore the decision was taken not to rely on the ABE tapes.

Subsequently, the complainant rang the PPS on 15th November 2017, suggesting that there should be a retrial, and was advised that there was no legal point on which to appeal.

The complainant wrote again to the PPS on 20 December 2017, reiterating her concerns about how her daughter's trial had been handled.

The Assistant Director (Western & Southern) responded in full on 1 February 2018 at the first stage of the Complaint's Procedures, dealing with each of the complainant's concerns in detail. The Assistant Director had considered the case file and obtained reports from the Directing Officer, and Senior and Junior Counsel. He said that the court had heard legal submissions in relation to the victim's competency and the admissibility of her Achieving Best Evidence interview. An expert witness had given evidence that he could not be satisfied that the victim understood the questions being asked at interview, was frequently confused, and gave contradictory responses to questions. Prosecuting Counsel therefore decided that it was no longer tenable to admit the victim's ABE evidence. The Assistant Director explained that as the trial had been adjourned on a number of occasions, the original prosecuting counsel had been unable to continue due to other commitments. However, he was replaced by another Senior Counsel who had been fully briefed, and he and Junior Counsel, who had been in place throughout, were experienced and therefore the victim had not been under represented at any time. As regards communications with the complainant and her daughter, the Assistant Director detailed numerous contacts from the VWCU prior to the trial, and he said that Prosecuting Counsel had consulted with the complainant every day at the first stage of the trial, and at the second stage, Prosecuting and Junior Counsel had met with the complainant and her family at almost every break in proceedings to ensure they were kept informed. The Assistant Director said that while he recognized and understood the disappointment felt by the complainant he did not consider that there was any failure by Senior and Junior Counsel to discharge their duties and could not uphold the complaint.

The complainant wrote again to the PPS in February and March 2018 reiterating her complaints. The Assistant Director (SCU) responded on 21 March 2018 advising that she had read all the evidence in the case, reviewed all the correspondence and noted the thorough investigation carried out by the Assistant Director (W&S). She was satisfied that he had addressed all the concerns raised by the complainant in compliance with the PPS Complaints Procedures. The Assistant Director concluded that she was satisfied that the case had been handled properly throughout and on this occasion it was simply not possible to prove the victim's allegations beyond

all reasonable doubt, which is the high standard of proof required in a criminal case.

I reviewed all the papers and correspondence in this complaint and spoke to the complainant. I am unable within my remit to comment on prosecutorial issues, but I confirmed that very detailed legal consideration and thought was given to issues of the victim's competence and the admissibility of the ABE interview. In relation to the communication with the victim and her mother I was satisfied that there was a significant level of contact with the VWCU prior to the trial, and that Prosecuting and Junior Counsel were assiduous in maintaining contact during the trial.

As regards the PPS's handling of this complaint, I found that some of the complainant's letters had not been acknowledged, and the PPS apologized for this and the delay in responding to early correspondence. However, subsequently the PPS handled the complaint very well, with a very thorough investigation carried out at Stage 1 of the Complaints Procedures, and very detailed, clear and comprehensive responses sent to the complainant at Stages 1 and 2.

This was a very distressing case and I had every sympathy for the complainant and, of course, importantly, her daughter. She pursued her complaint with tenacity and determination on behalf of her daughter, but having reviewed the case thoroughly I was unable to uphold her complaint against the PPS.

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

Chapter 3

Audit and Benchmarking

Audit of Complaints 2017-2018 (1st April 2017 to 31st March 2018)

This is my audit of a significant number of the complaints received by the PPS between 1 April 2017 and 31 March 2018. I have reverted to a full year audit after last year when I carried out two six monthly audits.

Report

I fully audited 60 complaints for the full year 2017/2018 out of a total of 90 complaints received during the year. This represents 67% of all complaints received.

Analysis

Total complaints audited 60

By Region

Belfast/Eastern	20
Western/Southern	17
HQ/SCU/Other	23

The number of complaints is relatively consistent between the three areas which I monitored, which is welcome given the historical disparity noted in my previous audits and Annual Reports. I infer that this reflects that the definition of a complaint is being interpreted consistently across all Offices.

Gender

Male	41
Female	19

The number and proportion of female complainants this year (32%) remains consistent with last year (29%). I draw no conclusion from this, but will continue to monitor to assess and identify trends

Community background/Disability/Ethnicity/Age/ Marital Status/Sexual Orientation

Once again I have been unable to break down complaints by community background or any of the

other equality categories, apart from gender. Again this year very few satisfaction questionnaires and the associated monitoring forms were completed and returned to the PPS by complainants. Although the forms are now signed by me as Independent Assessor, this has had no effect on the level of return of completed questionnaires. I will continue to monitor this aspect of analysis of complaints, and it has been a subject of my benchmarking activity.

Method of complaint

Letter	6
Email	44
Telephone call	3
Web complaint	7

The large majority of complaints are received by email. The web complaint form, while completed on occasions, continues to attract criticism from some complainants who attempt to use it but are unsuccessful. I am aware that this process is tested by the PPS from time to time, and found to be working satisfactorily. However, it is important that this testing continues to be carried out, to ensure that this method of complaint remains available to members of the public.

Stages of complaint

First stage	56
Second stage	4

As can be seen very few complaints progress to the second stage, and beyond (7%) of the PPS Complaints Procedures. I consider that this is a clear indication of the timeliness, quality and effectiveness of complaints handling by the PPS at the first stage, which is commendable, and a further confirmation that efficient complaints handling is well embedded within the PPS, at both the first and second stages.

Nature of complainant

Victims/witnesses	48
Other	12

The PPS Complaints Procedure may be accessed by any member of the public who has had contact with the PPS. Clearly, the majority of complaints will arise from those involved in some way in the prosecution process. Equally, it would be anticipated that complaints will generally arise from victims of crime or witnesses, who have concerns about how their case has been handled by the PPS, and this is reflected in the statistics (80%). Other complaints arise from those members of the public who feel that they should not have been prosecuted, or that others should have been.

Basis of Complaints

While I did not identify any consistent or persistent themes or trends in my audit, and as has been noted in previous audits, the issues of communications before and during court cases, and the perceived behaviour of prosecutors at court, arose on a number of occasions, and were features of cases which I investigated at stage three of the Complaints Procedures through the year. I have referred to the “perceived” behaviours of prosecutors as, in fact, the majority of such instances contained in complaints are not upheld, following investigation within the PPS. In most cases there was a lack of understanding of the role of prosecutors in court, and this was explained by Assistant Directors in their responses to complainants. This misunderstanding of the role of prosecutors, usually by victims of crime, may be an area that the PPS should consider in terms of their initial and ongoing communication to such individuals. Having noted that the majority of complaints in relation to perceived behaviours of prosecutors are not upheld, I noted examples where there was poor practice. In one case, the complainant asserted that the prosecutor had not presented their case vigorously enough, and after investigation the Assistant Director agreed that this was the case, upheld the complaint, and offered his apologies. In a second example, the Assistant Director agreed with the complainant that a vehicle owned by a defendant in a robbery should have been made the subject of an order for destruction, which did not occur. The Assistant Director agreed that the order was sought belatedly, and apologised to the complainant for this failing.

In cases of perceived poor communication from the PPS, prior to a case being heard, or during the court case, victims or witnesses felt that they had not been informed promptly, or at all about pending court hearings or other significant events. In all but one instance, for which an apology was given and the complaint upheld, after investigation, it transpired that a lack of communication had not been the responsibility of the PPS, and this was explained to the complainant in the PPS response.

In other instances, which I noted, where cases had not been handled well by the PPS, one example was observed where the PPS should have taken a prosecution decision much earlier. The complaint was upheld and an apology offered. In a particularly badly handled case, the prosecution of a cyclist who had caused damage to a motor vehicle failed because the case became time barred and the victim was only told on the day of the court hearing. Additionally, the motorist was unable to claim compensation for the damage to his vehicle. The PPS accepted full responsibility and offered a fulsome apology to the victim. The situation was exacerbated by the fact that the victim was then unable to access the PPS web complaint form to lodge his complaint.

Commentary

Overall, the majority of cases which I reviewed exemplify good practice by the PPS, and complaints have not been upheld (80%). 8% of complaints were upheld in full, and in a further 12% of cases, elements of the complaint were upheld. In each of these instances I noted that explanations were given by the PPS and apologies offered. Benchmarking has shown me that the PPS level of complaints fully upheld (8%) is at the lower quartile across the public sector, which is commendable. However, as I have cited above, a number of examples of operational failings were observed, and I leave it to the PPS to decide whether or what operational remedies might be appropriate to address these failings.

In terms of complaints handling, once again the timeliness of first acknowledgements and full responses remains at an exceptionally high level. In appropriate circumstances the requisite holding letter is issued, and I note the process by which reminders are sent to Assistant Directors to remind them of a pending deadline date. The quality of investigation and responses remains uniformly high, and apologies are unfailingly offered when poor practice is confirmed. Investigations following complaints are invariably thorough, with case papers being reviewed, and, where necessary, prosecutors, the VWCU or others are consulted and reports obtained to further the investigation, and provide a comprehensive response to the complainant. Responses to complainants themselves are signed off by Assistant Directors and the complainant offered the opportunity to progress their complaint to the next stage of the Complaints Procedures.

Responses to complainants are uniformly clear, courteous, comprehensive, jargon free, and seek to address the complaint in an open and honest manner. Failings are accepted when they occur, and full apologies offered where appropriate. A very small number of complaints progress to the second stage, and beyond, and the comments which I have made above apply equally to stage two responses. I am also satisfied that the stage two investigations represent an independent and unbiased approach to the complaint.

I commend the PPS for their performance in complaints handling in terms of initial acknowledgement, timeliness of full response, investigation and quality of response. I will continue to monitor progress in all of these areas in the current year.

Benchmarking

Once again this year I have undertaken benchmarking activities in relation to complaints in general, and to complaints procedures and processes, which are an important part of the Independent Assessor's remit. Essentially, benchmarking is a procedure which compares an organisation's processes and performance to industry best, and best practices. My intention is to ensure that the PPS's Complaints Procedures are in line with best practice and that they are fit

for purpose. At the same time, it is useful and helpful to compare PPS complaints statistics and performance against external comparators. Other benefits of benchmarking are that it can drive improvements not only in complaints handling but also in operational efficiency by introducing amended procedures, or implementing recommendations arising from complaints cases or audits.

A number of changes have taken place in the PPS's Complaints Procedures in recent years, although these have been essentially driven by the PPS themselves, augmented by effective measurement systems and monitoring and oversight. The benefits are clearly evidenced by the significant improvement in outcomes over a range of measures including the thoroughness of investigations, the quality and clarity of responses, and probably most markedly, the timeliness of first acknowledgements, and full responses, at the first and second stages of the Complaints Procedures. I welcome the fact that these outcomes have shown continued and sustained improvement since the amended procedures were introduced, and, in some instances, for example, the targets set for initial acknowledgement of a complaint of 5 days, and the 20 day target for full responses, have reached 95% in both cases which is remarkable, and I commend the PPS for this. The importance of timeliness in initial acknowledgement, and full responses cannot be overstated as recent research has shown that the main driver for customer (complainant) satisfaction is actually responding within the organisations stated time frames, rather even than upholding the complaint itself.

In terms of measuring complainant satisfaction with the handling of complaints by the PPS, and as noted in my Annual Audit, it has not been possible to gather statistical information in this regard, due to the fact that very few complainants complete and return the satisfaction questionnaires which are sent out after each complaint process has been finalised. Alterations to the questionnaire process have not been successful in attracting a greater response rate. Further attempts to address this issue will be made in the current year. However, a soft measure of complainant satisfaction is the percentage of complaints which are resolved at the first stage of the complaints procedures, and do not progress to the further stages. My Annual Audit showed that over 90% of the 60 cases which I reviewed were resolved at the first stage, or informally resolved. This is an excellent outcome, and demonstrates the benefits of effective complaints handling, including timeliness at the initial stage. Apart from the benefits to the organisation of this success in customer satisfaction, as I have noted above, it also, clearly, has the advantage of considerable savings in terms of cost and resource.

A further benchmarking comparator which is of interest is the percentage of complaints received by an organisation in relation to the total number of operational cases which the organisation handles per annum. In the case of the PPS, 42,395 cases were handled in 2017/2018, and 90 complaints received. This equates to 0.2%, a remarkably low figure, and should be a source of satisfaction for the PPS. It is difficult to determine appropriate comparators but in a number of

public authorities the range of % complaints to cases handled ranged from 1.5% to 3%.

In relation to benchmarking complaints handling with other prosecution services in other jurisdictions, I have reviewed those in England & Wales, Scotland and the Republic of Ireland.

In the case of the Crown Prosecution Service for England and Wales, I have maintained contact with the Independent Assessor of Complaints based in London. This role commenced in 2013, and while in theory similar to that in Northern Ireland, it has significant differences in terms of processes and working practices. This is mainly due to the size of a prosecution service covering all of England and Wales, the number of cases handled and the number of complaints received. The CPS Independent Assessor notes that the depth of investigation and the quality of response to complainants at Stage 1 give cause for concern, which, as I have reported, is not the case in NI. The Independent Assessor also observes a significant number of breaches of the Victim's Code in England and Wales, and continuing problems with the Witness Care Units, again issues which do not feature significantly in complaints which I have dealt with or audited in NI. The majority of complaints in England and Wales are received from victims, as in NI, but the principal category was offences against the person (58% of complaints received), the majority being victims of domestic abuse. This is not the case in NI where complaints arising from these sources represent a small proportion of the total received.

As I have noted in my previous Annual Report, the CPS Independent Assessor, and indeed CPS lawyers may 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". The Independent Assessor further recommends that such a payment should be automatically considered by the CPS following any breach of the Victim's Code. I do not believe that such payments are appropriate or necessary in NI, and in all cases which I have handled personally since 2013, or reviewed in my audits, I have only recorded one instance where a request for a consolatory payment was made, in that case for alleged business loss, and my conclusion in that case was that it was not appropriate. While it is entirely appropriate to consider and compare the processes and outcomes of the complaints procedures in England and Wales, I am satisfied that there are few if any improvement opportunities to be applied in NI at the present time.

In Scotland, the complaints procedures in the Procurator Fiscal Services are significantly different from those in NI. They do not have an Independent Assessor of Complaints. Complaints are dealt with internally, essentially in a one stage process. An initial attempt is made to resolve the complaint informally, generally face to face or by telephone. If resolution is not achieved, or the complaint is more complex or serious, an investigation is carried out, and written response provided. If the complainant remains dissatisfied he/she may refer the matter to the Scottish Ombudsman's Office, which handles such cases from a wide range of public authorities. I will

examine further the complaints system in Scotland as a great number of aspects are unclear, for example, who, and at what level investigates complaints, and what performance measures are in place, and what outcomes. However, I am satisfied, at this stage, that the complaint systems in the Procurator Fiscal Services would not be appropriate in NI.

In the Republic of Ireland, there is no Independent Assessor of Complaints for the prosecution service, the Office of the Director of Public Prosecutions. Complaints are dealt with internally, firstly by a senior lawyer, with a right of appeal to the Deputy Director. I am further examining the systems here, to ascertain further details of the processes, performance measures and outcomes, and will report on these in my next Annual Report.

As I have said, benchmarking is an essential part of my role as Independent Assessor, and it is a useful tool to ensure that the PPS Complaint's Procedures comply with best practice externally, and are fit for purpose.

Chapter 4

Complaints Handling in the PPS 2017/2018

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

Total Complaints

Number of complaints and written requests

Year	Complaints Logged	Written Requests
2013/2014	73	147
2014/2015	89	138
2015/2016	67	126
2016/2017	66	105
2017/2018	90	156

The total of 90 complaints this year was significantly greater than in the two previous years, but comparable with 2014/2015. Written requests had also significantly increased. It is noted that the increases are almost totally reflected in the figures for Belfast/East (+6) and SCU/Central/HCI (+17). I further note that in terms of reasons for complaints there has been an increase in complaints relating to case handling/delay (+10) and conduct of staff/counsel (+17). However, the % of complaints upheld has fallen from 26% to 20 %. The fluctuations in numbers of complaints received will continue to be monitored, and I am aware that the numbers received in the first quarter of 2018/2019 has fallen to previous levels.

Outcome of complaints

Year	Upheld	Partially Upheld	Dismissed	Resolved Informally	No further action required	Outstanding	Total
2013/2014	11	2	15	32	13	0	73
2014/2015	8	4	44	25	6	2	89
2015/2016	6	6	38	7	10	-	67
2016/2017	3	14	33	4	11	1	66
2017/2018	7	11	60	7	3	1	90

Of the total of 90 complaints received this year, 7 (8%) were wholly upheld and 11 (12%) partially upheld, a total of 20% which, as I have noted is a fall from 26% last year. This, of course means

that 80% of complaints are either dismissed (67%) or resolved informally (13%). This is a satisfactory outcome, although clearly the objective is to further reduce the % of complaints upheld reflecting a further improvement in operational procedures and complaints management.

Complaints Substantiated (Partially or wholly upheld)

Year	Number of Complaints	% Substantiated
2013/2014	73	18
2014/2015	89	14
2015/2016	67	18
2016/2017	66	26
2017/2018	90	20

As noted above.

Reasons for complaints

Reason	2016/2017	2017/2018
Case Handling/Delay	16	27
Primarily prosecutorial	30	27
Communication / Information	16	12
Standard of communication	6	7
Conduct of staff / Counsel	11	28
Court Performance	14	17
Other	4	12
Total	97	130

It is of some concern that 39% (45 instances) of reasons for complaints relate to conduct of staff/counsel and court performance. However, I am unaware of how many of these complaints were substantiated, and I would intend to analyse this in the current year. In all three of the complaints referred to me during the year these factors were a major element, but none of them were substantiated. I have noted previously that there appears to be a misunderstanding by members of the public participating in the prosecution process, often for the first time, of the role of the PPS and prosecutors at court. I recommend that the PPS review this situation and determine if more could be done in terms of communicating appropriate information about the PPS's and Counsel's role .

Complaints by Regional Area

Total number of complaints received

	Belfast/ Eastern	Western	Southern	SCU	Private Office Central, HCI & F&D	Other	Total
2017/18	33/90 (37%)	15/90 (17%)	8/90 (9%)	14/90 (15%)	13/90 (14%)	7/90 (8%)	90/90

The % of complaints received by the two Regional Offices and SCU remained very comparable with last year, while the % received by the Private Office/HCI/F&D increased significantly, from 3% to 14%. I do not attribute particular significance to this.

Complaints Substantiated (Partially or wholly upheld)

	Belfast/ Eastern	Western	Southern	SCU	Private Office Central, HCI & F&D	Other	Total
2017/18	13/33 (39%)	0/15 (0%)	1/8 (13%)	0/14 (0%)	3/13 (23%)	1/7 (14%)	18/90 (20%)

Although the percentage of complaints substantiated for Belfast/Eastern are significantly higher than the other departments, they are in line with previous years and will be subject to further analysis in the current year.

Number of complaints acknowledged within 5 days

	Belfast/ Eastern	Western	Southern	SCU	Private Office Central, HCI & F&D	Other	Total
2017/18	31/33 (94%)	13/15 (87%)	8/8 (100%)	14/14 (100%)	13/13 (100%)	7/7 (100%)	86/90 (95%)

As I have noted in this report, this is a remarkable outturn and is reflected in all of the PPS areas. I commend the PPS for this.

Number of complaints dealt within 20 days

	Belfast/ Eastern	Western	Southern	SCU	Private Office Central, HCI & F&D	Other	Total
2017/18	31/33 (94%)	14/15 (93%)	8/8 (100%)	13/14 (93%)	13/13 (100%)	7/7 (100%)	86/90 (95%)

Once again, these figures are outstanding and a reflection of the commitment and professionalism of PPS staff including the CCU.

Chapter 5

Concluding Notes and Recommendations

This is my 5th Annual Report as Independent Assessor of Complaints for the PPS, and I am pleased to record that the overall excellent standard of complaints handling by the PPS has been continued and improved this year. This is evidenced by the performance measures and outcomes, and also in the qualitative measures such as extent and thoroughness of investigations, clarity and openness of communications with complainants and the proffering of apologies where appropriate. It is quite remarkable that in terms of hard performance measures, the timeliness of acknowledgements of complaints, and the delivery of full responses has achieved 95% in relation to the targets of 5 days and 20 days respectively. Continuous year on year improvement in performance has been demonstrated since 2013/2014 when these figures were around 50/60%.

I attribute this significant success to the commitment and professionalism of PPS staff dealing with complaints, particularly Assistant Directors on whom the onus falls to carry out a thorough and timely investigation and draft full and detailed responses to complainants. The other major factor has been changes to the complaints procedures themselves, where processes had been introduced particularly in the CCU to acknowledge communications from complainants centrally, and to monitor the progress of individual complaints handling until the final response is dispatched.

In relation to qualitative measures, I have noted in complaints which have been referred to me, after being processed through stages 1 and 2 of the Complaints Procedures, and complaints which I have reviewed in my Annual Audit, that responses are invariably courteous, deal clearly with the specific complaint(s), and are clear and comprehensive, avoiding jargon.

I have previously noted that effective complaints handling is now well embedded within the PPS, at all levels, and it is noteworthy that over 90% of complaints are resolved at the first stage, with less than 10% progressing to stage 2, and only 3 progressing to the Independent Assessor of Complaints, which is the same as last year but considerably less than in all previous years. Clearly there will be cases which have been handled less successfully and I have drawn attention to these through my audit of complaints and in individual cases referred to me.

In terms of the increase in the total number of complaints received by the PPS this year, to 90 from 66 and 67 received in the two previous years, I do not place great significance on this one-year outcome, and indeed there has been a decrease in the first quarter of 2018/2019. In general terms, research shows that a factor in complaints received by public and private organisations is that customer expectation in terms of the service provided increases year on year, resulting in a

general rise in the level of complaints. Again, I emphasise that customer satisfaction is driven more by timeliness and quality of response than whether the complaint is upheld or not.

It is my view that the large majority of complainants genuinely feel aggrieved that they have not received the level of service they expected from the PPS. They generally correspond courteously and in the large majority of cases are satisfied by a clear and timely response to their concerns.

Complaints which might be considered frivolous or vexatious are rare, but should be, and are, dealt with by the PPS in a professional and courteous manner. A very small number of complainants resort to personal abuse, which is not acceptable. The PPS Complaint's Procedures define the policy in this area, and accept that individuals may act out of character in times of difficulty and stress. The PPS does not view actions or behaviours as unacceptable simply because a complainant is assertive or determined. However, the policy, quite correctly, states that the actions and behaviours of complainants who are angry, demanding or persistent, can result in unreasonable demands, or unacceptable behaviour towards PPS staff. The PPS reserves the right to restrict complainant contact particularly where the actions or behaviours present a threat to the safety of PPS staff. I am clear that personal abuse or insults are equally unacceptable, and I recommend that the policy in this area is amended to reflect this. Again in a very few cases, complainants pursue their complaint to a degree where it impacts unduly on PPS staff time and resource, and I consider that it is appropriate for the PPS to advise the complainant and terminate the contact. Clearly, it is a matter of judgement by PPS when this point has been reached in individual cases. I recommend that the PPS amend the Complaints Procedures to reflect this.

Associated with comments already made in this Annual Report, I would draw attention to:

- The excellence of written communications which is apparent in most areas of the PPS, particularly by Regional and HQ Assistant Directors, is shared with all areas of the PPS involved in complaints handling to ensure a uniformly high standard.
- Correspondence with complainants is checked to ensure that misspellings, particularly the complainant's name and address are eliminated
- Complainants are advised at the first and second stages of the Complaint's Procedures of the facility to progress their complaint to the next stage of the procedures.
- Consideration is given to reviewing the information given to victims and witnesses about the role of prosecutors at court to minimise misunderstanding of the role, in light of the number of complaints relating to conduct of staff/counsel and court performance.

As I have noted in this Annual Report, the number and % of complaints received by the PPS in relation to the numbers of cases handled each year remains very low in comparison with other organisations including other prosecution services. This is a reflection of the service which the PPS provides to the public they serve. I firmly believe that the professional handling of complaints which are received, contributes to customer satisfaction and public confidence in the service.

Annex A

Complaints Handling Process in the PPS

General

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

Definition of a complaint

The PPS definition of a complaint is:

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

Such complaints may relate to:

- The effectiveness and efficiency of the work of the prosecution service; for example, the time taken to process a prosecution case or the promptness of payment of witness expenses.
- The manner in which a person was treated by a member of staff of the PPS or by someone acting on behalf of the PPS (for example, a barrister instructed by the PPS).
- Any failure to adhere to the PPS Code for Prosecutors or Code of Ethics, that is, which does not relate to a prosecutorial decision. The PPS Code for Prosecutors, which includes the Code of Ethics, is available through the PPS website at www.ppsni.gov.uk.

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

complaints procedure. You should instead seek independent legal advice.

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

Who can make a complaint?

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

How can a complaint be made?

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

What information will I need to provide?

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

- Your name, address and contact details; this may include details of any representative whom you may want to have with you or speaking for you.
- Full details of the complaint, providing as much information as possible, including dates, the sequence of events which gave rise to concern and, if known, the names of persons involved.
- If applicable, the PPS reference number quoted in any previous correspondence you may have received.

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

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

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

How quickly will my complaint be dealt with?

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

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

How long do I have to make my complaint?

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

Can the matter be resolved informally without making a complaint?

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

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

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

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

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

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

**Policy and Information Unit
Public Prosecution Service
Belfast Chambers
93 Chichester Street
Belfast
BT1 3JR**

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

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

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

The Independent Assessor can investigate your complaint only:

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

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

Policy on unacceptable actions or behaviour by complainants

The PPS understands that individuals may act out of character in times of difficulty or distress. Indeed, a complainant may have encountered upsetting or distressing circumstances prior to bringing a complaint to the PPS. Therefore, the PPS does not view actions or behaviour as

unacceptable simply because a complainant is assertive or determined. However, the actions or behaviour of complainants who are angry, demanding or persistent can result in unreasonable demands on the PPS or unacceptable behaviour towards PPS staff. Whilst there are relatively few complainants whose actions or behaviour the PPS will consider to be unacceptable, the Service reserves the right to restrict complainant contact, particularly where the actions or behaviour present a threat to the safety of PPS staff.

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

Complaints about partner organisations

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

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

Requesting a review of a decision:

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

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

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

Requesting reasons for a decision not to prosecute

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

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

Complaint handling: Monitoring arrangements

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

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

General principles to be followed by the PPS

The complaint handling process will be open and accessible.

- Complaints will be dealt with in a timely, effective and consistent manner.
- Complaints will be considered fairly and impartially in line with the policy and procedures set out in the PPS Complaint Handling Policy.
- Complaints will be investigated by individuals other than those about whom the complaint was made.

- Members of the public making a complaint will be dealt with professionally and with sensitivity and courtesy at all times.
- The complaint handling process will deliver continuous improvement.
- The Independent Assessor will consider all complaints properly referred to him and also report annually to the Director of Public Prosecutions. He may make recommendations, and the Director is obliged to respond to these recommendations.
- The Independent Assessor will audit a proportion of all complaints received. The purpose of this is to identify any patterns and to obtain a clearer picture of the types of complaints being received.

Annex B

Role and Remit of the Independent Assessor

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

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

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

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

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

Complaints which may be investigated

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

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

- The effectiveness/efficiency of the work of the prosecution service (for example, the time taken to process a case, or the promptness of payment of witness

expenses).

- The manner in which a person was treated by a member of the staff of the PPS, or by someone acting on behalf of the PPS.
- Any failure to adhere to the PPS's Code of Prosecutors, or Code of Ethics.

Length of time the process will take

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

What the complainant needs to do

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

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

The cost of making a complainant

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

Completion of the investigation

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

Remedies available to the Independent Assessor

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

About the Independent Assessor

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

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