



AN AGREEMENT MADE UNDER SECTION 60ZD OF THE POLICE (NORTHERN IRELAND) ACT 1998 RELATING TO THE INDEPENDENT COMMISSION FOR RECONCILIATION AND INFORMATION RECOVERY COMPLAINTS AND DISCIPLINARY PROCEEDINGS IN NORTHERN IRELAND

1. Parties

1.1 With the approval of the Secretary of State for Northern Ireland, this Agreement is made between:

- The Police Ombudsman for Northern Ireland ("PONI") and
- The Independent Commission for Reconciliation and Information Recovery

2. Interpretation

2.1 In this Agreement:

- "The 1998 Act" means the Police (Northern Ireland) Act 1998;
- "The 2023 Act" means the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023;
- "conduct" means conduct by a designated ICRIR officer when exercising the powers and privileges of a constable relating to ICRIR functions;
- "ICRIR officer" means the Commissioner for Investigations and ICRIR officers employed pursuant to section 3(1) and paragraph 16 of Schedule 1 to the 2023 Act, and persons who have been seconded to the ICRIR to serve as ICRIR officers pursuant to section 3(2) and paragraph 17 of Schedule 1 to the 2023 Act and "designated officer" means any such officer who has been designated under section 6 of the 2023 Act;
- "PONI" means the Police Ombudsman for Northern Ireland;
- "Parties" means the Police Ombudsman for Northern Ireland and the Independent Commission for Reconciliation and Information



- "PSNI" means the Police Service of Northern Ireland;
- "Complaints" mean serious complaints as outlined in Annex A of this Agreement.

3. Purpose

- 3.1 The purpose of this Agreement is to establish procedures enabling PONI to independently investigate and determine complaints¹ and other matters² concerning designated ICRIR officers exercising the powers and privileges of a constable in Northern Ireland. The procedures established by virtue of this Agreement correspond, so far as practicable, to those which apply to members of PSNI in Part VII of the Police (Northern Ireland) Act 1998 (the 1998 Act), relating to the exercise of powers of a constable.
- 3.2 The procedures set out in this Agreement do not have effect in relation to anything done by an ICRIR officer outside Northern Ireland³. Nor do the procedures apply to anything done prior to the date this Agreement comes into force. Nor do they apply ICRIR officers who are not designated.

4. Legal Framework

- 4.1 By virtue of section 60ZD of the 1998 Act, PONI and the ICRIR are enabled to enter into this Agreement.

5. Arrangements

¹ As set out in paragraph 5.1 of this Agreement

² As set out in paragraph 6 of this Agreement

³ As set out in paragraph 5 of this Agreement



5.1 The Parties have agreed that PONI may investigate a complaint as

defined in Annex A, which is made by, or on behalf of, a member of the public about the conduct of a designated ICRIR officer who is exercising the powers and privileges of a constable.

5.2 The Parties will treat a complaint so far as possible as if it were a complaint made under the 1998 Act. The Parties further agree that they will act in relation to the complaint as if it were a complaint so made under the 1998 Act.

5.3 The Commissioner for Investigations will, in so far as is possible, discharge the functions conferred on the Chief Constable under the 1998 Act as if the Commissioner for Investigations were the Chief Constable and the ICRIR officer were a member of the PSNI.

5.4 PONI will, in so far as is possible, discharge the functions conferred on the Police Ombudsman by virtue of the 1998 Act in relation to an ICRIR officer as if that ICRIR officer were a member of the PSNI.

5.5 The Parties will, where relevant, have regard to any statutory guidance issued by the Department of Justice in relation to the operation of the 1998 Act.

5.6 The Commissioner for Investigations will, in accordance with the law, and in particular the 2023 Act, require ICRIR officers to cooperate with an investigation in relation to a complaint or other matter that relates to a designated ICRIR officer's conduct in Northern Ireland.

5.7 The funding arrangements are set out in Annex B to this Agreement.

6. Other Matters



6.1. Section 55 of the 1998 Act applies as if:

For all references to 'Chief Constable' there were substituted 'Commissioner for Investigations' unless the complaint about conduct refers to the Commissioner for Investigations, in which case it shall be the Chief Executive Officer.

The Chief Constable of the Police Service Northern Ireland shall also have the power to make a referral under subsection (2) and (4)

Subsection (1) and (1)(A) were omitted.

In subsections (4)(a)(ii), (4A)(a)(ii) and (6)(a)(ii), for the words "behaved in a manner which would justify disciplinary proceedings", there were substituted the words "behaved in a manner which would justify disciplinary proceedings relating to gross misconduct", "

7. Points of Contact

7.1. The Commissioner for Investigations may designate a senior ICRIR officer who will be responsible, on his behalf, for exercising the functions conferred on him in this Agreement.

7.2 The Parties have further agreed to each nominate the following point of contact to deal with all matters falling within this Agreement:

7.2.1. PONI: Senior Director of Investigations.

7.2.2. The ICRIR: Commissioner for Investigations

8. Review and Termination

8.1. This Agreement will come into effect on 1 May 2024 and will continue in operation until terminated by either Party on three months' notice.



- 8.2. The Parties may make, vary or terminate this Agreement in writing and with the approval of the Secretary of State.
- 8.3. The arrangements set out in this Agreement will be reviewed on an annual basis. The first review date will be six months after the date the Agreement comes into effect.
- 8.4. The funding arrangements set out in Annex B to this agreement will be reviewed quarterly in the first year of operation.

9. Governing Law and Jurisdiction

- 9.1. This Agreement will be governed by, and construed in accordance, with the law in Northern Ireland and the parties agree to submit to the exclusive jurisdiction of the courts of Northern Ireland.

10. Media Handling / Communications

- 10.1. The Parties will maintain independence and ownership of their own media lines. However where the Parties have media lines about the same matter, they will take into account any potential issues that may significantly affect their respective operational work.
- 10.2. The parties will publish this Agreement on their respective websites.

Date: *18 April 2024*

Signed: *Mamie Anderson*
The Police Ombudsman for Northern Ireland

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Signed: Handwritten signature of Peter Sedberry in black ink.

On behalf of the Independent Commission for Reconciliation and Information Recovery

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Annex A – Serious Complaints

A “serious complaint” in relation to this Agreement shall be one which alleges any of the following:

1. That the conduct of the relevant member led to the death or serious injury of a member of the public. Serious injury shall be one as defined by section 50 of the 1998 Act.
2. That a relevant member committed a serious assault or serious sexual offence. It shall be for PONi to determine what constitutes a serious assault or a serious sexual offence.
3. That a relevant member is guilty of serious corruption and it shall be for PONi to determine conduct that constitutes serious corruption.
4. That it raises an issue of significant public interest in respect of the alleged conduct relating to the exercise of police powers by that designated officer and it shall be for PONi to determine issues that constitute significant public interest.



Annex B - Funding

- B1.** This Annex sets out a means by which the Parties will agree to discuss, negotiate and reimburse full costs in respect of each complaint and investigation. It is recognised by the Parties that for the financial 2024/2025, there may be insufficient numbers of complaints for a fixed cost for each complaint to be assessed and agreed (in which case it will be based on actual cost).
- B2.** In reaching the Agreement, the Parties recognise that this is a cross-jurisdictional arrangement in the interests of consistent service provision across the UK. It is also recognised that all work carried out by or on behalf of the Ombudsman in connection with the investigation of a serious complaint or other matter in accordance with the procedures set out in this Agreement will be reasonably reimbursed by the ICRIIR.
- B3.** The funding arrangement will be as follows –
- (i) The costs to be charged for each complaint received by the Ombudsman will be based on an agreed amount for each complaint;
 - (ii) The costs charged for each investigation undertaken by the Ombudsman under this Agreement will be based on the hours worked by the investigator at hourly rates according to the grade of officer employed. These hourly rates will be reviewed and revised annually in line with the Ombudsman's operating costs.
- B4.** The Parties further recognise that occasions may arise where the Ombudsman will incur significant and also additional costs (including legal advice and expert costs) when dealing with a complaint or matter involving



the conduct of the Commissioner for Investigations or an ICRIR officer under this Agreement.

- B5.** This Annex sets out a means by which the Parties will agree to discuss, negotiate and reimburse in such cases disbursements will be reimbursed by the ICRIR.

- B6.** If the Ombudsman considers that the costs of investigating a complaint or matter under this Agreement will exceed or has exceeded the trigger amount, then the Ombudsman will commence immediate discussions with the ICRIR about reimbursement.

- B7.** The trigger amount shall be £10,000.

- B8.** Consideration of a serious complaint about an ICRIR officer's conduct by the Ombudsman or other matter will be continued when reimbursement negotiations are ongoing.

- B9.** A reimbursement agreement will be framed in terms of either costs of resources required (projected and subsequently actual); or a lump sum which anticipates likely resources required and which is not subsequently adjusted for actual expenditure.

- B10.** Although the Ombudsman will determine the costs incurred in any complaints handling review, whether supervised or otherwise, both parties must agree the reimbursement agreement itself. The ICRIR Chief Operating Officer will be responsible for the ICRIR's engagement on any matter of payments for services to the Office of the Police Ombudsman Northern Ireland under this Agreement.

- B11.** If there is no agreement reached within 60 days on an appropriate level of reimbursement, the matter may be referred to the Principal Accounting



Officer at the Northern Ireland Office and the Department of Justice.



- B12.** This Annex will be reviewed quarterly during the first year that this Agreement is on force and thereafter bi-annually.