

A Review into the methods the Police Service of Northern Ireland use to disclose information in respect of historic cases to the Office of the Police Ombudsman

Terms of Reference

Introduction

Criminal Justice Inspection Northern Ireland (CJINI) proposes to undertake a Review of the methods the Police Service of Northern Ireland (PSNI) use to disclose information about historic¹ cases to the Police Ombudsman for Northern Ireland (PONI).

The Police Act (Northern Ireland) 1998 set out the role and powers of the PONI to investigate complaints about the police in NI. The office was established in November 2000 and dealt with current and historical investigations. The PONI Historical Investigations Directorate investigated complaints of a grave or exceptional nature relating to the actions of police officers during the time described as ‘The Troubles’ and related to the period between 1968 and the signing Good Friday Agreement in 1998.²

There was an onus on the PSNI to fully disclose relevant information to allow PONI to effectively investigate cases and the Police (Northern Ireland) Act 2000 states that the Chief Constable shall supply PONI with such information and documents as the PONI may require for the purposes of, or in connection with, the exercise of any of his functions.

Context

On 14 February 2019 the PONI reported that his investigators had identified significant sensitive material held by the PSNI but which was not made available to PONI staff investigating the events. The discovery was made during the PONI investigation into the murder of five people at a betting shop on the Ormeau Road in Belfast on 5 February 1992, and had also begun new PONI lines of inquiry into the activities of Loyalist paramilitaries in the north west between 1988 and 1994, and the murder of Damien Walsh at a coal depot in west Belfast in 1993.³ The PSNI acknowledged the disclosure failings, apologised to those affected, and said that it had not sought to deliberately withhold the information.⁴

On 19 February the Department of Justice asked CJINI to undertake an independent review of the methods the PSNI use to disclose information in respect of historic cases to the PONI and that it be given priority within the Inspection Programme.

¹ For the purposes of this Review the term ‘historic’ covers the period referred to as ‘The Troubles’ and related to the period between 1968 and the signing of the Belfast Agreement also called the Good Friday Agreement on 10 March 1998.

² Police Ombudsman for Northern Ireland website. www.policeombudsman.org

³ Police Ombudsman for Northern Ireland. <https://www.policeombudsman.org/Media-Releases/Police-did-not-disclose-sensitive-information>

⁴ Police Service of Northern Ireland. <https://www.psni.police.uk/news/Latest-News/140219-psni-look-to-give-poni-full-and-unfettered-access-to-psnis-legacy-systems/>

The Justice (Northern Ireland) Act 2002 specifically precludes CJINI from carrying out inspections or reviews of individual cases. This Review will therefore look at the methods the PSNI use to disclose historic information to PONI: it will not report on the disclosure failings in the specific case which led to the request for this Review or circumstances of other individual historic cases.

Aims of the Review

Whilst not reviewing individual historic cases, the aims of the Review are to:

- Assess the effectiveness of the PSNI policy, procedures and practice to identify and disclose information requested by the PONI, including the adequacy of the Memorandum of Understanding (MOU) and operating procedures agreed between the PSNI and PONI.
- Assess the effectiveness of the PONI policy, procedures and practice for requesting the disclosure of information from PSNI.
- Assess the effectiveness of the PSNI policy, procedures and practice to preserve and retrieve information held in respect of historic cases.
- Assess the PSNI oversight, governance and quality assurance of its archive material management arrangements, and the disclosure of information on historic cases to the PONI.

Methodology

The Review will be based on the CJINI Inspection Framework for each inspection or review that it conducts. The three main elements of the framework are:

- Strategy and governance
- Delivery, and
- Outcomes.

Constants in each of the three framework elements and throughout each review are equality and fairness, together with standards and best practice. CJINI methodology can be found at www.cjini.org

Research and review

Collection and review of relevant documentation such as previous inspection, review and other reports, the PSNI, PONI policies and procedures, MOUs, management information, data, minutes of meetings and related documentation.

Fieldwork

- Terms of reference will be prepared and shared with the PSNI and PONI prior to the commencement of the Review. Liaison officers from the PSNI and PONI should be nominated for the purposes of this Review.
- PSNI as the primary organisation will be given the opportunity to complete a self-assessment of its approach to methods it uses to disclose information in respect of historic cases to the PONI and any policy, procedures and management information deemed relevant.
- Interviews and focus groups will be conducted with the PSNI, the PONI and other relevant stakeholders to give an insight into the issues affecting the disclosure of information in respect of historic cases to the PONI.
- Relevant management information and performance management data will be examined.

- Evidence of planning and decision-making leading to performance improvement and recognition of future development will be gathered.

Feedback and writing

Following completion of the fieldwork, analysis of data and the presentation of emerging findings to PONI and PSNI, a draft report will be shared with PSNI and PONI for factual accuracy check. The Chief Inspector will invite the PSNI and PONI as necessary to complete an action plan within two weeks to address any recommendations. If the plan has been agreed and is available it will be published as part of the final Review report. The Review report will be shared, under embargo, in advance of the publication date with the PSNI and the PONI.

Review publication and closure

- The final report is scheduled to be completed within 6 months.
- A report will be sent to the Department of Justice⁵ for permission to publish.
- When permission is received the report will be finalised for publication.
- Any CJINI press release will be shared with the PSNI, PONI and the Department of Justice prior to publication and release, and
- A suitable publication date will be agreed and the report will be issued.

⁵ In the event that there is no Minister of Justice