



Northern Ireland  
Assembly

Committee for Justice

# OFFICIAL REPORT (Hansard)

Independence of the Office of the Police  
Ombudsman for Northern Ireland: Criminal  
Justice Inspection Northern Ireland Briefing

18 April 2013

# NORTHERN IRELAND ASSEMBLY

## Committee for Justice

### Independence of the Office of the Police Ombudsman for Northern Ireland: Criminal Justice Inspection Northern Ireland Briefing

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**Members present for all or part of the proceedings:**

Mr Paul Givan (Chairperson)  
Mr Raymond McCartney (Deputy Chairperson)  
Mr Stewart Dickson  
Mr Tom Elliott  
Mr Seán Lynch  
Mr Alban Maginness  
Mr Patsy McGlone

**Witnesses:**

Mr Brendan McGuigan	Criminal Justice Inspection Northern Ireland
Mr Bill Priestley	Criminal Justice Inspection Northern Ireland

**The Chairperson:** I welcome Mr Brendan McGuigan, chief inspector, Criminal Justice Inspection Northern Ireland (CJINI), and Mr Bill Priestley, who was the lead inspector on this review. I invite Brendan to take us through the review's findings.

**Mr Brendan McGuigan (Criminal Justice Inspection Northern Ireland):** Good afternoon and thank you for inviting us, Chairperson.

The review is an examination of the progress of recommendations that were made in our report "The independence of the Office of the Police Ombudsman for Northern Ireland", which was published in September 2011. That inspection had arisen as a result of concerns about a significant lowering of the operational independence of the Office of the Police Ombudsman for Northern Ireland (OPONI). The investigation of historical complaints by OPONI had been suspended following the publication of our report in September 2011. The purpose of this follow-up review was to assess progress with the 2011 recommendations and to determine whether OPONI was in a position to recommence historical investigations.

We were assisted in this review by two senior members of Her Majesty's Inspectorate of Constabulary with relevant experience at a senior level in serious crime investigation. The review fieldwork comprised a self-assessment prepared by the Police Ombudsman and the senior management team; a preliminary interview with the Police Ombudsman; a review of processes and procedures applied to case files that had continued to be progressed due to their being subject to parallel investigation by the PSNI; a desktop review of new structures, processes and procedures; one-to-one interviews with the head of the history directorate and senior investigating officers; one-to-one interviews with members of the senior management team; one-to-one and focus group interviews with the head of the confidential unit and confidential unit staff; and focus groups with a cross-section of members of staff

from the history directorate. Representatives from a range of stakeholder organisations were also spoken to as part of the review. I stress that inspectors are not investigators. As in the previous inspection report of 2011, the exercise did not amount to the reinvestigation of any specific reports.

Our overall conclusion of the follow-up review was that substantial progress had been made with the recommendations and that investigations into historical cases should recommence as soon as practicable. If I may, I will go through the recommendations and explain them.

Recommendation 1 was:

*"The Police Ombudsman should suspend the consideration of historical cases through the Critical Review Panel and initiate an immediate review to consider the most effective way of managing those investigation reports which are awaiting publication."*

Our assessment was that that had been partially achieved. The consideration of historical cases through the critical review panel had been suspended. A reassessment of procedures had identified the embedding of quality assurance into each step of the investigative process as critical, together with the active involvement of the Police Ombudsman throughout the investigative and reporting processes. Inspectors believe that the restructuring of the history directorate together with new quality-assurance processes had provided a framework capable of delivering quality investigations and public reports. The final quality-assurance test will be delivered by selected members of the senior management team of the Office of the Police Ombudsman to test the Police Ombudsman's conclusions reached on the basis of a report prepared under the new processes. Inspectors consider that reports prepared in that manner will be of sufficient quality to undergo scrutiny from a senior team. To test fully the robustness of new processes, it will be necessary to return to the Office of the Police Ombudsman to assess them following publication of at least three substantial historical investigation reports.

Recommendation 2 was:

*"The Police Ombudsman should suspend historical case investigations except those currently being pursued jointly with the PSNI until the Strategic Plan for the Historic Investigations Directorate has been adequately resourced and becomes fully operational."*

Our assessment is that that has been achieved. In our 2011 report, inspectors outlined the lack of progress of a business case designed to restructure and adequately resource the history directorate in order to deal with historical cases in a more structured way. The follow-up review found that all investigations into historical cases had been suspended as recommended. The business case had been agreed by the Department of Justice in March 2012. The strategic plan for the history directorate had been implemented, and that had included a revised prioritisation index, which had been consulted on widely. The strategy had been underpinned by enhancing the skills base of the directorate and by implementing a comprehensive suite of supporting policies and procedures. Revised processes within the restructured directorate demonstrated adherence to recognised standards of investigation and quality assurance. At the time of the inspection fieldwork, a few remaining unfilled posts, identified under the strategic plan for the history directorate, were expected to be filled imminently. The new structure demonstrated the methodical approach taken to progress historical cases, the support mechanisms in place for historical investigations and the relationship with the confidential unit.

Recommendation 3 was:

*"The Police Ombudsman should commission a full review of the Confidential Unit and the protocol for dealing with sensitive information ensuring that the needs of the OPONI as a civilian oversight body are fully represented in the review and integrated within the recommendations."*

Our assessment was that that had been partially achieved. A review had been completed. From it, a series of recommendations with regard to the confidential unit had been made. Some recommendations had not been fully implemented at the time of inspection fieldwork, but they were expected to be progressed following the appointment of a new chief executive officer. A new memorandum of understanding was being progressed. It focused on positioning the agreement between the leaders of the respective organisations, in contrast to the previous agreement, which had rested with the head of crime in PSNI and the senior director of investigations in the Office of the Police Ombudsman. Changes to the structure of the history directorate had strengthened the

relationship between investigative teams and the confidential unit. Those changes had included the appointment of a single point of contact between investigative teams and the confidential unit, as well as disclosure officers and a named dedicated confidential unit analyst for each investigation.

Within the confidential unit, inspectors found that systems and processes had been refined to enable the systematic recording of requests for information and responses to those requests. As part of the system of recording, each request had been accompanied by the supporting rationale. Yet to be fully implemented were recommendations made in the review of the confidential unit regarding the development of performance indicators and provision of intelligence awareness training, as well as formalisation of new reporting lines for the confidential unit upon appointment of a new chief executive.

Recommendation 4 was:

*"The OPONI policy for the investigation of State related deaths (Article 2 European Convention on Human Rights) should be reviewed and clarified. Clear and unambiguous guidance on the policy should be provided to all staff."*

Our assessment is that that has been achieved. The article 2 policy had been reviewed, and legal advice of senior counsel had been sought. The policy and revised guidance had been communicated to all ombudsman staff. During the fieldwork, inspectors found that staff demonstrated a clear understanding of the article 2 policy and the guidance issued to help clarify it. History directorate investigators came from a variety of backgrounds, but none would be excluded from investigating historical cases as a result of the application of the article 2 policy. That had been the case at the time of the September 2011 report. However, the endorsement of the article 2 policy by senior counsel, and the approval of staff guidance with regard to it, had provided clarity among all the staff spoken to by inspectors during the review.

Recommendation 5 was:

*"The Police Ombudsman should carry out an immediate skills and competency audit of everyone having significant input into complex cases to ensure that staff are appropriately equipped to deal with such investigations."*

Our assessment is that that has been achieved. The recommendation had been pursued as suggested and had resulted in gaps being identified in the skills profile of the history directorate. Although investigators had achieved the accredited detective training through Portsmouth University, those operating in the history directorate had been identified as requiring additional skills. The approval of the business case for the restructuring and resourcing of the directorate had enabled a programme of recruitment based on the identified skills gap to commence. The gaps had been filled by recruiting senior investigating officers with extensive experience in handling very large and complex cases using the Home Office large major enquiry system (HOLMES), and by recruiting contract investigators who also had relevant and extensive experience. That had provided comprehensive coverage in skills and experience related to major crime, organised crime, corruption and family liaison.

Recommendation 6 was:

*"The prioritisation regime contained in the Strategic Plan for the Historic Investigations Directorate should be reviewed and consulted on to reflect the needs of victims' families, the police and the wider public interest."*

Our assessment is that that has been achieved. A prioritisation index had been developed and operated at the time of inspection fieldwork for the report of September 2011. However, the application of the prioritisation policy across all investigations was not apparent at that time. In some cases, it had been found that consideration of resourcing had been the only determining factor in pursuing or not pursuing investigations. During the follow-up review, inspectors found that the recommendation had been completed by further developing the existing prioritisation index and consulting on it more widely than had been possible previously. Some development of the index had resulted from the consultation responses, and it had then been tested by applying it to existing cases. Inspectors found that there had been systematic recording of the application of the prioritisation index with regard to cases reviewed.

The initial prioritisation of cases had been tied into the workings of the communications team that performs the initial case assessment. Cases had then been passed to an initial prioritisation and assessment group, which had made determinations on whether the case was within or without the remit, whether and what form of communication should be initiated, and the priority of the case. Inspectors found that the operation of the prioritisation index had been underpinned by policies and procedures and that those had been developed across the history directorate. Initial results appeared to indicate that the prioritisation index processes had operated effectively. However, full assessment will only be possible when a higher number of cases become live once again and reports are published. At that stage, a full assessment of the impact of the prioritisation regime should be made.

Our overall conclusion is that the Police Ombudsman should recommence historical investigations as soon as practicable. Further challenges lie ahead when difficult investigations are published. However, inspectors believe that the changes made have the potential to deliver quality investigations and reports and to protect the independence of the Office of the Police Ombudsman. Only when public reports have been published can we assess whether the full independence of the office has been restored. The Criminal Justice Inspection intends to return to that issue when a sufficient number of reports have been progressed through to publication.

**The Chairperson:** Thank you very much, Brendan. I have a number of points, and some members will then want to come in. I will commence with your concluding comments on the potential for quality. Why is the CJINI not able to say that, based upon the changes that have been made, there will be quality? Why is it still potential?

**Mr McGuigan:** The way in which the Police Ombudsman has reviewed the potential delivery of the cases has been quite strong in building in quality-assurance processes, but only when it gets to the final stage can we really assess whether the completed reports are robust enough to withstand what we termed as the "buffeting" that inevitably occurs when the reports reach the final stage. It may well be that when a final report is presented to the police, they have concerns about the quality of the investigation. Indeed, when the reports are moved forward through to a public report, perhaps families and other interested parties will once again challenge the robustness of the reports. We are saying that the Police Ombudsman has done as much as he possibly can in preparation for the delivery of the reports, but it is only when you see the reports moving through to publication that you are able to assess whether they have been robust enough to withstand the challenge.

**The Chairperson:** My thinking is that, if you have the structures in place and all the personnel are properly qualified, we should not really need to wait to judge based on the outcome of a report, because, obviously, there will always be competing interests due to the nature of historical investigations. We need to have confidence that, regardless of what the reports say, the quality in them is proper and professional. I am concerned that we are taking the position that until we see what comes out the other end, we will not really know whether it is quality.

**Mr McGuigan:** You will appreciate what happened with some reports back in 2011. To be honest, a level of scrutiny is applied to the reports, and our memory of that time, and certainly what we saw, was that there had been considerable buffeting and that the reports contained factual inaccuracies. The names of victims were not correct. As a result, many potentially undermining factors caused the then Police Ombudsman to withdraw the report, reconsider it and then republish an additional report. When you get to that stage, it is extremely damaging for public confidence. Everyone would like to see a report prepared that has gone through a robust set of challenges and which, at the end of the day, becomes the definitive public-facing report of the Police Ombudsman's office.

**The Chairperson:** You have touched on the buffeting, and, again, you are leaving the caveat that until we see a report, we will not know whether independence has been brought to the office. If you have the structures and the personnel, why do we need to wait for a report to know whether the office is truly independent? When a report is produced, what will you be looking for that will demonstrate that it has been produced independently of all those competing factors?

**Mr McGuigan:** We will be looking for the process by which the Police Ombudsman's office deals with potential challenges — be it from the police, the families or interested parties — and how that process is managed. You really have to see it in action, and it has not been in action since the cases were suspended. There are many things that give me a great deal of confidence in the way in which I was able to report on the review. The recommendation to suspend historical cases was not made lightly, and I can assure you that the recommendation to restart historical investigations was not made lightly.

It was made on the basis of substantial progress having been made in key areas of the delivery of that area of the ombudsman's business.

**The Chairperson:** I ask these questions to know whether you remain unsatisfied that it is quality or independent. If that materialises, would you recommend the suspension of historical inquiries again?

**Mr McGuigan:** Absolutely. I would be unequivocal about that. At the end of the day, the institution is core to the success of the policing architecture in Northern Ireland. There are a lot of vested interests ensuring that cases of that nature are dealt with entirely appropriately. That means that there is a quality investigation and that a robust, defensible report is presented into the public arena.

**The Chairperson:** Finally, most of your report is pretty positive with regard to what you have seen, albeit partial, not full, progress has been made on some of the recommendations. You have not detailed it here, but are there two areas — or just one area — where you are unsatisfied because progress has not been made and are there any concerns about that?

**Mr McGuigan:** To be honest with you, no. I am talking outside of the report, but I think that it was important that a chief executive was appointed to the Police Ombudsman's office. That has happened. That link was missing in the structure of the organisation. I have no concerns now. There was some unfinished business around the completion of the memorandum of understanding with the police. At the time that we inspected, considerable progress had been made in that sense, and I have no doubt that that has probably been achieved by now. I have no information to say anything to the contrary. The nature of our inspections is such that it is a snapshot in time: we go in and prepare our reports, and we move on to the next project. We are talking about a report on fieldwork that was conducted in late November/early December, and I know that things have progressed since then, certainly with the appointment of a chief executive.

**Mr Lynch:** Thanks for the report, Brendan. We welcome the report, and many families out there with historical cases will welcome it, too, in their pursuit of justice and truth. There were issues around confidence and independence. We know, and you have said, that there was a serious lack of confidence. It had haemorrhaged in the previous office. We understood that the report was essential to bring it back. I think that you already answered that in a sense; you said that you are confident. I know that you will need a couple of cases to benchmark it, but you are confident that it can bring the significant radical change that is needed to the office.

**Mr McGuigan:** We reviewed the structures, looked at the processes and spoke to the individuals who are engaged in that work, and therein lay the benefit of having two senior members of Her Majesty's Inspectorate of Constabulary supporting us in that work: they have considerable experience of looking at major crime investigation. Their supporting assessment to us was that everything looked good to go. We made our recommendation on that basis.

**Mr Dickson:** Thank you, Brendan, for the comprehensive report. I genuinely believe that it will bring a great deal of confidence to the whole community. As was said, it is vital to the whole policing architecture in Northern Ireland. If we do not have confidence in our ombudsman or the processes, we would have a very serious problem. I very much welcome that all the items that you have inspected and revisited have been achieved.

On recommendation 2, you said that the history directorate demonstrated adherence to recognised standards in investigation and quality assurance. Are those police standards, national standards or international standards? Does it need a senior investigating officer?

**Mr McGuigan:** Absolutely. They are largely police standards. When you engage in that level of investigation, you are talking, on many occasions, about multiple deaths. You would have to apply the standards that exist in the United Kingdom to how the issues are investigated. Those are the standards to which the police are trained in Northern Ireland. Equally, those are the standards that you would expect the Police Ombudsman's office to apply. If you make a judgement around how the police have conducted an investigation, you need to ensure —

**Mr Dickson:** That you know.

**Mr McGuigan:** Yes.

**Mr Dickson:** As for recommendation 6, you say that, at that stage, a full assessment of the impact of the prioritisation regime should be made. Who will make that assessment? Do you expect the ombudsman to do it, or will you revisit that?

**Mr McGuigan:** I would be quite happy to report on that. Approximately three cases are passed through to publication stage. I would be very happy to report on that as well.

**Mr Dickson:** Finally, the Chair raised the issue of recommending reports and delivering them. You said that you intend to return to the issue:

*"when a sufficient number of reports have been progressed through to publication."*

How many is a sufficient number?

**Mr McGuigan:** I have in mind probably three.

**Mr Dickson:** It is just to get a flavour of that. You made what I thought was a very significant comment about the buffeting that a report will receive once it comes into the public domain, and that involves PSNI and all those people who have a genuine interest in the outcome. How they react to it, feel it, own it and believe in it is vital.

**Mr McGuigan:** The buffeting process is healthy. The issue is about what happens as a result of it and how that process is managed. What we have seen in the structures, process and quality assurance in the Police Ombudsman's office is that you should minimise the issues that will lead to extensive buffeting. Last time, so much buffeting was going on and reports were then changing, which raised questions in people's minds about the overall quality of the report.

**Mr Dickson:** Thank you very much. That was very helpful.

**Mr Elliott:** Thank you very much for that, gentlemen. I have a couple of questions. I would like you to explain a couple of quotes from your report and the 2011 report in a bit more detail. The first one is:

*"'free from outside control' or 'not subject to another's authority'. Independence is not an absolute. In the context of civilian oversight of the police, it is a complex and difficult area which can often be presented as a zero sum position."*

Will you explain that a bit further, Brendan?

**Mr McGuigan:** OK. Bill? I did not actually write that one.

**Mr Bill Priestley (Criminal Justice Inspection Northern Ireland):** In fact, I do not think that I did either. Will you indicate the paragraph for me, please?

**Mr Elliott:** Yes, it is on page 3, in chapter 1 of this —

**Mr Priestley:** Of the original report?

**Mr Elliott:** No, of this report. You used it in the introduction.

**Mr Priestley:** Sorry, we used that quote, yes.

**Mr McGuigan:** What we were conveying in that at the time was that independence can be along a continuum. I believe that my organisation and my role are independent, but, in reality, I am granted a budget and I have to attend to corporate governance issues within my organisation. Independence for the Police Ombudsman in conducting totally independent investigations means that nobody should interfere with that process. Bill, will you —

**Mr Priestley:** My understanding of the zero-sum position is that there are no winners on either side. It can be presented in that way. Total independence is not a healthy position to be in. To be totally independent would mean you would be removed from your stakeholders. The corollary of that is total isolation, which is not a healthy position to be in either — to be isolated from your stakeholders. As

Brendan said earlier, the buffeting is a healthy thing. It is what happens after that buffeting that demonstrates the robustness and quality of the reports that have been presented. The zero-sum position is where you are in the middle of, for example, a balance of independence and isolation, and it is along that continuum.

**Mr Elliott:** Explain to me, then, how that was not being met?

**Mr Priestley:** The buffeting that we saw in 2011 had led to reports being changed and perceptions that they were being changed because of pressure being brought to bear by various stakeholders. The reports were being changed on numerous occasions and changed back —

**Mr Elliott:** Is that a perception or the reality?

**Mr Priestley:** Reports had been changed; that was the reality. They had been changed more than once due to buffeting from various interested stakeholders.

**Mr Elliott:** So, they were being changed because of external pressure?

**Mr Priestley:** Yes.

**Mr Elliott:** Which was not justified?

**Mr Priestley:** They were being changed and changed again when pressure was applied from other interested parties. The reports did not stand on their quality. That is what we were saying at that stage. The buffeting had led to changes being made and then later changes being made. What we are saying in this case is that there is now a framework of quality assurance in place, which has the potential to stand up to buffeting and deliver quality reports.

**Mr McGuigan:** I will say something to support that. The nature of the reports is that, if there were significant gaps identified — part of the challenge from the police was that perhaps the Police Ombudsman's office had neglected to consider an area of investigation in making its assessment — you can see why there would be that challenge. What we are saying is that the structures, processes and quality assurance mechanisms that are now in place should reduce that to an absolute minimum. In fact, based on what we have seen, I would be surprised if you would see the level of errors that we saw back in 2011.

I also talked about buffeting. We produce reports regularly and share them with the inspected organisations. We invite factual accuracy checking to go ahead, and if we are factually inaccurate, I would not want to publish a report until I had got it right. Unfortunately, with the Police Ombudsman's office in 2011, some reports had shown considerable shortfalls in the completeness of the investigation. There were areas that had not been covered.

**Mr Elliott:** Was that because of the external pressure or incompetence internally?

**Mr McGuigan:** We talked about it in 2011. There needs to be an equality of arms when you are conducting this level of investigation, and there was not. The reality is that the Police Ombudsman's office was not sufficiently resourced to deal with the complexity of some of these investigations. I go back to the fact that we identified particularly —

**Mr Elliott:** So, it was not external pressure. It was not incompetence of those involved. It was a lack of resources.

**Mr McGuigan:** Ultimately, it needed to be resourced correctly to conduct the investigations of this nature. We were absolutely clear about that.

**Mr Priestley:** In 2011, the quality assurance processes were not in place to produce a report that was based on thorough and complete investigations. The buffeting then caused changes to be made to those reports. The buffeting was a separate issue after the reports had been published.

**Mr Elliott:** Where did the buffeting pressure come from?

**Mr Priestley:** Various stakeholders, including the police, families, NGOs and other interested parties.

**The Chairperson:** Politicians.

**Mr Priestley:** For example; yes, Chair.

**Mr Elliott:** So, they were having a significant influence in changing some of those reports.

**Mr Priestley:** That is right. That was due to the fact that there was no quality assurance framework in place that could produce a real quality report that could stand up.

**Mr Elliott:** It is all becoming slightly clearer. My second quote is:

*"The way in which the OPONI deals with the investigation of historic cases has led to a lowering of its operational independence."*

I assume that that is based on the same.

**Mr McGuigan:** Absolutely.

**Mr Elliott:** OK. That takes me on to recommendation 5 of the report that we are discussing today. It states:

*"This recommendation had been pursued as suggested and had resulted in gaps being identified in the skills profile of the History Directorate."*

That is not about buffeting. That is not about lack of resources. That is about the skills profile. So, are you saying that substandard investigations were going on? That is not what you said earlier. You said earlier that it was about resourcing.

**Mr McGuigan:** It was very clear to us that, in a particular investigation, significant areas had been overlooked simply because the Police Ombudsman's office did not have people skilled in the interrogation of the Home Office large major enquiry system, which is known as HOLMES. There were areas in which the Police Ombudsman believed that the police had not conducted investigations. However, the correct interrogation of the existing HOLMES would have shown that that investigation had been conducted.

**Mr Elliott:** So, there was a gap in skills.

**Mr McGuigan:** There was a gap.

**Mr Elliott:** The next paragraph refers to the "approval of the business case". I assume that that is about restructuring, reskilling and upskilling. Is that business case public? Can we have access to it?

**Mr McGuigan:** I am not quite sure of the status of it, to be honest with you. It was made available to us by the Police Ombudsman's office and the Department. It was a communication between the Police Ombudsman's office and the sponsoring Department; namely, the Department of Justice. So, I imagine that it is freely available.

**Mr McCartney:** I apologise for being late. If I ask any question that you have answered previously, just say so rather than feeling that you have to repeat yourself. I will get the answer from the Hansard report. The status of recommendation 3 is "partially achieved". Can you provide any update on that? Has it been advanced?

**Mr McGuigan:** To be honest with you: I am not aware of that. I know that it had been the subject of discussion between the police and the Police Ombudsman's office.

**Mr McCartney:** OK. In the wider commentary on page 11, the report states:

*"This MoU will be between the Police Ombudsman and the Chief Constable a subtle but significant shift from the 2005 document which was between the Director of Investigations and the ACC (Crime) PSNI."*

Will you explain what you mean by "subtle but significant"?

**Mr McGuigan:** It has been elevated to a position that, in our view, it probably always needed to be in. It is now between the heads of the two organisations: the Police Ombudsman and the Chief Constable.

**Mr McCartney:** I find the word "buffeting" an interesting word for "interference", but that is maybe the way that we couch these type of things.

Your recommendations are all well presented and were mostly achieved. In the McCusker report, there was evidence of interference. The previous ombudsman accepted that a report was changed, despite the fact that the protocols were that it could only be changed if there was an evidential base. He accepted that a report was changed without any evidence. Are you confident that that type of protocol is now in place so that that cannot be repeated?

**Mr McGuigan:** Once again, I am confident that the structures, processes and quality assurance mechanisms in place in the Police Ombudsman's office will ensure that that is kept to an absolute minimum. Can I say, definitively, that there will be no interference? Looking at the experience of the staff who are now involved in that sort of work, I would find it hard to believe that that could ever be countenanced, to be honest with you.

**Mr A Maginness:** Thanks for the report. I do not want to go through all the things that other members have gone through. You are satisfied that, the reforms having been made to the institution, the valuable work on historical investigations can be recommenced in a robust fashion. Has the work, in fact, recommenced?

**Mr McGuigan:** It never totally stopped. We said that some investigations took place in parallel with PSNI investigations; those continued. The Police Ombudsman made a statement at the time of the publication of our reports saying that he would recommence them. Once again, my assumption is that that work has started.

**Mr A Maginness:** It is always necessary to keep in contact with the families of victims. However, there is a problem in that, at a certain point, the Police Ombudsman's office could overstep the mark by going too far in one direction. How can the Police Ombudsman's office maintain contact with the families of victims, without, as it were, trespassing into dangerous territory?

**Mr McGuigan:** We have reported on the fact that a communications team has been established. When we come to review how cases have been managed, I would expect that the experience will be that the communications team will be told exactly what they have to say, and an investigator will not simply give a hot debrief to a family on the progress of a report. I would expect a very controlled release of information that is based on some very solid findings from a thorough and robust investigation report. It has to be said that drip-feeding families with emerging issues is not helpful. We would never consider doing that in our work. It really has to be a considered and valued assessment of where things are. Not everything can be said to families until the reports are published because the nature of the Northern Ireland context is that it appears somewhere or somebody runs with half a story without knowing the full picture. That is very, very damaging, and we have seen that. It is about a controlled release of information coming directly, and we believe that the Police Ombudsman has a role in ensuring that that is carried through and that he is satisfied that it will not in any way damage the completion of the investigation report and the publication of a public facing report.

**The Chairperson:** Just before we finish this session, I want to pick up on a couple of points. Can CJINI identify when the resources were not properly available in the ombudsman's office? When were the skills gap and the lack of quality assurance schemes identified? When did that break down? Can you identify that period?

**Mr McGuigan:** Our assessment in 2011 suggested that there was a need for an assessment of skills in the history directorate. When you looked at the type of cases that they had to deal with and the

level of challenge that was made on emerging reports, there was a realisation for us that you needed to build in quality, and you needed to ensure that you had sufficiently experienced people conducting that work so that the product, that is, the investigation report, was robust and comprehensive and the public facing report fed directly from the investigation report.

**The Chairperson:** What I am trying to identify is whether that happened in 2008 or 2009. Is this as good as it has ever been since the inception of the ombudsman's office?

**Mr Priestley:** The volume and complexity of cases built up over time. Can we say it happened in 2007 or 2008? The number of cases built up over a number of years and their complexity increased as well, so it is hard to put a definitive date on when it mushroomed.

**The Chairperson:** Mr Elliott touched on this, and it is very important for us to know when the skills gap was identified around the ability of people carrying out those investigations. When was there a recognition that that did not exist? When did it come into being that the quality assurance did not exist? We had hugely controversial reports such as Omagh and Ballast. If you are saying that there was no quality assurance or expertise, it puts a very big question mark over previous reports. So, if you are able to identify when the gap was identified, that would be important for a lot of people's opinions on previous reports.

**Mr McGuigan:** All I can say is that, in 2011, we saw the gaps. That was the first time that we looked at how the history directorate was functioning. It had prepared a business case, but it had not been completed, and it needed that business case to be approved to be able to recruit staff to resource the history directorate in a way that could deliver the reports that were going to be subjected to the level of challenge that was occurring in 2011. They just were not resourced to do it.

**The Chairperson:** Finally, did you speak to the police as part of the progress on this? One of the big issues was the confidential unit, and, from a civilian oversight point of view, the mix of that civilian oversight vis-à-vis how much police input was being made as to how sensitive material was being handled. As part of the follow-up, were the police contacted in respect of what changes have been made? What was their view on that?

**Mr McGuigan:** They were, and there were no real concerns raised with us at that time. As you will be aware, we are conducting a further piece of work, which looks at the direct relationship between the Police Ombudsman's office and the Police Service. We hope to report on that within the next couple of months.

**The Chairperson:** I look forward to that one. Thank you very much. It is much appreciated.