

POLICE OMBUDSMAN FOR NORTHERN IRELAND COMMENTARY TO THE COMMITTEE FOR JUSTICE ON THURSDAY 8 SEPTEMBER 2011

Chairman, as you and the Committee members, the public and the media are well aware I have been subjected to some focused personal attacks and calls for my resignations over the past several months.

This relates to my approach to handling the historic investigations conducted by my Office, and follows some difficult personnel issues that faced our Office. The leaked resignation letter of my Chief Executive which alleged interference in the office by the Northern Ireland Office and the Department of Justice, as well as a lowering of operational independence of this Office in its relationships with the Police Service of Northern Ireland (PSNI), provided the catalyst.

The Minister commissioned Tony McCusker to investigate the allegation of DOJ interference and he reported to this Committee on the results. I have not yet had an opportunity to discuss those results with you. This may be corrected by your questions today.

I asked the Chief Inspector of the Criminal Justice Inspectorate to examine the allegation that there has been a lowering of operational independence with our principal stakeholder, the PSNI. Dr. Maguire and his team professionally did what I asked and we have had our discussions regarding their findings. While I do not agree with everything, I have accepted their recommendations. These focus on historic investigations and they have correctly put the spotlight on dealing with the Past, as well as highlighting the need for additional resources.

I will leave it to others to speculate on the motivations of those individuals and groups who are choosing to conduct a personal attack on me, and consequently the important work of my Office. Those vested interest groups and individuals have self-identified. Even though we might disagree, and I believe them to be wrong, I do acknowledge their fortitude in representing their interests.

As for others who lack integrity and have engaged in a campaign of leaks and directed whispers, I can only say that I am saddened by their lack of moral fortitude. In my experience, things usually come full circle.

Despite this, our Office is made up of people who are dedicated, professional, independent and full of integrity. If a situation arises where that is not the case, then we deal with it. Make no mistake; the Office of the Police Ombudsman is an absolute necessity for the architecture of policing in Northern Ireland. Our women and men demonstrate this daily and as Michael Maguire and his team found, there are no substantial issues with what I call our 'day-business' – current complaints. I remind everyone that this was the reason the office was established.

Let me be clear and challenging to this Committee, the Assembly, the Minister and the Secretary of State for Northern Ireland, as well as leaders in the wider civil society and the media. The Office of the Police Ombudsman was not set up to be a proxy for resolving wider unresolved legacy issues. And yet we find ourselves cast in that role and driven in that direction by the lack of an agreed resolution on how to deal with 'The Past'.

Make no mistake; failure to address the wider legacy issues will have continuing grave consequences beyond me. Continuing to leave the unresolved legacy issues in the 'too difficult' tray or accepting the 'status quo' will destroy this Office and the good it was set up to do. It will ultimately undermine policing in Northern Ireland and an excellent police service – the PSNI. I remain convinced that the Consultative Group's Eames/Bradley proposals offer a type of framework that provides the best opportunity for an agreed way forward.

The question of who will occupy role of Police Ombudsman is an important one. While I can withstand the personal attacks, the continuing attacks on me generate a confidence issue that will

ultimately divide the community and damage the continuing good work of the Office.

Policing is too important to Northern Ireland's future. After a decade of commitment to the improvement of policing in Northern Ireland, I will not let those who want to undermine the progress for their own narrow agendas to succeed in destroying the Office or shaping it for their own ends.

I have therefore advised the Minister for Justice, David Ford that my last day of work will be the 1st of June 2012. The Minister in turn will advise OFMDFM to immediately begin the process of selecting a candidate for the post of Police Ombudsman for Northern Ireland.

This allows 9 months for the selection process, nomination and vetting. Although this is six months earlier than my planned departure, it will allow me to deal with the issues identified in the McCusker and CJI reports.

Moving now to more specific issues;

- As a first point, you will note that the Chief Inspector has confirmed my view that we have real and practical independence and that there are no significant concerns with respect to current cases. These represent 80% of our work. He distinguishes current cases from historic cases and it is important for the Committee and the Public to understand the distinction.
- I want to assure the public and this Committee that the women and men of the Office of the Police Ombudsman, including me and the senior management team, exercise our independence every day in managing the 3000 plus complaints we receive each year. I do not claim that we get it right every time, but we are a learning organisation. Our high levels of public and police satisfaction and confidence illustrate this, and the CJI report has confirmed it.
- Let me also say that I and my senior team have constructively accepted the six recommendations. These focused on improving our historic investigation process. We have

developed an action plan to implement the changes and I have provided the Committee with the action plan. I have invited the Chief Inspector to return in due course to confirm the changes. The CJI report with its recommendations and Action Plan are posted on our website.

Let me now deal with the CJI conclusions that led to the recommendations:

1. I agree with the CJI premise that independence is a 'zero sum game' and that movement to engage with police, families or interest groups, as CJI describes it 'buffets this office from several directions'. CJI notes that independence is a trade-off between engagement and isolation and we obviously need to get the balance right or it results in a lack of confidence from one quarter or another.

2. I have agreed with the recommendation to review our Confidential Unit. The issue of the security of sensitive information was the reason for the Joint Intelligence Review in 2008 and the implementation of robust 'firewalls'.

The recent leaks from this Office demonstrate the caution required in the handling of sensitive material. Nonetheless, CJI has correctly identified the tension between security of information and a need to inform the public for transparency and accountability. CJI phrase this as a 'civilian perspective' and note the need for checks and balances.

3. CJI has recommended that I suspend any new investigations of historical matters until the Historic Investigations Strategic Plan has been adequately resourced and becomes fully operational. They conclude that the implementation of the Strategic Plan would provide a more robust and sustainable model for dealing with historic cases.

I have agreed. We could not have begun any significant new investigations in any event without additional resources since historic investigators are occupied on other matters.

It should be clearly understood that achieving this recommendation will require DOJ and DfP to deliver on the funding commitment so that we can begin acquiring the needed resources.

4. CJI has also recommended that I suspend reporting on the seven cases that have been investigated over the years but not reported on. This should resume once the critical review and quality assurance process has been reviewed and a sustainable model agreed.

It is important to acknowledge the impact of this recommendation on the various families caused by this further delay. They have already shown great patience since the Office received their complaints many years ago.

5. Finally, the CJI report concludes that “the flawed nature of the investigative process in historic cases, the divisions in senior management and the concerns around the handling of sensitive material have undermined confidence in the work of OPONI among some staff and key stakeholders. These have led to a lowering of the operational independence of the Office”.

This conclusion does not make for pleasant reading but I have accepted the CJI recommendations relating to the improvement of historical investigations.

At the time of the inspection, there were divisions in senior management; there were concerns around the handling and security of sensitive information that led to strict ‘firewalls’.

Security of information must remain tightly controlled. But I also accept that this must be subjected to a vigorous examination designed to release the maximum permissible information into the public domain.

With respect to the flawed investigation process, the Historic Investigations Strategic Plan and new resources are designed to have a consistent approach to new investigations, in a timelier manner and with dedicated resources.

I have invited CJI back to confirm implementation of their recommendations. I am happy to return and update the Committee at a future date.

There are some final points to cover with respect to other issues arising from the McCusker report:

a. As recommended, we have recently selected an expert to work with the Office and DOJ on defining the boundaries of independence and in particular the role of the Chief Executive, as well as the appropriate corporate governance model for the Office. That initial work is expected to be completed by mid-October 2011.

b. When this work is completed, the post of Chief Executive will be graded relative to the Senior Director of Investigation post. The former Chief Executive left his post as of 31 August 2011 and his replacement will be selected once the process described above is completed.

c. There was another personnel matter raised by the McCusker report. I had that matter independently investigated and have received the report. The matter is now subject to due process and I cannot comment further.

I have already indicated my departure on 1 June 2012. I have the trust and confidence of the senior management team in continuing to work with them in ensuring that there is a stable and appropriate corporate governance structure; a cohesive senior management team; and a robust and sustainable model for dealing with historic investigations.

Chairman, thank you for the opportunity to make some opening comments. My colleagues and I are happy to take questions.