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Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

**Office of the Police Ombudsman: Briefing
from the Interim Chief Executive**

3 May 2012

his imminent arrival in the office will give the public, stakeholder groups and the office staff the necessary reassurance about the immediate future and direction of the office. It is very important that Dr Maguire take up his post as soon as possible, as there is an ever increasing workload, some of which is of a critical nature. Indeed, many people are of the belief that he is already in post.

In the short time that I have acted as the interim chief executive, I have been struck by the generally good quality of the work that the office does. That correlates with the comments that the Chief Inspector of Criminal Justice made in his report in September 2011, on which he gave evidence to the Committee. In that report, he indicated that he did not have any major concerns about how the office deals with its current cases, which comprise the vast majority of the work that it does. Indeed, public confidence in the office, as measured by the independent research that it does, remains at a generally high level.

However, those facts stand in stark contrast to the other events in the life of the office in the past year, a year in which the office saw its reputation and credibility become the subject of intense public scrutiny and its operational independence, governance arrangements and leadership questioned openly. As a result of that criticism, and particularly that which was highlighted by the report published by the Criminal Justice Inspection, the investigation into new historic cases associated with the Troubles was suspended and remains so. Associated with that, the decision of the Police Ombudsman to step down from operational duties earlier than anticipated and the resignation of the top two of his executive team, namely the former chief executive and senior director of investigations, significantly increased the sense of uncertainty. Although public confidence in the office remains reasonably strong, the confidence of some stakeholder groups and individual families has been severely shaken. Over the past year, therefore, it is unsurprising that the satisfaction levels of people whose complaints were dealt with by the office have dipped in comparison to the levels achieved in recent years. It is also surprising that staff morale in the office has dropped considerably. These are all signs of a challenging and disruptive year. However, the office, and, in particular, its remaining senior management team, are determined to move forward in a positive fashion to put this difficult year behind it.

Under my leadership, the process is well under way. The office has accepted the major criticisms levelled at some of its processes and identified other aspects of its structures and processes that it wants to improve. The office is working hard to correct inadequacies in its corporate governance arrangements and responsibilities, which had remained unresolved for many years. It has also made encouraging progress in resolving how it will deal with historic cases and has developed a strong strategy to deal with the past.

To sum up, the office will shortly have a new ombudsman to lead it through a new business year and into a fresh chapter of its history. Hopefully, in a few weeks' time, Dr Maguire will take up his post. He will then decide whether to pursue the selection and appointment of a new chief executive and may choose to expand that person's role and responsibilities. On the assumption that he does, those two people will join a dedicated, capable workforce.

The office and its staff have endured much unwanted and unhelpful attention in the past year. I am confident that the recommendations that I and the senior team will put to the new ombudsman can help to restore a police complaints system in which the public and the police have confidence.

Finally, as this is likely to be my only appearance before the Committee, as my secondment is likely to come to an end shortly, I would like to put on record my thanks to the management and staff of the office for their patience and support in assisting me to lead the organisation in what is a particularly difficult period in its history.

As you will appreciate, I am 14 weeks into the post, and, while I am gaining knowledge daily and hope to be able to answer your questions immediately, I may have to refer to notes. Your indulgence will be much appreciated.

The Chairperson: The Committee is well known for showing mercy. I appreciate your comments. Perhaps it is not in your remit, but an issue that concerns me is the repeated leaking of information by staff in the ombudsman's office, which has undermined confidence in the office from a police

perspective. A great deal of conversation has been about public confidence, but the office will not function properly if it does not have the confidence of the police and the public. Has any of your work been involved in ensuring that there are proper systems in place so that leaks will not happen and that those who leak information will be appropriately managed?

Mr Lewis: It dogs me a little. It is reasonable to say at the outset that we are not dealing with normal circumstances. When people gave evidence to the Committee last September, the word "dysfunctionality" was continually used. It is not a normal situation that we are dealing with, and, unfortunately, one of the consequences of that lack of normality was the alleged leaking of material from the office. However, it has yet to be proven whether information was leaked by anyone in the office.

Prior to my appointment, the ombudsman approached the PSNI to have that matter investigated, and, in particular, the leaking of the CJI's report. The independent Metropolitan Police have been engaged in that process. I cannot offer you any further information because I have not been contacted directly. Even if I had, I probably could not discuss it in this forum. However, if the organisation is to move forward and become normal, even instances of alleged leaking of information need to stop, and there needs to be an improved sense of corporacy around the senior management table with a team that is cohesive and working together.

Mr A Maginness: I suppose that the question that needs to be asked is how functional is the office now, given the fact that a transformation action plan has been produced and that you, as interim chief executive, have brought more order and management to the office. Will you describe how you find the office now?

Mr Lewis: It is a matter of record that numerous reports, either commissioned by or done on the office, have, to a greater or lesser extent, questioned the office's organisation and functionality. Indeed, the CJI's report indicated that, in this regard, it was dysfunctional. However, the fact that I am here, that the ombudsman has stood down and that the top management has resigned shows that it is not a normal set of circumstances. Indeed, middle management has had to take up the cudgel and act up in roles in very difficult circumstances. This is not a normal circumstance. We need to get to a point of certainty.

I have no axe to grind, other than to say that there has been a certain risk aversion since September, quite naturally so, because the office was subject to intense public scrutiny, and perhaps things have stalled. Indeed, when I looked at papers dating back many years, I found recommendations that have not been enacted. What I have attempted to do is address that inertia and bring together all those outstanding recommendations and put them into a cohesive action plan that the individuals, my colleagues, the senior management team and I will take forward and address. They are recommendations that flow from Michael Maguire's report, Tony McCusker's report, and from several internal reports. As you probably noted in my briefing, with an essential amount of project management, we have identified those that are critical and those that are best practice. The objective is that, when the ombudsman comes on board, he does not have to start that process himself and is free to take on options and any recommendations that we might make. I think that a sense of order and purpose has been brought to the table. I have found that I have a willing senior management team that was just looking for that little bit of impetus, direction and leadership to get things done.

Mr A Maginness: There is no chief executive as yet, although I presume that one will be appointed within the next three or four months.

Mr Lewis: In preparation, as I said in my pack, and in an attempt to short-circuit things, I have developed a job specification for the chief executive. It broadly follows that of the chief executive who resigned, but it assumes greater responsibilities in relation to oversight of the investigative process. That job specification will be evaluated by DFP to determine the appropriate grade, and a recommendation, which will include the need to appoint a new executive, will be put to the new ombudsman. He may or may not choose to do so, but I would be surprised if he did not attempt to go down that general route.

Mr A Maginness: Therefore the office does not have a chief executive. What other senior staff —

Mr Lewis: The office has a chief executive. That is me.

Mr A Maginness: I am sorry; I did not mean any disrespect towards your good self, but, as far as other senior staff are concerned, are they permanent or are they acting up? What is the position?

Mr Lewis: With regard to the remainder of the senior management team, there is one senior director — the senior director of investigations, I think, a chap called Peter Sullivan, who attended this meeting. He is on secondment from the Surrey police. His secondment ends in November of this year. It will then be for the ombudsman to decide whether that post should remain. I have assumed that perhaps it will not and that some of its roles will be included in an enhanced role for the new chief executive, and some of the functions will filter down to the two directors of investigation. The rest of the directors are all substantive and in post. There is one person acting up, but that post will be subject to a competition in due course as well.

Mr McCartney: Thank you, Chairperson, and I thank Colin for his presentation. I have a number of questions. You said that the office was dysfunctional.

Mr Lewis: Yes.

Mr McCartney: Tony McCusker's report showed that the office was subject to and open to interference. I think that that has been established. Would you describe yourself as the de facto Police Ombudsman?

Mr Lewis: No. I am not the Police Ombudsman; I was asked to come in as the interim chief executive.

Mr McCartney: Have you ever been described by anyone as the de facto Police Ombudsman?

Mr Lewis: One or twice I have received correspondence addressed to the Police Ombudsman, but I have not been addressed as such.

Mr McCartney: I have been very precise with my language. I asked whether you have been described as the de facto Police Ombudsman.

Mr Lewis: No. The delegations that were afforded to me and others in the office enable the powers of the ombudsman to be delivered. However, I have not been addressed as such.

Mr McCartney: OK. That is fine. From the outside, the recruitment process seemed a bit strange. There was an acting chief executive, the ombudsman appeared to want to leave the post, and legal advice was received that there was no requirement for his post to be filled while a recruitment process was carried out. However, I think that the ombudsman said that it was desirable to have an interim chief executive when there was already an acting chief executive. Did you find that strange?

Mr Lewis: I cannot give you an opinion on that. What was in the ombudsman's mind was not discussed with me at the time. I refer to my earlier point about what is normal, and if the situation at the time had remained the same, members of junior to middle management would be acting up in particularly difficult roles. I also refer to my point about risk aversion and the presence of an element of stagnation, and there were many things in the area of change management that were not being taken forward. Perhaps it was felt that someone with experience in corporate governance was needed to take those matters forward. However, as I was not party to those conversations, I really cannot speculate.

Mr McCartney: I have no desire to question your experience, but do you have any experience of criminal justice issues?

Mr Lewis: None whatsoever; I have no connection with the area of criminal justice or the Department of Justice. However, I do have extensive experience of accounting officer functions, managing people and resources and corporate governance.

Mr McCartney: Whatever the faults of the office, the lack of seniority of the person who was acting up as chief executive was not questioned until the ombudsman decided to leave, when, all of a sudden, that person's lack of seniority became an issue. In essence and in the broadest terms possible, an interim chief executive came into the office and one of his first actions was to demote the acting chief executive. Was there a conflict of interest?

Mr Lewis: I have demoted no one.

Mr McCartney: There is no longer an acting chief executive.

Mr Lewis: That was the ombudsman's decision; it was not mine.

Mr McCartney: Was that person demoted before you came into office?

Mr Lewis: Absolutely. I came in as interim chief executive. You cannot have an interim chief executive and an acting chief executive at the same time.

Mr McCartney: Was the post of acting chief executive done away with before you came into office?

Mr Lewis: It ceased to be on the day that I was appointed, which was 28 January.

Mr McCartney: Were there no issues with the acting chief executive when the ombudsman was in office?

Mr Lewis: I cannot answer that question, as I do not know.

Mr McCartney: In real terms, he would have been in the position to say that the person concerned should not be the acting chief executive because of his lack of seniority. He did not seem to have any issues while he was in office.

Mr Lewis: Presumably, when he approached the permanent secretary in the Department of Justice to seek someone else there was an issue, although I cannot comment on that. The only point that I would make about me and my appointment is that I receive a significant postbag and many e-mails, and, in the 14 weeks that I have been in post, I have received only one e-mail that tentatively questioned my appointment and independence. I understand what you say —

Mr McCartney: I hope that you do not think that I am questioning your independence or ability; what I am questioning and trying to get an insight into is the process. This was not a decision by the ombudsman that he was leaving without any controversy. There were issues around the ombudsman; there were issues that the Committee and I personally have raised around public confidence.

Mr Lewis: I am not trying to be evasive; I just do not know the answer.

Mr McCartney: I am not suggesting that you are being evasive. However, I have to bring it to the public's attention. There are issues around the appointment process that are irregular. It has nothing to do with you personally, but part of the commentary around this issue has been an allegation made and substantiated that there has been interference in the past from the Department in the running of the ombudsman's office. My point is that the ombudsman could have allowed the situation to continue with the acting chief executive; however, he chose not to do so. Therefore I want to tease the issue out.

Mr Lewis: That may well be a possibility; however, I simply cannot comment.

Mr McCartney: Nor do I expect you to. However, there was controversy around the office of the ombudsman, he decided to leave and then he told the Department that he felt that he needed an interim chief executive.

Mr Lewis: I cannot comment on that.

Mr McCartney: In some ways, your inability to comment answers the question.

Mr Lewis: The only thing I will say is that I cannot comment; I do not have an answer for you.

Mr McCartney: OK. Since coming into office, you have outlined in your briefing paper that you have tabled several documents, one of which is a management statement that is designed to guard against interference.

Mr Lewis: That is correct.

Mr McCartney: Would the Committee be entitled to see it?

Mr Lewis: The management statement and financial memorandum is a departmental document; if you require sight of it, I suggest that you ask the Department. I am responsible for the aspects of the document that relate to the office's management. My involvement thus far has been to ensure that language is included that protects the operational independence of the ombudsman. Indeed, I have ventured some additional language that I hope will be acceptable.

Mr McCartney: OK. I have some more questions. It is often said that there were issues around legacy or historical cases. Can you provide any information on the report into the killing of Marc Ringland and where it is at?

Mr Lewis: No, I cannot.

Mr McCartney: Is there any reason why you cannot?

Mr Lewis: No, other than that I do not have the briefing with me. I can give you an indication as to where it is, but I simply do not have the detail with me at that level. There is no reason why that information should not be provided.

Mr McCartney: Do you know whether the report has been completed and whether the PSNI has received a copy?

Mr Lewis: No, I do not.

Mr McCartney: You do not?

Mr Lewis: I do not.

Mr McCartney: Is it perhaps something that you should know?

Mr Lewis: It is possibly something that I should know, but I do not have the information available to give to you at this time.

Mr McCartney: I understand that you might not have the information, but, as the interim chief executive, you should know.

Mr Lewis: There are reports on seven cases, I think, including that case, that will be available to the ombudsman when he comes into office.

Mr McCartney: I say this with the greatest respect, you are now charged with that office, not the incumbent. It is a straight matter of fact: is the report concluded, and has the PSNI received a copy?

Mr Lewis: I do not have that information, Mr McCartney.

Mr McCartney: I suggest that that is a big gap for someone who, in essence, is the chief executive of the organisation.

Mr Lewis: I accept that comment.

Mr McCartney: I have one other brief point, but I will come back to it because that has caught me out a bit. I am actually shocked, because one of the issues is that you are now the accounting officer. So, who would make a decision that, in essence, should be made by the Police Ombudsman?

Mr Lewis: At this moment?

Mr McCartney: Yes.

Mr Lewis: The new Police Ombudsman will make that determination.

Mr McCartney: In the absence of a Police Ombudsman. I have a concern that someone in your office as senior as you is not aware of a controversial case in which a man lost his life and a report was carried out. I am asking if that report has been concluded and whether the PSNI received a copy, and you tell me that you are not in a position to give me that information.

Mr Lewis: I want to make a point to you, Mr McCartney. I have been in post 13 weeks. There are many complex issues that I have had to deal with in those 13 weeks. You have asked a perfectly reasonable question about my knowledge of a particular case. I do not have that detailed knowledge; I would like to have it, but I have had many things to do. This is an important issue. If the point that you raised is about who would make the report; the cases are suspended. The important —

Mr McCartney: This case is not suspended.

Mr Lewis: I think that the issue regarding the future of this office is one of ensuring that public confidence is high. I think that public confidence would decrease if people in a relatively junior post, and who are attempting to keep an office and maintain business continuity, were asked to stand up and make a public statement, which is a job that they are not employed to do. In such circumstances, I think that public confidence would decrease even further. That is why I made the point that it is vitally important that a new Police Ombudsman is in post very soon.

Mr McCartney: I agree. I hope that nothing that I have said to you today contradicts that.

Mr Lewis: When Mr Hutchinson left, he left —

Mr McCartney: I want to make this point. There are issues of the office's governance and of it being dysfunctional. Those are some of the issues that we are dealing with. This is not just a complaint from someone who objected to being stopped and searched on the street. This is a case that has been in the public domain for some time and about which the Committee has raised questions, which I mention because sometimes people point up that the only cases that are controversial or have led to criticism of the ombudsman's office are historical or legacy cases. This is a recent case, in which a man lost his life and for which the public expect some accountability to be shown.

Mr Lewis: If I have not come to this meeting with clarity on a particular case that I should have, I apologise. I am dealing with a large number of issues. I accept your criticism on that point.

Mr McCartney: Do not see it as criticism. It is not that I feel that you should come here briefed on everything in your office. It just surprises me that you are not aware of such a high profile case. That

is the point that I am making. I am not saying that you should know everything in your office from a to z, but I would have expected someone in a senior position to know that a very critical report has been concluded and sent to the PSNI. I do not think that that is asking too much.

Mr Lewis: I accept your point.

Mr McCartney: OK. Thank you.

Mr Dickson: Mr Lewis, thank you for your presentation. Having listened to what you said, I believe that quite a bit has been achieved by you and other staff during your 14 weeks in office. How do you envisage your handover to the new ombudsman? When it comes to the issues that you have tackled, what position do you expect to leave the organisation in, and how long do you believe that the handover period will be?

Mr Lewis: Upon handover, I intend that the office will be more fit for purpose than it was when I came. The ombudsman will be provided with a comprehensive first day brief, which will document the issues that have been addressed during my period. It will also include recommendations and options in relation to all the recommendations that remain incomplete arising from all of the reports. The office will be left in a strong position in respect of its accountability and budgetary management, an annual business plan will be produced and in place a number of months before what would normally have been the case in previous years. Its annual report will be in its final state. The enlarged historic business case, which was finally approved during my tenure, and the recruitment processes will be well advanced. My purpose is to ensure that, in the very short period that I have been in post, I have moved forward considerably and got an awful lot of things done so that, when the ombudsman arrives, he can act decisively in relation to various matters, including high profile cases, in the short term, rather than having to start a process from scratch.

Mr Dickson: That seems to me to be an eminently sensible way forward, and it certainly seems that Mr Lewis has, in a short period of time, achieved quite a significant number of key milestones in preparation of those things. It is probably right that the very difficult political issues are best left to the ombudsman. Thank you for the work that you have done.

Mr Lynch: I have a number of questions. Thank you for coming here today. Do you have a background in criminal law investigations, or what is your background?

Mr Lewis: I am a chartered accountant [*Laughter.*] I have done many forensic investigations of numbers in my time, but, in relation to criminal justice, as I said to Mr McCartney, I have no connection or experience whatsoever.

Mr Lynch: Or in policing?

Mr Lewis: No.

Mr Lynch: I have a few questions around Mr McCartney's issue. At the beginning, you said that there was progress in historical cases. Will you expand on that?

Mr Lewis: There is progress on the business case for the enlarged history directorate. When I first took up post, I think it is reasonable to say that it had somewhat stalled in its progress in terms of its approval. I have plenty of experience in writing and approving business cases, so I was able to look at the issues and ensure that those outstanding matters were quickly dealt with. That ultimately led to Minister Ford making the announcement in March as to the additional funding that would be available to fund the investigation of an additional 78 cases over the next six years.

Mr Lynch: Do you know how much that will be?

Mr Lewis: Yes, the additional funding is £10 million, and that will be added to the existing budget allocation of £3 million, so there is now £13 million available to investigate those cases over the next six years.

Mr Lynch: The CJI recommended that all historical cases be suspended while the internal problems between your office and the PSNI were sorted out, but the Minister recently announced that two cases in parallel were proceeding.

Mr Lewis: I have not read the Hansard transcript: I think the Minister attended the Committee in September last year, and I think he indicated at that time that a small number of cases, which were following police investigations, would continue. There have been no new investigations started since that time. That is my understanding.

Mr Lynch: Where is the investigation by your office that arose from the Ballast report?

Mr Lewis: The work in relation to what I think you are referring to — which we referred to as Stafford — is continuing. My office is continuing to mirror progress on that. That was one of the cases that the Minister referred to at the time.

The Chairperson: Did you apply for this job, Colin, or was your arm twisted? *[Laughter.]*

Mr Lewis: Members know me from other guises. Mr Maginness will see me shortly, I hope.

The Chairperson: I am just curious. It is not the sort of job that I would expect someone to volunteer for.

Mr Lewis: In all seriousness, it has been a challenging role, but a rewarding one, and I have enjoyed working with the staff.

The Chairperson: Thank you very much.