



**The Independent Assessor of Complaints  
for the Public Prosecution Service**

# **Annual Report**

**2015/16**

*Mr Alan Henry OBE*

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## Chapter 1: Background

*I was appointed to the post of Independent Assessor of Complaints (IAC) for the Public Prosecution Service (PPS) in May 2013. The role (see Chapter 6) entails investigating and reporting on complaints which are referred to me after they have been responded to fully within the PPS Complaints Procedures, and which are primarily non-prosecutorial in nature. I also carry out an audit function of all complaints to the PPS, and carry out benchmarking to ensure that the PPS complaints procedures are compatible with best practice throughout the public and private sectors.*

This is the 11th Annual Report on the work of the Independent Assessor. The report covers the period from 1 April 2015 to 31 March 2016, and all statistical information is drawn from that period.

The report provides information on complaints handling within the PPS, and statistical information for 2015/2016, and comparison with previous years.

Detailed reports on complaints referred to the Independent Assessor are shown in Chapter 2. I investigated and reported on all cases which had already been processed fully through the PPS Complaints Procedures. I investigated 8 cases in the year. Once again this year, many of the cases were lengthy and complex, and in all of the cases the complainants demonstrated that they felt genuinely aggrieved about how they felt that they had been treated, often, not only by the PPS, but by the police, the Courts Service and the judiciary. In most of the cases, the complaints were presented to me reasonably and articulately, and it is a matter of satisfaction that the initial and ongoing responses from the PPS through the PPS Complaints Procedures were presented in similar fashion. I noted that in all of these cases thorough investigations had been carried out by the PPS, and with two exceptions, the complaints dealt with in timely fashion. It is clear that these basic aspects of good complaints handling, effective investigation and timeliness, are now embedded within the PPS. Although complainants often remained dissatisfied with decisions taken by the PPS, and responses provided to them, many expressed satisfaction that their complaint had been treated seriously, and responded to courteously and in detail. This, once again, highlights the importance of prompt acknowledgement of complaints, thorough investigation, and importantly, comprehensive and transparent explanations as to how and why decisions have been reached, or, for example, prosecutors have acted at Court hearings. A feature this year in a number of complaints has been the PPS examination and review of police files submitted to them, and the subsequent decisions by the PPS to prosecute or not prosecute. While these prosecution decisions are, quite properly, not within the Independent Assessor's remit, I noted that in the complaints cases which I

investigated, both Regional Prosecutors and Assistant Directors had provided clear and detailed explanations as to how for example, the Test for Prosecution had been applied, which is the transparency I would expect, and would wish to see going forward.

This year saw the first full year of the revised PPS Complaints Procedures, whereby the tier one investigation is carried out at Regional Prosecutor level, and the tier two investigation by a different Assistant Director who has had no involvement at the earlier stage. I am satisfied that this revised procedure is working very effectively, and importantly, is seen as fair, objective and impartial by complainants.

I would draw attention to the importance of the acknowledgement and consideration, by the PPS, of any recommendations contained in my individual reports on complaints, with the intention of improving the service provided by the PPS to the public they serve in N Ireland, and achieving their aim of being a first class prosecution service.

My Annual Report also provides information on other aspects of the Independent Assessor's work including benchmarking to ensure that the PPS's Complaints Procedures are in line with the best practice in both the public and private sectors, and I am satisfied that this is the case, and that the current Complaints Procedures are fit for purpose. This will be a continuing aspect of my work. I have benchmarked with, amongst others, the CPS in Great Britain, the Ombudsman, the Police Ombudsman, and the Consumer Council in N.Ireland.

A further element of my work is my audit function. As stated, I investigated 8 cases in the year which had been specifically referred to me. However, there had been a total of 67 complaints made to the PPS, and I reviewed the large majority of these cases in my full audit, to, amongst other things, monitor complaints handling in general, identify any themes occurring, and to understand the full complaints handling situations across all PPS locations. My audit report is at Chapter 3.

At Chapter 4 of the Report, I display the number of complaints handled this year, an analysis of the complaints and my comments under headings as appropriate.

At Chapter 5 of the Report, I outline a summary of the PPS Complaints Procedures.

At Chapter 6, of the Report, I lay out my role and remit as Independent Assessor.

At Chapter 7 of the Report, I detail my Conclusions and Recommendations.

During the year I met with the Director of the PPS, and the Senior Assistant Directors. I also met with all of the Regional Prosecutors personally, to gain an understanding of the current

issues facing PPS staff across N Ireland.

***I would like to record my thanks and appreciation for the support and assistance which  
I have received from the PPS Central Co-ordination Team.***

## **Chapter 2:**

### **Case Handling Work of the Independent Assessor in 2015/16**

I investigated a total of 8 cases in the year, as against 9 last year. A number of the cases were protracted and involved extensive investigations and communication by email, letter and telephone. I have made recommendations, where appropriate, and I expect these to be acknowledged, considered and implemented. This year, in some of these reports, I have provided considerably more detail than in previous Annual Reports to illustrate how the PPS Complaints Procedures work in practice, and how a complaint progresses through the tiers of the Procedures, and subsequently to the Independent Assessor.

#### **Case 1**

I reported initially on this complaint in last year's Annual Report. The complaint arose following a death in a nursing home. The police investigated the matter and in June 2013 submitted a file to the PPS recommending no prosecution. The complainant had worked in the nursing home, and the complaint related to the length of time the PPS took to reach a decision regarding prosecution. The police file was not allocated to a Senior Prosecutor until December 2013, and a first report was not prepared until June 2014 recommending no prosecution. The decision was not communicated to the complainant until September 2014. Regardless of the fact that this was a complex case, and necessitated external expert input, the delay in reaching the prosecution decision, and communicating it to the complainant was unacceptable, particularly since the complainant potentially faced a very serious charge, and her professional registration had been suspended for two years. Equally unacceptable was the fact that there had been no communication with the complainant for a year.

In relation to the handling of the complaint, this was dealt with promptly and professionally through both tiers of the PPS Complaints Procedures. The PPS acknowledged that there had been undue delay in reaching the prosecution decision, and apologised to the complainant for this.

Following my investigation, I reported my findings to the Director recommending that the prosecution process be reviewed to ensure that such delays were avoided in future.

#### **Case 2**

In this case the complainant had been prosecuted on the grounds of harassment, criminal damage and common assault arising from a dispute between the complainant and a neighbour who had arranged to have building work carried out at his property. The complainant had pleaded not guilty to all the charges. However at a Court hearing in May 2014 he was found guilty. His appeal against the decision was not successful. The

complainant lodged a formal complaint with the Regional Prosecutor In December 2015, alleging that he had been subjected to a series of injustices by both the police and the PPS, which in his view amounted to criminal malfeasance in public office. The Regional Prosecutor responded in December 2015, explaining in detail how the prosecution decision had been arrived at, and concluding that he could find no evidence of improper conduct by anyone in the PPS in relation to the prosecution decision and the two Court hearings, and that therefore he could not uphold the complaint. The complainant was dissatisfied with the response and the investigation into his complaint, and alleged that the PPS had ignored evidence of perjury, and that therefore the Regional Prosecutor was guilty of malfeasance in public office.

The complaint was then considered at the second tier of the PPS Complaints Procedures. A further investigation was carried out and the Assistant Director concluded in his response to the complainant in January 2016 that he had found nothing to support his allegations of bias and unprofessionalism on the part of the PPS, or Counsel acting on behalf of the PPS.

I reviewed and investigated all the files and papers in relation the complainant's case, and considered carefully the allegations of bias, and unprofessional conduct by the PPS. I also reviewed the PPS's handling of the complaint lodged initially in December 2015. I found no evidence whatsoever of misbehaviour by the PPS or Counsel acting on their behalf. I also found that the complaint was handled very effectively in terms of timeliness, the quality of the investigation and the comprehensive nature of the responses to the complainant.

I reported my findings and conclusions to the Director.

### **Case 3**

This complaint arose from an altercation between a cyclist and a motorist (the complainant) In November 2014. The facts of the incident were disputed by the two parties involved. Subsequently the PPS decided to prosecute the complainant for a number of offences. He sought a review of the prosecution decision, submitting additional information to support his case. Two reviews of the prosecution decision were carried out, in March and April 2015, and the original decision to prosecute was confirmed. It was also confirmed that the other party, the cyclist, would not be prosecuted. At court in June 2015, the complainant was acquitted of one charge, and given a conditional discharge on the other two. The complainant lodged a formal complaint in June 2015, asserting, firstly, that he should not have been prosecuted, that he had not been advised that the other party was not being prosecuted, and that he had tried to contact the Victim and Witness Care Unit (VWCU) on a number of occasions without success. Of most importance to the complainant was the fact that he considered that the PPS had not given sufficient attention to his medical condition in considering the prosecution decision, which he considered was contrary to the guidance in

the Code for Prosecutors. The complainant suffered from Post-Traumatic Stress Disorder, having worked for the emergency services for over 20 years through the height of the troubles.

The Regional Prosecutor replied to the complainant, in July 2015, explaining in detail the reasons for the prosecution decision, and the reasons for not prosecuting the other party. He apologized for the fact that complainant had not been advised of the non-prosecution of the cyclist. The Regional Prosecutor had had an investigation carried out into the communication difficulties with the VWCU and not found evidence to support the complaint in this regard. Subsequently, in September 2015, the Regional Prosecutor responded to the complainant in relation to the consideration given by the PPS to his medical condition. He explained that lengthy and detailed consideration had been given to this aspect, in accordance with the Code for Prosecutors. He said that he and his staff had had considerable sympathy for the complainant, but reiterated that his medical condition had been fully taken into account in reaching the prosecution decision, which was the correct one.

The complaint was then considered at the second tier of the Complaints Procedures, and the Assistant Director thoroughly reviewed and investigated all of the issues raised by the complainant, concluding that the prosecution decision was the correct one, and that the complainant's medical condition had been fully taken into account. The complainant remained dissatisfied and raised his complaint with me.

I carried out a lengthy and detailed review of all the papers and files in the case, including the PPS's consideration of the complainant's mental health condition in reaching the prosecution decision. I also reflected on the guidance of the Code for Prosecutors. While I, similarly to the PPS, had considerable sympathy for the complainant, I concluded that every consideration had been given the complainant's mental health condition, both at the stage of the original prosecution decision, and at subsequent reviews.

In terms of the PPS's handling of the complaint, the PPS dealt with it quickly and efficiently, carrying out extensive investigation, at both tiers of the Complaints Procedures. Responses to the complainant were detailed, clear and courteous.

I reported my findings and conclusions to the Director.

#### **Case 4**

In this case two girls related to the complainant made allegations of sexual abuse against him in 2005. The complainant denied the allegations, asserting that they were a malicious conspiracy related to divorce proceedings. The police carried out an investigation in 2008,



and police files were received by the PPS in May 2009, in relation to one of the girls, and September 2009, in relation to the other. The prosecution decisions in relation to both girls were not taken until June 2011, and the complainant was advised of the prosecution in August 2011. An initial hearing took place in November 2011, and a trial date set for November 2012, but because of a lack of court time, a trial did not take place until April 2013. This trial did not reach a conclusion. A rehearing was set for November 2013, but once again the lack of court time was a significant factor in a further delay, along with the unavailability of a witness. The retrial eventually took place in October 2014, when the complainant was acquitted.

The complainant lodged a formal complaint with the PPS in early 2015. He cited a number of grounds for his complaint, including the prosecution decision itself, and the delay in reaching the decision. He also alleged that the case had not been properly investigated by the PPS nor the case prepared competently for the Court hearings. He also asserted that the PPS case tracking systems were defective, and the case had not been conducted fairly, independently or effectively. The PPS replied in April 2015. The Regional Prosecutor accepted that there had been undue delay in reaching the prosecution decision, and apologised for it. He attributed the delay to heavy workload, lack of staff resources, and the fact that the case had not been appropriately prioritised. He also recognised the difficult and stressful time which the complainant had undergone. He explained in detail how the PPS had reached the prosecution decision, and prepared the case for Court. He concluded that he was satisfied that the prosecution decision was correct, and that all the available evidence was dealt with as it should have been.

The complainant remained dissatisfied with the Regional Prosecutor's response and reiterated all the elements of his complaint for further investigation. An Assistant Director carried out this investigation and wrote to the complainant in September 2015, agreeing with the Regional Prosecutor in relation to the substantial delay in taking the decision to prosecute, and apologising again for this. He was, however, satisfied that the PPS had properly considered all the evidence available to them, and he detailed the PPS Test for Prosecution. He concluded the decision to prosecute was the correct one.

The complainant then asked me, as Independent Assessor, to carry out an investigation. I thoroughly reviewed all the voluminous files and papers in this case. I found no evidence that the PPS had not reviewed the police files competently in considering the prosecution decision, nor prepared the case diligently for the Court hearings. However, it was quite clear that there had been an inordinate and unacceptable delay in taking the prosecution decision, and communicating it to the complainant, particularly in light of the potentially very serious charges he might face. Apart from staff shortages at the time, the case had not been appropriately prioritised, and neither of these factors could mitigate the inordinate

delay, and the effect that they had on the complainant and his family. In this case, the original allegations had been made against the complainant in 2005, and the second trial concluded in 2015. A number of criminal justice agencies, including the PPS, contributed to this highly protracted timescale, and to any member of the public it does bring into question the fairness and equity of the criminal justice system.

In relation to the PPS's handling of the complaint, I found that thorough investigation had taken place, and comprehensive and transparent responses supplied to the complainant, and in a timely manner.

I reported my findings and conclusions to the Director.

### **Case 5**

In this case the complainant had had a lengthy dispute with a body representing the four main banks in N Ireland. He had had extensive email correspondence with a representative of one of the banks. Subsequently, a complaint had been made to the police that the complainant had been harassing a bank official. The police carried out an investigation, submitted a file to the PPS, and the PPS in July 2013, decided to prosecute the complainant on grounds of harassment during a period from June 2012 to June 2013. At a Court hearing in January 2014, the complainant, who denied the charge, was found guilty. The complainant appealed the decision, and at a County Court hearing in July 2014, his appeal was successful, and the defendant acquitted. However, the Court imposed a Restraining Order on the complainant, expiring in July 2016.

The complainant lodged a complaint with the Regional Prosecutor in January 2015 challenging the decision to prosecute him, and seeking an apology from the PPS to himself and his daughter.

The Regional Prosecutor responded, explaining that the decision to prosecute was based on the frequency and content of the email communications which the complainant had had with the bank official, and the effect upon the recipient. She explained the role of the prosecutor in this case, that it was his function to decide if there was a reasonable prospect of conviction, and underlined the duty to take a decision based solely on the evidence. She said that the prosecutor had concluded that the evidence was both sufficient to prosecute the complainant for an offence of harassment and it was in the public interest to do so. The Regional Prosecutor recognised the substantial impact that the events of recent years had had on the complainant and his family circle. However, she said that she could not uphold his complaint, and it would be inappropriate to offer an apology.

The complainant was dissatisfied with the response, and submitted a series of very detailed

emails and supporting documents between February and April 2015. Apart from the original elements of his complaint, he criticised what he saw as the inadequacies of a flawed police investigation, and evidence, on which the prosecution had been based. The complainant reiterated the effects that these events had on his health, and that of his daughter.

The Regional Prosecutor responded in April 2015, saying that the evidence and information from the police files had been carefully considered by an experienced prosecutor, and the decision to prosecute was taken on the basis that the Test for Prosecution had been met, and was in the public interest. She also confirmed that the Appeal Court judge had concluded that it was necessary to impose a Restraining Order on the complainant, even though he had been acquitted of the substantive offence, and the complainant had not appealed the Order. She then concluded the correspondence.

The complainant then sent a further series of emails to the PPS, alleging that he had not been treated in a fair and impartial manner by the PPS, and that there had been a lack of openness and transparency in the PPS's dealings with him, and indeed a miscarriage of justice.

The complaint was investigated and considered at the second tier of the PPS's Complaints Procedures, by an Assistant Director, who wrote to the complainant in May 2015. He said that he had thoroughly reviewed the police files, and reviewed the correspondence between the Regional Prosecutor, and the complainant. He had concluded that the Test for Prosecution had been properly applied, and that the evidential and public interest tests met. He considered that the prosecution decision was fair and impartial. He then examined the correspondence between the Regional Prosecutor and the complainant, and found no lack of openness or transparency, and no evidence of a miscarriage of justice.

The complainant corresponded with me, and provided a large volume of detailed information, and supporting documentation, much of it contextual. He reiterated the toll which all of these events had had on himself and his family, and other domestic illness within the family. I read and considered all of the considerable correspondence which the complainant had had with the PPS, and with myself, and reviewed all the supporting documentation. The main issues which the complainant raised with me related to the prosecution decision itself, the fairness, impartiality and transparency of the prosecution process and the correspondence with the PPS. He also continued to seek apologies from the PPS to himself and his daughter.

The prosecution decision is not a matter for the Independent Assessor. However following my investigation, I was clear that every possible consideration had been given to the police files by the PPS in reaching the prosecution decision. I found no evidence of partiality in the

prosecution process. In relation to openness and transparency, I was satisfied that the PPS investigated the pertinent issues raised by the complainant thoroughly and professionally.

In relation to the PPS's handling of the complaint, the complainant first contacted the PPS in January 2015, and subsequently submitted a series of emails, all of which were acknowledged. A full response was sent in February 2015, and following a further series of emails, all of which again were acknowledged, a second full response was sent in April 2015. The second tier investigation was completed and a final response sent to the complainant in May 2015. Full investigations were carried out and the responses from the PPS were detailed and comprehensive.

I reported my findings and conclusions to the Director.

### **Case 6**

This complaint arose from an incident when the complainant was commencing work, and alleged that she had been assaulted by a member of the firm's security staff. Following a police investigation, the PPS advised the complainant, in January 2013, that the security officer would not be prosecuted. The complainant did not agree with the decision, and telephoned the PPS office where she had a lengthy conversation with a senior prosecutor. This discussion became the main element of the complaint which she lodged formally the following day. The complainant also disputed the PPS's assessment of the evidence which led to a no prosecution decision. The prosecution decision was reviewed by the PPS and the complainant advised in September 2013 that the Test for Prosecution had not been met, and the original decision not to prosecute would stand. The complainant wrote to the PPS in December 2013, again disagreeing with the no prosecution decision, and also laying out in detail a series of complaints about the nature, tone and content of the telephone discussion with the prosecutor in January 2013, which she had described as unprofessional, derogatory and bullying, and that this had had a detrimental effect on her health.

The decision element of the complaint was considered by a Senior Assistant Director, while the disputed call was investigated by the Regional Prosecutor.

In relation to the prosecution decision, the complainant met with the Senior Director, and it was agreed that she should undergo a medical examination which took some time to arrange. Subsequently, in October 2014, she was advised that the prosecution decision had been changed, and the alleged assailant would be charged, and at Court he received a caution. The Regional Prosecutor completed his investigation in relation to the disputed call in May 2015, and apologised to the complainant for the delay in dealing with her complaint. The complainant, in May 2015, sought a second tier investigation. An Assistant Director carried out a very thorough review of the case, and how the complaint had been handled,

which included further correspondence with the complainant. He advised her, in July 2015, that he upheld the complaint in relation to the delay in carrying out the review of the no prosecution decision. He found that the content of the disputed call did not establish a breach of policy, and was not sufficiently inappropriate to merit upholding this element of the complaint. He also found that there was insufficient evidence to uphold the complainant's perception that the tone and content of the disputed call was inappropriate, unprofessional, or bullying. The Assistant Director made a series of recommendations arising from this complaint, for implementation by the PPS.

I carried out a full review, and considered all the files and papers in this case. I concluded that the delay in carrying out the initial review of the no prosecution decision was unacceptable, particularly since there was no evidence of communication with the complainant in the interim. In relation to the disputed call, while it is difficult to make a conclusion in relation to the detail of its tone and content, I was satisfied that the call could have been handled in a much more professional manner.

I reported my findings and recommendations to the Director.

### **Case 7**

This complaint arose from an incident in which the complainant allegedly kicked his dog, and the incident was recorded on the CCTV cameras of his next door neighbour. The neighbour put the recording on the internet, and some months later a member of the public, having viewed the footage, made a complaint of animal cruelty to the police. The PPS considered the police file, and the CCTV footage, along with the evidence of a vet, who had examined the dog a year after the event. The vet asserted that as a result of the actions of the complainant the dog would have suffered unnecessarily as a result of the abuse. The PPS decided to prosecute the complainant.

Prior to the court hearing, the complainant's lawyers submitted a report from another vet who concluded that the dog was unlikely to have suffered unnecessarily as a result of the actions of the complainant. He also commented that when the dog had been examined by the first vet it had been in good physical condition, and also that the CCTV footage had been speeded up to potentially present a distorted impression of the actions of the complainant. This vet felt that the dog may have been exposed to discomfort, but not cruelty and that it was not so severe that it breached a threshold to be classified as suffering. At the court hearing in July 2014, the first vet changed his evidence, now stating that he was unable to say that unnecessary suffering had been caused to the dog, and when he had examined the dog it was well, properly registered, licensed and micro-chipped, which was not what one would have expected to see of an animal which was routinely mistreated and abused. The matter was dealt with by way of an adult caution on the day of the court hearing.

The complainant lodged a formal complaint with the PPS in September 2014. His main concern was that the CCTV footage had been tampered with by his neighbour, to make the incident look worse than it was, and that there had been insufficient consideration given to this by the PPS in reaching their prosecution decision. He was also dissatisfied with the actions of the prosecuting barrister at the court hearing.

The PPS considered the complaint, and on two occasions, in October 2014, and March 2015, advised the complainant that full consideration had been given to the CCTV footage, and that the decision to prosecute had been a reasonable one, within a range of decisions that a prosecutor could take in the circumstances, based on the available evidence.

The complainant wrote to me in April 2015, but I was obliged to refer the complaint back to the PPS for the second tier investigation. The Assistant Director wrote to the complainant in July and August 2015, advising that he had carried out a full investigation of the case, and had concluded that the decision to prosecute had been incorrect, and that he had taken steps to ensure that the complainant's caution had been expunged from the records. He also acknowledged the errors which the PPS had made in this case, and apologised for them.

I considered and thoroughly reviewed all the files and papers in this case including the Assistant Director's thorough investigation and report on the matter. I concluded firstly that while the CCTV evidence was unsatisfactory, it had been considered by the PPS in taking the prosecution decision. However, in all the circumstances, there had been an opportunity to stop the case on the day of the court hearing, and this opportunity had not been taken, and the PPS accept that a caution should not have been offered.

This case was very poorly handled by the PPS at the initial stages, and the complainant was fully justified in his dissatisfaction as to how his case had been dealt with. The situation was exacerbated by the PPS delays in responding to the complainant, between September 2014 and March 2015, which is unacceptable. I do acknowledge that a significant and considered investigation was carried out by the PPS at the second tier of the Complaints Procedures and that the errors had been recognised, full apologies offered to the complainant, and the caution removed from the record.

I reported my findings and recommendations to the Director.

## **Case 8**

This complaint arose in August 2015 in relation to a dispute between neighbours. The complainant was dissatisfied that her husband was being prosecuted for threatening to damage property. At the same time, one of their neighbours had been prosecuted on grounds of harassment and breach of a non-molestation order. The complainant objected to

both cases being dealt with in Court at the same time, the length of time taken to progress the cases, the actions of a PPS prosecutor, and an issue around the application of special measures for her at Court.

The complaint progressed through both tiers of the PPS Complaints Procedures, and the complainant then asked me to carry out an investigation. I will report more fully on this complaint in my next Annual Report.

### **Other Cases**

In addition to these cases, further communications were received from members of the public seeking advice on lodging a complaint, or asking me directly to carry out an investigation. In these instances, I made enquiries with the PPS, and where appropriate, referred the issue to them, for investigation and response, while assuring them that if they remained dissatisfied, they had the opportunity to refer the complaint back to me at a later stage.

## **Chapter 3:**

### **Audit 2015/16**

#### **General**

As part of my remit, I reviewed and audited the large majority of complaints received by the PPS from members of the public between 1 April 2015 and 31 March 2016. This amounted to a total of 56 complaints out of an overall total of 67. Of the 56, 50 were responded to and completed at Tier 1 of the PPS Complaints Procedures, while 6 complaints progressed to Tier 2, and were finalised there. Eleven complaints originated in Belfast Region, 17 in the Eastern Region, 10 in Western & Southern Region, 8 in Northern Region, and 10 outwith the Regional Offices.

A further 8 complaints, not included in the 56, were processed through Tiers 1 and 2, and then to myself as Independent Assessor of Complaints.

I noted that a number of complaints were received via the PPS website. This feature was introduced as one of the amendments to the PPS Complaints Procedures, and clearly a number of complainants found it a simple and effective method of lodging their complaint, which is welcome. However, I noted instances where complainants had experienced difficulty using the web site complaints form, or could not access it at all. I recommend that the web site facility is checked regularly to ensure that it is operational and accessible.

2015/16 was the first full year which saw the implementation of various amendments to the PPS Complaints Procedures, including the handling of complaints at Tier 2 by Assistant Directors from a different part of the PPS, rather than by a Senior Assistant Director. My audit has confirmed that this aspect of the new procedures has worked successfully with all cases progressing to Tier 2 being handled very effectively, with full investigations, and in a timely manner.

#### **REPORT**

In previous Annual Audits, I have noted a sizeable disparity in the numbers of complaints originating from each of the Regional Offices. I recommended that the PPS should review this situation, as it would have been expected that that the numbers of complaints from each Regional Office would be roughly comparable. This year these numbers have tended to become more consistent overall, albeit with those from Western & Southern slightly lower, and those from Eastern higher. I do not consider this to be a significant matter of concern, but I do think it useful to reiterate the PPS's own definition of a complaint:



- *Any communication which expresses dissatisfaction with, or criticism of the service provided to the community by the Public Prosecution Service.*

Equally, the types of complaints which I, as Independent Assessor of Complaints, may investigate, and which would, by definition, apply at Tiers 1 and 2 of the Complaints Procedures include:

- *The effectiveness/efficiency of the work of the prosecution service (for example, the time taken to process a case, or the promptness of witness expenses payments)*
- *The manner in which a person was treated by a member of staff of the PPS, or by someone acting on behalf of the PPS*
- *Any failure to adhere to the PPS's Code for Prosecutors, or Code of Ethics.*

I recommend again that that the definition, and the examples from my guidance are communicated and clearly understood by PPS staff when assessing any communication from a member of the public.

During my audit of the large majority of complaints received by the PPS, I took careful note of the initial acknowledgements, and the time taken to fully complete the investigation and final response. This year the % of complaints acknowledged within 5 days has reached 90%, from 58% in 2013/14 and 82% in 2014/15. This is a most impressive trend and outcome, and I attribute it largely to the amendment to the PPS Complaints Procedures whereby the vast majority of complaints are recorded and acknowledged initially within the CCU. Once again this year I was unable to identify a single complaint which had not been acknowledged either on the day of receipt, or the next working day, and I commend the PPS for this. Early acknowledgement is an essential component of best practice in complaints handling, and has been proven to create a positive perception of the organisation, and lead to earlier and more satisfactory outcomes for the complainant. Equally significantly, the % of complaints dealt with fully within 20 days has very significantly improved from 46% in 2014/15 to 81% in 2015/16. This is a highly commendable trend and outcome. I also noted a number of complaints where, although the 20 day target had not been met, lengthy investigation had been required, and where the complainant had been advised of the progress of the investigation and given an indication of the likely completion date, in line with the guidance in the PPS Complaints Procedures.

Throughout my audit of the large majority of complaints made to the PPS, I noted very many examples of exemplary complaints handling, demonstrating the qualities of timeliness, courtesy and professionalism. Each of these complaints was acknowledged promptly, followed

by a thorough investigation, and comprehensive and detailed responses to the complainant. Where appropriate, unqualified apologies for failings in the service provided by the PPS were proffered to the complainant. The PPS responses were clear, unambiguous, jargon free, well drafted and signed off by the Regional Prosecutor. On a number of occasions I noted that meetings with the Regional Prosecutor were offered, again reflecting best practice in complaints handling. I strongly believe that this open and honest approach contributes greatly to the fact that most complaints were completed at the first Tier of the Complaints Procedures, and I noted instances where the complainant expressed their satisfaction and thanks as to how their complaint had been handled.

I think it useful to detail some examples from Regional Offices which demonstrate best practice:

- A complaint was received relating to a consultation which the complainant had had with a PPS barrister. The Regional Prosecutor sought further information from the complainant, and then, having spoken to the barrister, responded in detail to the complainant, who replied thanking both the barrister and the Regional Prosecutor.
- A complaint about a member of PPS staff was received, and promptly acknowledged. The Regional Prosecutor arranged a meeting between the complainant and members of his staff the following week. The matter was concluded at that stage, and the complainant expressed their satisfaction with the outcome.

There were many other such examples, and I commend the PPS for their excellent public service in these cases.

Invariably, there were a number of examples of poor service, and complaints handling, or instances where PPS processes, for example the time taken to reach prosecution decisions, fell far short of that which would be expected from a first class prosecution service. Some issues / themes which I noted were:

- Unsatisfactory communication with complainants with poorly drafted and unhelpful responses from the PPS.
- Letters to complainants with misspellings, incorrectly dated and incorrectly addressed.
- Where delays had occurred in PPS processes, no communication with the individual, who subsequently became a complainant.
- The proffering of partial or unconvincing apologies, in cases where it was clear that an

unreserved apology was merited.

- Failure to notify witnesses or other parties of the date of court hearings, or other events, until after the event.

As above, I think it useful to detail some specific examples which I observed of poor practice:

- A complaint was received in relation to a lack of communication from the PPS in relation to court hearings. The PPS response one month later was very poorly drafted citing excuses for the various failures rather than offering an unqualified apology. The complainant responded in a sarcastic manner pointing out the inadequacies of the PPS's response. I did, however, note that the situation was retrieved at the second Tier of the Complaints Procedures, when the Regional Prosecutor wrote a typically excellent communication to the complainant, with a full apology, and the matter was concluded.
- A complaint via the PPS website referred to the perceived poor attitude of PPS staff. Additionally, the complainant had received a communication with misspellings, including the complainant's name, and lack of information, which resulted in him missing an important court hearing.

These examples demonstrate an unsatisfactory, and in some cases totally unacceptable level of service and complaints handling. While I am satisfied that these instances represent a minority of all the cases I audited, they demonstrate opportunities for improvement in the service provided to the public by the PPS, and I recommend that these issues are addressed, including additional training.

## **Conclusion**

My overview of the large majority of all complaints received by the PPS in 2015/16, is that the quality of complaints handling continues to improve, in some areas significantly, for example, the % of complaints acknowledged and concluded within the target timescales. The quality of investigation and written responses continues to be generally excellent. However, there remain some areas of poor performance, and I continue to be happy to work with the PPS through seminars, workshops or attendance at appropriate management meetings to discuss these areas and highlight best practice.

## Chapter 4: Complaints Handling in the PPS 2015/16

The PPS maintain comprehensive records of complaints, and an analysis and breakdown of the figures by various categories. These are shown below with my comments on each category, as appropriate. This year, for the first time, complaints going directly to PPS HQ Sections, have been included.

### Total Complaints

**Table 1: Numbers of complaints and written requests**

Year	Complaints Logged	Written Requests
2008	41	137
2009	49	109
2010	65	107
2011	70	141
2012	70	160
2013/14	73	147
2014/15	89	138
2015/16	67	126

The total number of complaints received by the PPS fell by 25% (22) cases, but is much in line with the total number of complaints received over the last 5 years (see Table 1). There were decreases in complaints at all Regional Offices, a welcome trend, with an increase in “Other” complaints which I do not consider significant. I did not identify a specific theme arising from my audit of these cases.

**Table 2: Outcome of complaints**

	Upheld	Partially Upheld	Dismissed	Resolved Informally	No further action required	Outstanding	Total
<b>2008</b>	8	3	12	0	5	13	<b>41</b>
<b>2009</b>	9	7	12	0	7	14	<b>49</b>
<b>2010</b>	12	2	19	1	3	25	<b>66</b>
<b>2011</b>	19	10	19	0	9	13	<b>70</b>
<b>2012</b>	14	6	27	17	6	0	<b>70</b>
<b>2013/14</b>	11	2	15	32	13	0	<b>73</b>
<b>2014/15</b>	8	4	44	25	6	2	<b>89</b>
<b>2015/16</b>	6	6	38	7	10	-	<b>67</b>

Of the total of 67 complaints received, I noted that 12 (18%) were upheld or partially upheld, while 55 were dismissed, no further action was required or were informally resolved (see Tables 2 & 3). I confirmed these outcomes from my audit, and I highlight once again the significance of early acknowledgement of complaints, and responding to complainants from members of the public quickly, and providing detailed and helpful information.

**Table 3: Complaints substantiated (partially or wholly upheld)**

Year	Number of Complaints	% Substantiated
<b>2008</b>	41	27
<b>2009</b>	49	33
<b>2010</b>	65	20
<b>2011</b>	70	50
<b>2012</b>	70	29
<b>2013/14</b>	73	18
<b>2014/15</b>	89	14
<b>2015/16</b>	67	18

**Table 4: Reasons for complaints**

Reason	2014/2015	2015/2016
Case Handling	9	3
Primarily prosecutorial	3	14
Communication / Information	29	10
Standard of communication	0	10
Conduct of staff / Counsel	16	17
Court Outcomes	0	0
Court Performance	22	16
Administration errors	0	0
Complaints not dealt with	2	1
Delay	6	0
Other	10	13
<b>Total</b>	<b>97</b>	<b>84</b>

*NOTE: Complaints may comprise of a number of elements.*

There has been a significant increase (from 3% to 17%) in complaints for reasons which are primarily prosecutorial. This aligns with my observations in relation to complaints which were referred to me after being investigated through the PPS Complaints Procedures. The reasons for the increase are not apparent to me, however my audit of the large majority of complaints received, and my investigation of individual complaints, did demonstrate that the PPS had thoroughly considered the evidence before taking the prosecution decision.

## Complaints by Regional Area

**Table 5: Total number of complaints received**

Year	Belfast	Eastern	Northern	West /South	PPS HQ	Total
2014/15	21/89 (24%)	35/89 (39%)	15/89 (17%)	12/89(14%)	6/89 (7%)	<b>89</b>
2015/16	13/67 (19%)	20/67 (30%)	13/67 (19%)	8/67 (12%)	13/67 (19%)	<b>67</b>

The total number of complaints at each Regional Office fell this year, which is a welcome trend. Particularly noteworthy are the figures for Eastern Region, which fell from 35 to 20.

**Table 6: Complaints substantiated (partially or wholly upheld)**

Year	Belfast	Eastern	Northern	West / South	Other	Total
2014/15	3/21 (14%)	4/35 (11%)	1/15 (7%)	0/12 (0%)	1/6 (17%)	<b>12/89 (13%)</b>
2015/16	5/13 (38%)	2/20(10%)	2/13 (15%)	0/8 (0)	3/13(23%)	<b>12/67 (18%)</b>

The percentage of complaints substantiated rose by 5 percentage points, with variations across the regions and sections. I do not consider this to be statistically significant because of the relatively small numbers.

**Table 7: Numbers of complaints acknowledged within 5 days**

Year	Belfast	Eastern	Northern	West / South	Other	Total
2014/15	21/21(100%)	31/35 (81%)	6/15 (40%)	9/12(75%)	6/6 (100%)	<b>73/89 (82%)</b>
2015/16	13/13(100%)	15/20 (75%)	12/13 (92%)	7/8 (88%)	13/13(100%)	<b>60/67 (90%)</b>

The number and % of complaints acknowledged within 5 days increased once again this year from 79 out of 89 (82%) in 2014/2015, to 60 out of 67 (90%) in 2015/16. This is a significant improvement over recent years, and is undoubtedly due to the changes introduced to the Complaints Procedures, whereby complaints are very largely concentrated into the CCU, which issues the initial acknowledgements to complaints. This has been a considerable success, and once again this year, I

was unable to identify a single complaint where an acknowledgement had not been issued on the day of the receipt or the next working day, and forwarded to the appropriate Regional Office. I commend the PPS, specifically the CCU for this, and I am content that this measure enhances the perception of the PPS by members of the public who lodge complaints.

**Table 8: Numbers of complaints dealt within 20 days**

<b>Year</b>	<b>Belfast</b>	<b>Eastern</b>	<b>Northern</b>	<b>West / South</b>	<b>Other</b>	<b>Total</b>
<b>2014/2015</b>	14/21 (66%)	16/35 (46%)	1/15 (7%)	4/12(33%)	6/6 (100%)	<b>41/89(46%)</b>
<b>2015/2016</b>	13/13(100%)	11/20 (55%)	13/13(100%)	6/8 (75%)	11/13(85%)	<b>54/67(81%)</b>

The number and % of complaints dealt within 20 days as specified in the PPS Complaints Procedures showed a very significant increase in 2015/216 from 41 out of 89 (46%) in 2014/15 to 54 out of 67 (81%) which represents a considerable achievement, for which I commend the PPS.

I also acknowledge that some cases will take longer than 20 days to complete, and this is acceptable as long as the complainant is kept fully informed and updated on progress and given an indication of when a final response may be expected.



## **Chapter 5:**

# **Complaints Handling Process in the PPS**

### **General**

The Case Handling Process in the PPS has been successfully in place for a numbers of years. The PPS is committed to providing a high standard of service at all times. If the PPS provide an ineffective or inefficient service or treat someone impolitely or unfairly or if there is a failure to adhere to the PPS's Code of Ethics or Code for Prosecutors, the complaints process provides a sound and practical mechanism for the PPS to learn about it. The really important aspect is that the PPS investigates the complaint thoroughly and, where it is justified, ensures that the lessons are learnt, and the PPS strive to put things right, and improve the overall standard of service it provides to the public. A key component of complaints handling is that the complaint is handled professionally, and with sensitivity and courtesy at all times.

### **Definition of a complaint**

The PPS definition of a complaint is:

*“Any communication which expresses dissatisfaction with, or criticism of, the service provided to the community by the PPS.”*

Such complaints may relate to:

- The effectiveness and efficiency of the work of the prosecution service; for example, the time taken to process a prosecution case or the promptness of payment of witness expenses.
- The manner in which a person was treated by a member of staff of the PPS or by someone acting on behalf of the PPS (for example, a barrister instructed by the PPS).
- Any failure to adhere to the PPS Code for Prosecutors or Code of Ethics, that is, which does not relate to a prosecutorial decision. The PPS Code for Prosecutors, which includes the Code of Ethics, is available via the PPS website at [www.ppsni.gov.uk](http://www.ppsni.gov.uk).

It should be noted that the PPS complaints procedure is not the appropriate mechanism for defendants to seek to have the cases against them withdrawn or to overturn their convictions. If you are a defendant in this situation your complaint will not be considered as part of our complaints procedure. You should instead seek independent legal advice.

Where a complaint relates to ongoing criminal cases, we may only be able to provide limited information. We reserve the right not to deal with a complaint in relation to an ongoing case if it might prejudice the proceedings.

### **Who can make a complaint?**

Any person who has had contact with the PPS in whatever capacity can make a complaint. A complaint can be made directly by an individual or through their nominated representative, for example, a family member, solicitor, support group or public representative.

### **How can a complaint be made?**

There are a number of ways in which to make a complaint. These are listed clearly in the PPS Complaints Handling Procedures displayed on the PPS website, and copies may be obtained in a variety of formats. Essentially, complaints may be made by email, letter or directly via the PPS website, by telephone, and by SMS text.

### **What information will I need to provide?**

To help us in dealing with your complaint, the following information would be appreciated:

- Your name, address and contact details; this may include details of any representative whom you may want to have with you or speaking for you.
- Full details of the complaint, providing as much information as possible, including dates, the sequence of events which gave rise to concern and, if known, the names of persons involved.
- If applicable, the PPS reference number quoted in any previous correspondence you may have received.

It would also be helpful if a preferred means of contact was included, as well as an indication of the most suitable time for our staff to contact you.

In order to help you to provide all necessary information, a complaint form is available to download from the PPS website. Central Co-ordination Branch will also forward a copy of the form by post or e-mail on request.

Please note that depending on the nature and/or complexity of the complaint, it may be necessary to ask you for further information at a later stage.

### **How quickly will my complaint be dealt with?**

The PPS will acknowledge receipt of your complaint, via your preferred method of contact, within 5 working days. We will normally seek to make a full response within 20 working days.

If it is not possible to make a full response within 20 days, you will be informed why the response has been delayed and given a revised target date for a full response.

### **How long do I have to make my complaint?**

Unless there are exceptional circumstances, a complaint will only be dealt with if it is made within 6 months from the date of the incident in question.

### **Can the matter be resolved informally without making a complaint?**

Some individuals who are dissatisfied with the service that we have provided will simply want someone to review their concerns as quickly as possible – without the need to lodge a formal complaint. In such instances it may be possible for the cause of the dissatisfaction to be resolved immediately and we will aim to do so by providing an explanation, apology or other appropriate outcome.

The initial step is to contact us in order that the matter might be resolved informally. If you are interested in an informal resolution, please contact us either by telephone (02890 897100) or by email to [info@ppsni.gsi.gov.uk](mailto:info@ppsni.gsi.gov.uk).

If we are unable to resolve your concerns satisfactorily via this process, then you may wish to pursue a formal complaint following the outlined procedure.

## **What can I do if I am dissatisfied with the way my complaint has been dealt with?**

Most complainants are satisfied at the initial investigation stage (Tier 1). If you are not satisfied with this response, you must tell us within one month of receiving our explanation. Complaints received outside of this timescale will not be considered.

In such circumstances your concerns should be set out in writing to:

Head of Central Management Unit  
Public Prosecution Service  
Linum Chambers  
Bedford Street  
Belfast BT2 7ES

Normally your complaint will be referred to an Assistant Director from a different area of the organisation (Tier 2) For example, where your complaint is in relation to a regional office, the review will be conducted by an Assistant Director from PPSHeadquarters.

## **Is there any appeal against the way the PPS has decided to deal with my complaint?**

There is an external independent assessor who will review a complaint where the complainant is not satisfied with the way in which the PPS has decided to deal with the matter. The Independent Assessor operates with full independence from the PPS.

The Independent Assessor can investigate your complaint only:

- After the matter has been investigated by the PPS, and that having been concluded, you are still not satisfied; and
- If it is not primarily prosecutorial in nature. While the remit of the Independent Assessor allows for the consideration of failures against the PPS Code for Prosecutors or Code of Ethics, he is unable to comment on matters which relate directly to a prosecutorial decision. A prosecutorial decision includes the decision whether or not to bring a prosecution and any decision made in the course of criminal proceedings which relate to the conduct of the prosecution.

You may contact the Independent Assessor by the following methods:

By Letter:

Alan Henry OBE

Independent Assessor of Complaints for the Public Prosecution Service

P.O. Box 928

Belfast BT1 9AN

By email: [independent.assessor@gmail.com](mailto:independent.assessor@gmail.com)

The Independent Assessor operates a confidential and secure service. On receipt of your complaint he will deal with you directly and will make available to you a copy of a leaflet which explains his role and remit in more detail. The PPS will permit the Independent Assessor access to the files relating to your complaint and will seek to meet his requests in full as he investigates your concerns.

### **Policy on unacceptable actions or behaviour by complainants**

The PPS understands that individuals may act out of character in times of difficulty or distress. Indeed a complainant may have encountered upsetting or distressing circumstances prior to bringing a complaint to the PPS. Therefore the PPS does not view actions or behaviour as unacceptable simply because a complainant is assertive or determined. However, the actions or behaviour of complainants who are angry, demanding or persistent can result in unreasonable demands on the PPS or unacceptable behaviour towards PPS staff. Whilst there are relatively few complainants whose actions or behaviour the PPS will consider to be unacceptable, the Service reserves the right to restrict complainant contact, particularly where the actions or behaviour present a threat to the safety of PPS staff.

A copy of the PPS Policy on Unacceptable Actions or Behaviour by Complainants is available on request. Alternative formats of this policy are also available.

### **Complaints about partner organisations**

The PPS works in partnership with a number of organisations to provide a range of services, for example to victims and witnesses. Complaints about the delivery of services by partner organisations should be directed in the first instance to these bodies. The PPS website includes a range of useful contact points in this regard.

## **Can I ask about prosecutorial decisions or request reasons for a decision not to prosecute?**

Requesting a review of a decision:

People should be able to rely on decisions taken by the PPS. Normally if the PPS tells a suspect or a defendant that there will not be a prosecution, or that the prosecution has stopped, that is the end of the matter and the case will not start again. However, there may be reasons why the PPS will review this decision, for example where new evidence or information becomes available or a specific request is made by a person, typically a victim, involved in the case. Requests may be made directly by an individual or through a nominated representative (for example, a family member, solicitor, support group or public representative).

When requesting a review, a person may be able to provide further evidence or information which has not previously been taken into account. In such a case the public prosecutor who made the original decision will carry out the review taking into account the additional evidence or information. However if no new evidence or information is provided the review will be conducted by a different public prosecutor to the person who made the original decision.

The public prosecutor conducting the review will decide whether the original decision should stand or whether a fresh decision is required. In either event the person requesting the review will be informed.

Requesting reasons for a decision not to prosecute:

In all cases where it does not prosecute the PPS provides reasons for its decisions, albeit in the most general terms. In a range of more serious cases the PPS goes further and gives more detailed reasons. In any case it is open to a member of the public or interested person to ask for further details of why a decision was made not to prosecute. If you wish to request a review of a PPS prosecutorial decision or to make an enquiry regarding the reasons for a decision not to prosecute, please write to Central Co-ordination Branch (address as above) or send an email to [info@ppsni.gsi.gov.uk](mailto:info@ppsni.gsi.gov.uk).

The Independent Assessor of Complaints does not have any role in the review of prosecution decisions or in the giving of reasons for decisions.

## **Complaint handling: Monitoring arrangements**

The PPS is committed to ensuring that these complaint handling arrangements are effective. Therefore on completion of each complaint case, we will send you a short follow-up questionnaire asking you to provide feedback on the way your complaint was handled.

Monitoring will of course be undertaken in a confidential way. All information provided will be held securely and questionnaires can be submitted anonymously (that is, we will not require your name). However we will ask you to provide some information about yourself (for example, your age and gender). As set out in the PPS Equality Scheme, drawn up in accordance with section 75 of the Northern Ireland Act 1998, the PPS is committed to monitoring any adverse impact as a result of any its policies to which section 75 applies. Monitoring of complaints is essential in this regard and can assist the PPS to deliver a better service.

## **General principles to be followed by the PPS**

The complaint handling process will be open and accessible.

- Complaints will be dealt with in a timely, effective and consistent manner.
- Complaints will be considered fairly and impartially in line with the policy and procedures set out in the PPS Complaint Handling Policy.
- Complaints will be investigated by individuals other than those about whom the complaint was made.
- Members of the public making a complaint will be dealt with professionally and with sensitivity and courtesy at all times.
- The complaint handling process will deliver continuous improvement.
- The Independent Assessor will consider all complaints properly referred to him and also report annually to the Director of Public Prosecutions. He may make recommendations, and the Director is obliged to respond to these recommendations.
- The Independent Assessor will audit a proportion of all complaints received. The purpose of this is to identify any patterns and to obtain a clearer picture of the types of complaints being received.

## **Chapter 6:**

### **Role and Remit of the Independent Assessor**

The Independent Assessor oversees not only the PPS complaints handling arrangements themselves, but also the development of guidelines and protocols relating to complaints handling. He can also comment on the procedures used and how they were applied, including quality of service, and can make recommendations for improvements to the Director of Prosecutions as Head of the PPS.

The Independent Assessor can investigate a complaint only after that complaint has been investigated by the PPS, and that having been concluded, the complainant remains dissatisfied. An overview of the PPS complaint handling arrangements is shown at Chapter 5. The Independent Assessor will produce a report for each case he investigates, to include his findings, and, where appropriate, his recommendations. These will be forwarded to the Director of Public Prosecutions, for him to consider and respond.

The Independent Assessor will not act as a complainant's advocate, and cannot enforce the complainant's rights. His role has to do with determining whether or not a complaint was handled fairly, thoroughly and impartially by the PPS, and also to influence the adoption of best practice in dealing with complaints. The PPS is obliged by its policies to aim for the highest standards in all that it does, including handling complaints.

As well as handling complaints properly referred to him, the Independent Assessor reviews and audits a proportion of all complaints made to the PPS. The purpose of this is to identify any patterns or themes and to obtain a clearer picture of the types of complaints being raised, as well as changes in patterns year by year.

The Independent Assessor is required to report annually to the Director, and may also make recommendations. The Director is obliged to respond to these recommendations.

#### **Complaints which may be investigated**

The Independent Assessor may investigate all complaints, with the exception of those which are mainly prosecutorial in nature that is where they are primarily in relation to a decision by the PPS to prosecute in a particular case. All requests for the review of a prosecutorial decision should be directed to the PPS.

The types of complaints investigated by the Independent Assessor may include:



- The effectiveness/efficiency of the work of the prosecution service (for example, the time taken to process a case, or the promptness of payment of witness expenses).
- The manner in which a person was treated by a member of the staff of the PPS, or by someone acting on behalf of the PPS.
- Any failure to adhere to the PPS's Code of Prosecutors, or Code of Ethics.

### **Length of time the process will take**

The Independent Assessor will take a maximum of 8 weeks to investigate, progress, and conclude a complaint. At the outset of the investigation, the complainant will be told the likely timetable for the case and the complainant advised on any changes in the original estimates for the time required.

### **What the complainant needs to do**

The complainant should normally submit their complaint in writing. This may simply be by letter, providing an outline of the complaint, or he/she may submit by it by email, on tape, in Braille, or other media, or in a language other than English.

The Independent Assessor has discretion to interview the complainant and/or their representative in person, but will not normally do so.

### **The cost of making a complainant**

The process is free to the complainant. The complainant does not need independent or legal advice when making a complaint to the Independent Assessor. The Independent Assessor cannot award costs or compensation.

### **Completion of the investigation**

When the Independent Assessor has completed the investigation, he will communicate the outcome and his findings to the complainant.

## **Remedies available to the Independent Assessor**

The Independent Assessor may make recommendations to the PPS. The Director is obliged to consider these, and to respond to the Independent Assessor, however, he is not obliged to implement the recommendations.

## Chapter 7: Concluding Notes and Recommendations

This is my 3rd Annual Report as Independent Assessor of Complaints, and again this year I am pleased to record overall a continuing improvement in complaints handling by the PPS. This is the first full year of the implementation of the amendments to the PPS Complaints Procedures, and I am confident that these amendments have made a significant contribution to the current good standard of complaints handling. I refer specifically to the ability to access the PPS via the website, the centralisation of initial complaints to the CCU, and the handling of complaints at the second tier of the Complaints Procedures by Assistant Directors from a different part of the PPS. The improvement is evidenced by the % of complaints acknowledged within 5 days (now 90%) and the very significant increase in the % of complaints dealt with within 20 days (now 81%). The quality of investigation and responses by Regional Prosecutors at the first tier is, almost without exception, very good, particularly at a time of significant change within the PPS in terms of structures, workload and reductions in staff. It is to be hoped that given these changes, the present high standards can be maintained. Clearly, it is important to review the Complaints Procedures on an ongoing basis, though, for example, benchmarking with the public and private sector, and I will continue to do this, to ensure that the PPS procedures are fit for purpose, and compliant with best practice.

As Chapter 2, I detailed all of the cases which came to me for investigation as Independent Assessor. All of these cases were lengthy and time consuming for both the PPS and myself.

Two aspects to which I would draw attention are:

- The complainants themselves genuinely perceived that they had been treated unfairly either through operational processes by both the PPS and other agencies, usually the police or the Courts Service, and/or that their cases had not been investigated thoroughly. They expressed themselves articulately, reasonably, and with courtesy. While I upheld some elements of their complaint, for example, the time taken to reach a prosecution decision, I found that in almost all cases, a very thorough investigation of their complaint had been carried out, and that the PPS had expended considerable time and resource in doing so. The complainants were treated with courtesy and professionalism.
- In dealing with lengthy and complex complaints by the PPS, I am conscious of the fact that there must be a limit on the time and resource expended on investigations by PPS staff on any particular complaint. Proportionality is a factor to be considered. It is a

matter of judgement as to when that point is reached, but I accept that at such a stage it is quite appropriate to draw a line and advise the complainant that the correspondence is concluded.

Associated with issues already mentioned within this Annual Report, I recommend that attention is given to the following areas:

- The excellence of written communication which is apparent in most areas of the PPS, particularly by Regional Prosecutors and Assistant Directors, is shared with other areas of the PPS to ensure a uniformly high standard.
- Full and unqualified apologies are offered to complainants in appropriate circumstances.
- Correspondence with complainants is checked to ensure that misspellings, particularly the complainant's name, or their address, or other errors are eliminated.
- Complainants are advised at the appropriate stage of the facility to progress their complaint to the second tier, or to the Independent Assessor of Complaints.

In terms of operational issues:

- Prosecution decisions are taken and communicated within the PPS's target timescales
- Reviews of prosecution decisions are completed in a timely fashion, and the outcome advised to the individual.
- Witnesses and others are advised in advance and in good time of court or other meeting dates.

Finally, as I have noted in previous Annual Reports, the PPS receives less than 1% of complaints in relation to the total number of cases handled each year. This compares very favourably with the situation in other organisations in the public and private sector. Many of the complaints are handled in an exemplary fashion, and while a number are not, I have noted throughout this Report that the overall picture demonstrates a continuing improvement in complaints handling for the public which the PPS serves. I am hopeful that this improvement will continue given the structural changes, and the staffing and resource pressures which the PPS faces.

### **About the Independent Assessor**

Alan Henry OBE was appointed as the Independent Assessor of Complaints for the PPS in May 2013. He has 25 years' experience in human resources, organisational development and equal opportunities.

He was formerly a Commissioner of the Equality Commission and the Human Rights Commission and was a Civil Service Commissioner. He was an Independent Assessor for the Commissioner for Public Appointments. He was a Lay Panellist for the Office of Industrial and Fair Employment Tribunals. He is a Member of the Doctor's and Dentist's Remuneration Board. He was also a Governor of the South Eastern Regional College and is a Governor of an Integrated College. He is Chair of the N. Ireland Council for Integrated Education.