

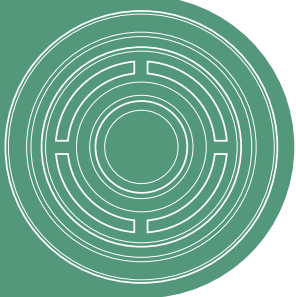
**THE OFFICE OF THE POLICE
OMBUDSMAN FOR
NORTHERN IRELAND**

A process verification assessment

September 2014

Criminal Justice Inspection
Northern Ireland
a better justice system for all





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Contents

List of abbreviations	3
Chief Inspector's Foreword	4
Executive Summary	5
Section 1: Inspection Report	
Chapter 1 Introduction and context	7
Chapter 2 Assessment of processes	9
Chapter 3 Conclusions	13



List of abbreviations

CJI	Criminal Justice Inspection Northern Ireland
CSRs	Current Situation Reports
FAC	Factual Accuracy Check
IPAG	Initial Prioritisation and Assessment Group
MoU	Memorandum of Understanding
OPONI	The Office of the Police Ombudsman for Northern Ireland
PSNI	Police Service of Northern Ireland
SIO	Senior Investigating Officer



Chief Inspector's Foreword

Asserting and protecting the independence of any body charged with the effective oversight of the police is a constant challenge. Add in the responsibility of investigating the role and performance of the police in dealing with historical 'Troubles' related cases – where there are already competing political and personal narratives – and where physical evidence and witnesses are no longer willing or available to assist, and the challenges facing the Office of the Police Ombudsman (OPONI) come into stark relief.

In 2011 Criminal Justice Inspection Northern Ireland (CJI) found that the way in which the OPONI dealt with the investigation of historical cases had led to a lowering of its operational independence. When Inspectors conducted a follow-up review in 2012-13, new structures were in place and experienced investigators had been recruited to support existing OPONI staff dealing with historical cases. Significant progress had been made against all our recommendations, and on that basis, I recommended the investigation of historical cases should recommence.

This current review assessed the effectiveness of the new processes and structures and the involvement and management of the investigations by the Police Ombudsman, as completed cases have moved through to the publication of public statements. I am

satisfied that the significant work undertaken within the OPONI to deal with historical cases has restored operational independence.

This review was conducted by Bill Priestley and David MacAnulty. My sincere thanks to all who contributed to this work.

Brendan McGuigan
Chief Inspector of Criminal Justice
in Northern Ireland

September 2014



Executive Summary

Work by the OPONI into complaints involving historic cases had ceased in 2011 following an adverse report by CJI into the independence of the OPONI. A follow-up review in 2013 recommended that such work could recommence, but that an assessment of whether full independence had been restored would only be possible following the publication of a number of public statements.

Following the publication by the OPONI of three public statements, CJI conducted a verification visit during July 2014. Three published cases were examined along with four other cases at various stages of completion. Inspectors also examined policies and processes and interviewed relevant senior staff.

Inspectors found that the revised processes introduced by the OPONI in 2013 had been applied consistently to the cases examined. The Quality Assurance regime had produced investigation reports and resultant public statements that had withstood challenge, internally and externally, whilst scrutiny of both investigative processes and the preparation of public statements were evident at each stage.

Concerns raised in the 2011 CJI report which had impacted upon the independence of the OPONI had been addressed and the OPONI senior management

team was cohesive in its aspiration to produce thorough, accurate and high quality public statements.

The provision of sensitive information to the OPONI by the Police Service of Northern Ireland (PSNI) had operated according to agreed protocol in the completed cases examined. However, more recent difficulties with the provision of such information had resulted in legal action being instigated by the Police Ombudsman against the PSNI. Inspectors were advised in July 2014 that this issue had now largely been resolved, although substantial practical outworking of a solution had yet to filter through to on-going OPONI cases.

Based on a range of evidence Inspectors concluded that the independence of the OPONI had been restored.



Inspection Report



Introduction and context

- 1.1 As a result of a report issued by CJI in September 2011¹, the work of the OPONI on sensitive historical cases ceased. CJI had recommended that work on historical cases should be suspended and an immediate review of the manner in which they were progressed be carried out. The Inspectorate did not make this recommendation lightly but as a result of the gravity of the situation Inspectors found at that time. The recommendation was based on the finding that the way in which the OPONI dealt with the investigation of historical cases, had led to a lowering of its operational independence.
- 1.2 The most significant concerns at that time were inconsistent investigation processes, varied approaches to communication with stakeholders and differences in quality assurance. The OPONI senior management team was divided around the production of reports and the handling of sensitive material was considered problematic. The flawed nature of the investigation process used in historical cases led to buffeting of public statements from a number of different directions.
- 1.3 In a follow-up review published in January 2013², CJI found evidence that substantial progress had been made since September 2011 against the initial recommendations. New structures and processes had been put in place within the OPONI, which focused on providing comprehensive and robust quality assurance of the investigations of historical cases and the publication of public statements.
- 1.4 CJI recommended that the OPONI recommence its work into sensitive historical cases as soon as practicable. However, the review stated that an assessment of whether full independence of the OPONI had been restored could only be made when a number of public reports had been published.
- 1.5 In December 2013³ CJI published a report into the relationship between the OPONI and the PSNI following on from issues raised during previous inspection work. The inspection concluded that the PSNI cooperated fully with the OPONI, in providing sensitive information, and that the OPONI handles and stores sensitive information correctly. However, at the time of drafting of the report a Memorandum of Understanding (MoU) between the OPONI and the PSNI had only just been signed. Due to these circumstances Inspectors stated that,

1 An inspection into the independence of the Office of the Police Ombudsman for Northern Ireland: CJI September 2011.

2 The independence of the Office of the Police Ombudsman for Northern Ireland - A follow-up review of inspection recommendations: CJI January 2013.

3 The relationship between the PSNI and the Office of the Police Ombudsman for Northern Ireland: CJI December 2013.

'...the measure of the effectiveness of the MoU will be whether its implementation satisfies each organisation's obligations and delivers a productive and professional working relationship. This will require continuous commitment from both parties.'

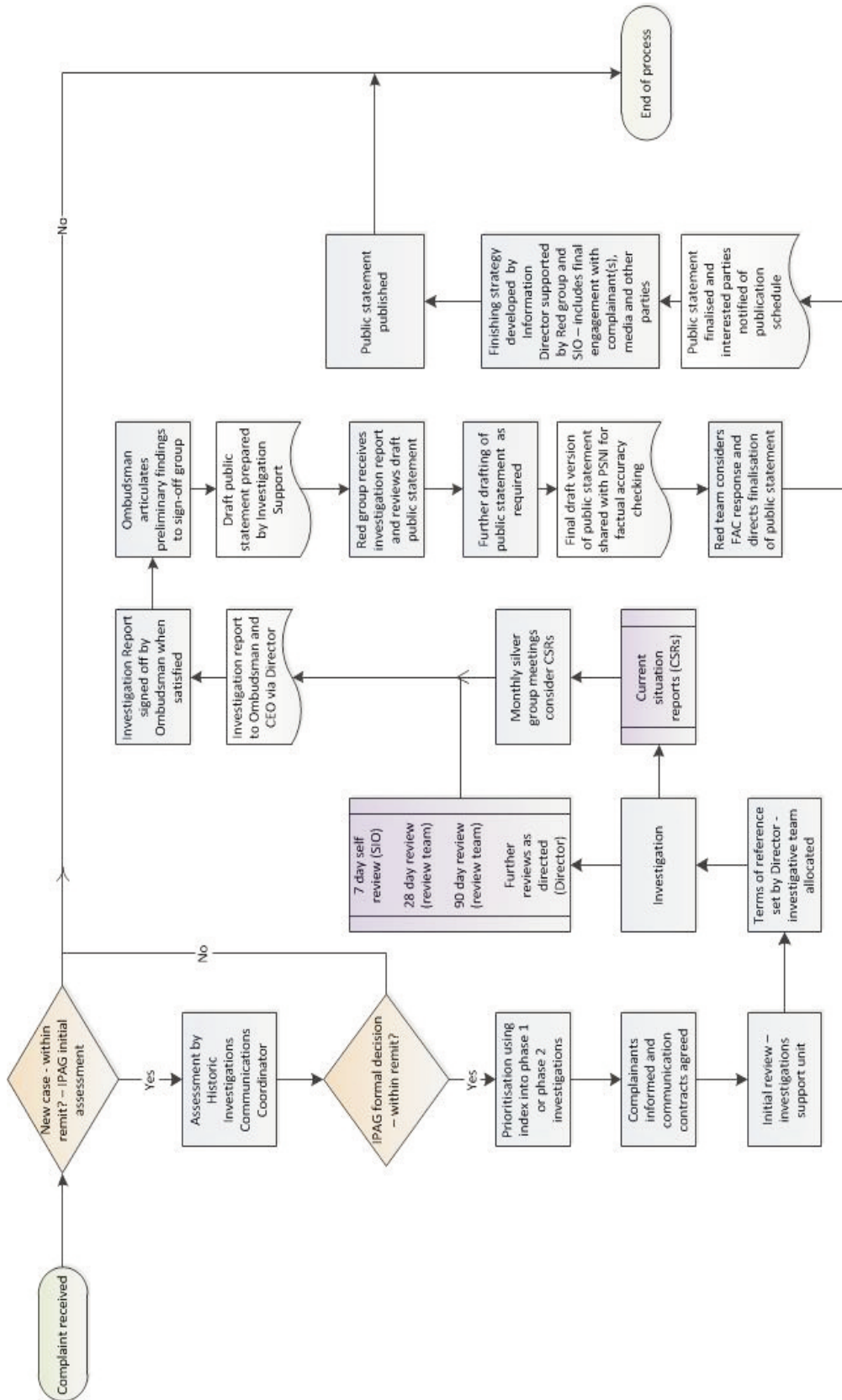
- 1.6 During March and April 2014 as a result of difficulties in obtaining sensitive information from the PSNI, the Police Ombudsman instigated legal proceedings. The provision of information to the OPONI by the PSNI is legislated for and directly impacts on the independence and effectiveness of the OPONI.
- 1.7 In June 2014 the Chief Inspector of Criminal Justice for Northern Ireland was invited by the Police Ombudsman to undertake an assessment of whether the independence of the OPONI had been fully restored following the publication of a number of public statements. Work started on this assessment during June 2014 consisting of a series of short preliminary meetings between Inspectors and relevant staff at the OPONI. Fieldwork took place between 23 and 25 July 2014 and consisted of detailed case studies of completed investigations and their attendant public statements, as well as cases at various stages of completion. The fieldwork also included an examination and assessment of policies and procedures in place, including their deployment across the organisation, and face-to-face interviews with relevant staff.
- 1.8 At the time of fieldwork in relation to this process verification, Inspectors were informed that agreement had been reached between the OPONI and the PSNI on the provision of sensitive information. Inspectors once again reiterate that the effective operation of the MoU regarding the provision of sensitive information by the PSNI to the OPONI requires continued commitment from both parties.



Assessment of processes

- 2.1 The processes examined were those impacting on the independence of the OPONI in handling historical investigations. Those processes relating to the handling of sensitive information and the provision of such information by the PSNI to the OPONI, had previously been examined. However, the operation of these processes was also verified during this visit.
- 2.2 The processes relating to the investigation of historical cases were clearly stated and underpinned by policies and procedures. In addition they were subject to regular checking, for example, by the implementation of case progress reviews that followed national standards of investigation. Figure 1 illustrates the processes applied to the investigation of historical cases.
- 2.3 Initial assessment of whether a case reported to the OPONI falls within its remit is made by the Initial Prioritisation and Assessment Group (IPAG). If, on first assessment the matter appears to be within remit, a full assessment is made by the Historic Investigations Communications Coordinator. If after this assessment the case is regarded as being within remit, it goes to the IPAG for a final determination. Following these assessments, the case is then prioritised in accordance with policy and the investigation process begins. An investigation report is produced which is signed off by the Police Ombudsman at a meeting attended by the Chief Executive, Senior Legal Adviser, Director of Investigations (History), Responsible Senior Investigating Officer (SIO) and the Head of Investigation Support. At this meeting the Police Ombudsman articulates his preliminary findings which then inform the preparation of a public statement. A 'Red' group is formed comprising members of the senior management team to review the draft public statement and at later stages, to consider the factual accuracy response (FAC) from the PSNI and to support the formulation of a finishing strategy for the public statement.
- 2.4 Inspectors examined three published cases and four other cases at various stages of completion to determine whether the processes were being operated consistently and in accordance with stated policies.
- 2.5 All the cases examined had been subject to the processes as set out in the OPONI policy. Inspectors examined the development of each investigation report and public statement.

Figure 1: Process of investigation



- 2.6 Investigations followed national standards and had been subject to reviews at seven-day, 28-day and 90-day intervals. Apart from the first seven-day review, these had been conducted by the Investigations Support team. The seven-day review was a self-review conducted by the SIO. This review consistently followed a standard format, including whether the investigation:
- was thorough;
 - was conducted with integrity and objectivity;
 - had not overlooked any investigative opportunities;
 - conformed to good practice;
 - included lessons learned and areas for improvement; and
 - identified procedural and organisational issues.
- 2.7 The later 28-day and 90-day reviews had been conducted by the Investigation Support team. These reviews were robust and structured, highlighting pertinent issues with the investigations. Inspectors saw evidence of investigative issues being identified, reported upon and addressed as a result of the reviews. There were also examples of minor process issues being identified and addressed as a result of the review schedule.
- 2.8 The progress of cases was subject to close scrutiny. This was administered through the production of Current Situation Reports (CSRs) which were considered at monthly 'Silver' group meetings. The 'Silver' group consists of the Police Ombudsman, History Director, Head of Investigation Support, relevant SIOs and Deputy SIOs from investigation teams and the Head of the Confidential Unit. Any strategic issues arising from the 'Silver' group meetings had been considered at the Police Ombudsman's 'Gold' group meetings which consisted of the Police Ombudsman, Chief Executive, Senior Legal Adviser and Directors of Investigations.
- 2.9 Investigation reports were consistently subject to scrutiny by the Police Ombudsman and Inspectors found that there was a focus on ensuring that all material relevant to a case had been assessed before a final investigation report was signed off.
- 2.10 The provision of sensitive material by the PSNI relevant to the cases examined had worked in accord with agreed protocol. However, Inspectors were aware that more recently there had been issues with the provision of sensitive material from the PSNI. Clarity is required to ensure that going forward; assurance can be given that all relevant material to an investigation has been made available. Inspectors were told that this issue appears to have been overcome and that this will become apparent as investigations progress.
- 2.11 Prior to the start of the investigation process, liaison with interested parties, including victims' families, was the remit of the Investigation Support team through its communications unit. At the commencement of an investigation, Inspectors found that hand-over strategies had been developed and implemented passing responsibility for family liaison to the investigative teams. Family liaison issues

formed an integral part of CSRs, and 'Silver' and 'Gold' group meetings and this had brought consistency of approach. Trained Family Liaison Officers had been appointed in each case based on assessed need. Before information was provided to families, it was subject to validation and agreement so that messages were consistent with investigative findings.

- 2.12 Following on from the production of an investigation report that had been signed off by the Police Ombudsman, public statements had been prepared in the three cases that had been published. Inspectors found that FAC responses from the PSNI and other parties had been recorded and set out clearly. The FAC responses had been considered individually at 'Red' group meetings and the final OPONI response to these had been agreed in each case. The 'Red' group had then directed on any amendments required to the draft public statement having considered the FAC responses. FAC comments were either accepted or rejected with the rationale for doing so recorded. Issues raised that fell outside strict FAC response were consistently rejected. Inspectors found that the 'Red' group had also considered legal advice in arriving at a final determination of the content of public statements.
- 2.13 The combination of investigation reports which had been subject to strong quality assurance processes, properly controlled communication with interested parties, and structured FAC processes, illustrated a robust system which had operated consistently to produce public statements.




Conclusions

- 3.1 This report is the result of Inspectors' analysis of the operation of the OPONI with regard to its investigations into complaints involving historical cases. Concerns raised in September 2011 were:
- inconsistent investigation processes;
 - varied approaches to stakeholders;
 - differences in quality assurance;
 - a divided senior management team; and
 - the handling of sensitive material.
- 3.2 These had been substantially addressed by the time of the follow-up review in 2013 by redesigning investigative and quality assurance processes. What was lacking at that time was evidence of cases being progressed to completion through this system to determine whether it could withstand scrutiny and buffeting.
- 3.3 Inspectors found that the processes described in various policies operating within the OPONI were being consistently deployed across investigations involving historical cases. The processes reported upon by Inspectors in the January 2013 follow-up review had been applied to the three published reports and four current cases examined by Inspectors. There was scrutiny at each stage of reported cases, from initial reporting and assessment through to the final production of a public statement. The Police Ombudsman was involved in providing quality assurance during both the investigative stage and public statement stage of cases.
- 3.4 The consistent application of processes together with sound quality assurance systems meant that investigations and public statements had withstood challenge. Draft public statements reaching the 'Red' group assessment stage were in a more advanced state than previously had been the case with the Critical Review Panel⁴. This situation had led to a more strategic assessment by the 'Red' group and greater confidence within it that the public statement had been fully informed.
- 3.5 The provision of sensitive material to the OPONI by the PSNI had operated in accordance with agreed protocol across the three published cases examined by Inspectors. Recent difficulties appear to have been overcome but highlighted the importance of ensuring that agreements on the provision of sensitive information are fully implemented.

⁴ An Inspection into the independence of the Office of the Police Ombudsman for Northern Ireland: CJI September 2011.

- 3.6 By examining completed and partially completed cases, Inspectors are satisfied that the systems are now consistent and subject to robust quality assurance processes delivering public statements that have withstood challenge. Inspectors therefore conclude, based on a wide range of evidence, that the independence of the OPONI has been restored.



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