

## **Public Consultation on the Police Ombudsman's Prioritisation Policy for Historical Investigations**

Acting on a recommendation by the Criminal Justice Inspectorate, during 2012 the Police Ombudsman invited public consultation in respect of his proposed policy for prioritisation of historical investigations. The policy is designed to ensure a consistent and equitable decision making process in relation to the order in which each of the 'historical' public complaints and referrals received by the Ombudsman will be investigated. The Police Ombudsman has defined historical cases as those relating to events which occurred in Northern Ireland during the period known as 'the Troubles'; 1968 to the Good Friday Agreement in April 1998.

Our draft policy was provided to a number of interested parties, posted on our website and reproduced in a number of publications. In response a number of parties engaged with our organisation on the policy.

Of the twelve people and organisations who responded to us, three groups did not raise any issues, one individual and one organisation provided us with observations on the context within which the policy would operate but did not express any views on its detail. The remaining respondents raised particular points about aspects of the policy.

It was suggested that our policy should include a time limit on our historical investigations, however, there is currently no statutory basis on which such an approach could be supported.

One respondent advised us about the value of an initial overview of the cases, including identification of risks. We believe the preliminary 'Assessment' stage of the process, through which all cases progress and which informs initial prioritisation, addresses both of these issues.

One respondent suggested that allegations of misconduct involving retired police officers should be given more weighting than that proposed in our draft policy. While the Police Ombudsman may consider allegations of misconduct involving former police officers, there is no basis for recommending disciplinary sanctions against such officers and therefore allegations of criminality, or allegations of misconduct involving serving police officers remain a priority.

It was recommended that we provide weighting for those matters that are subject of court/inquest proceedings. We agreed, on the basis that court proceedings must be limited to criminal and not civil matters.

Another person was concerned that the wording of our policy appeared to equate a potential threat to life with a threat to property. The reference to a 'threat to property' related to the potential loss of evidence but the wording in the policy has been amended to, 'serious damage to evidential property.'

It was suggested that we incorporate an evidential opportunities filter. This is an important issue but is one which we consider to be woven throughout the policy as the investigative process requires an informed application of the policy for a second time following a comprehensive pre-investigation review.

An organisation suggested that should related legal proceedings have resulted in a finding of a miscarriage of justice, this should be reflected in the weighting given to a related case. This is an issue which is reflected in the policy.

One group asked about how our application of the policy could be monitored to demonstrate it was being operated fairly. Our commitment to ensuring consistency is expressed in the policy as follows; *'The prioritisation marking and the reasons for that marking will be recorded in and form part of the official documentation of each case. A schedule of the prioritisation will be held by the Office Manager. The Police Ombudsman will oversee a quality assurance process to satisfy himself that the policy has been applied properly.'*

The same group also raised our use of the terms 'score' and 'scoring' in the draft policy. There was a view that such terms were perhaps insensitive, given the nature of the cases in question and consequently have replaced these terms with 'mark' and 'marking'.

Finally, it was suggested that for some victims and survivors, the description of these serious matters as 'historical' may appear insensitive. We have considered whether other terms such as 'legacy' or 'retrospective' might be more appropriate but while recognising that for many people the impact of the matters involved, often involving the deaths of loved ones, remains a part of their every day life, in the absence of a more suitable alternative we have decided to retain the term, 'historical' cases.

**Paul Holmes**

Director of Investigations (Historical)

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