



Northern Ireland
Assembly

COMMITTEE FOR JUSTICE

OFFICIAL REPORT (Hansard)

CJINI Report on the Police Ombudsman: Police Ombudsman

8 September 2011

NORTHERN IRELAND ASSEMBLY

COMMITTEE FOR JUSTICE

**Briefing by the CJINI Report on the Police Ombudsman:
Police Ombudsman**

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Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Stewart Dickson
Mr Seán Lynch
Ms Jennifer McCann
Mr Basil McCrea
Mr Alban Maginness
Mr Peter Weir

Witnesses:

Mr Al Hutchinson)	Police Ombudsman for Northern Ireland
Ms Olwen Laird)	Office of the Police Ombudsman for Northern Ireland
Mr Peter O’Sullivan)	

The Chairperson:

I welcome Al Hutchinson, the Police Ombudsman for Northern Ireland, Olwen Laird, the acting chief executive, and Peter O’Sullivan, the acting senior director of investigations, from the Office of the Police Ombudsman. Al Hutchinson, we will ask you to respond to the Criminal Justice Inspection (CJI) report and then open up to members’ questions. I hand over to you.

Mr Al Hutchinson (Police Ombudsman for Northern Ireland):

Thank you, Chairman and Committee members. I have a prepared statement of about 10 minutes, so bear with me while I read through it, if you will.

Chairman, as you, the Committee members, the public and the media are aware, I have been subjected to some focused personal attacks and calls for my resignation over the past several months. Those relate to my approach in handling historical investigations conducted by my office and follow some difficult personnel issues that faced our office. The leaked resignation letter of my chief executive, which alleged interference in the office by the Northern Ireland Office (NIO) and the Department of Justice (DOJ) as well as a lowering of operational independence of the office in its relationships with the Police Service of Northern Ireland (PSNI), provided the catalyst for these events.

As you are aware, the Minister commissioned Tony McCusker to investigate the allegations of DOJ interference, and he reported to the Committee on the results. I have not yet had an opportunity to discuss those results with you, and that may be corrected by your questions today. I asked the chief inspector of the Criminal Justice Inspection to examine the allegation that there had been a lowering of operational independence with our principal stakeholder, the PSNI. Dr Maguire and his team did what I asked professionally, and we have had discussions regarding their findings. Although I do not agree with everything, I have accepted the recommendations. Those focus on historical investigations, and they have correctly put the spotlight on dealing with the past as well as highlighting the need for additional resources.

I will leave it to others to speculate on the motivations of the individuals or groups who are choosing to conduct a personal attack on me and, consequently, the important work of my office. Those vested interest groups and individuals have self-identified. Although we might disagree and I believe them to be wrong, I acknowledge their fortitude in representing their interests. As for others who lack integrity and have engaged in a campaign of leaks and direct whispers, I can say only that I am saddened by their lack of moral fortitude. In my experience, these things come full circle.

Despite this, I want to assure you, Chairman, and the Committee that our office is made up of

people who are dedicated, professional, independent and full of integrity. If a situation arises in which that is not the case, we deal with it. Make no mistake: the Office of the Police Ombudsman is an absolute necessity for the architecture of policing in Northern Ireland. Our women and men demonstrate that daily and, as Michael Maguire and his team found, there are no substantial issues with what I call our day business — current complaints. I remind everyone that that is the reason why the office was established.

Let me be clear and challenging to the Committee, the Assembly, the Minister, the Secretary of State for Northern Ireland and the leaders of wider civil society and the media: the Office of the Police Ombudsman was not set up to be a proxy for resolving the wider unresolved legacy issues, yet it finds itself cast in that role and driven in that direction by a lack of an agreed resolution on how to deal with the past.

Make no mistake: failure to address the wider legacy issues will have continuing grave consequences beyond me. Continuing to leave the unresolved legacy issues in the “too difficult” tray or accepting the status quo will destroy this office and the good that it was set up to do. Ultimately, it will undermine policing in Northern Ireland and the excellent Police Service of Northern Ireland. I remain convinced that a consultative group — such as Eames/Bradley — type of proposal offers the type of framework that will be the best opportunity for a way forward.

The question of who will occupy the role of Police Ombudsman is an important one. Although I can withstand the personal attacks, the continuing attacks on me generate a confidence issue that, ultimately, will divide the community and damage the continuing good of the office. Policing is too important for Northern Ireland and its future. After a decade of commitment to improving policing in Northern Ireland, I will not let those who want to undermine the progress for their own narrow agendas to succeed in destroying the office or, indeed, in shaping its future to their own ends.

I have therefore advised the Minister of Justice, David Ford, that my last day of work will be on 1 June 2012. The Minister, in turn, will advise the Office of the First Minister and deputy First Minister (OFMDFM) to begin immediately the process of selecting a candidate for the post of Police Ombudsman for Northern Ireland. That will allow nine months for a selection process,

nomination and vetting. Although that is six months earlier than my planned departure, it will allow me to deal with the issues identified in the McCusker and CJI reports.

I move on to those specific issues. First, you will note that the chief inspector has confirmed my view that we have real and practical independence in that there are no significant concerns with respect to current cases. That represents 80% of our work. He distinguishes current cases from historical cases, and it is important for the Committee and the public to understand the distinction. I want to assure the public and this Committee that the women and men of the Office of the Police Ombudsman, including me and the senior management team, exercise our independence every day in managing the 3,000-plus complaints that we deal with each year. I do not claim that we get it right every time, but we are a learning organisation. Our high levels of public support and police satisfaction and confidence illustrate that, and the CJI report confirms it.

My senior team and I have constructively accepted the six recommendations. Those focus on improving the historical investigation process. We have developed an action plan to implement the changes, and I have provided the Committee with that plan. I have invited the chief inspector to return in due course to confirm the changes. The CJI report, with its recommendations and action plan, are posted on our website.

I will now deal with the CJI conclusions that led to those recommendations. First, I agree with the CJI premise that independence is a zero-sum game, and that any movement to engage with the police, families or interest groups buffets this office, as the CJI describes it, from several directions. The CJI notes that independence is a trade-off between engagement and isolation, and we obviously need to get the balance right or it results in a lack of confidence from one quarter or another.

I have agreed with the recommendation to review our confidential unit. The issue of security of sensitive information was the reason for the joint intelligence review of 2008 and the implementation of robust firewalls. Recent leaks from the office demonstrate the caution required in handling sensitive information. Nonetheless, the CJI has correctly identified the tension between security of information and the need to inform the public for transparency and

accountability purposes. The CJI phrases that as a civilian perspective and notes the need for checks and balances.

The CJI recommended that I suspend any new investigations of historical matters until the historical investigations strategic plan has been adequately resourced and becomes fully operational. It concludes that implementation of the strategic plan will provide a more robust and sustainable model for dealing with historical cases. I have agreed. We could not have begun any significant new investigations in any event without additional resources, since historical investigators are occupied on other matters. It should be understood clearly that achieving that recommendation will require the DOJ and DFP to deliver on the funding commitment so that we can begin acquiring the resources needed.

The CJI also recommended that I suspend reporting on the seven cases that have been investigated over many years but not reported on. That will resume once the critical review and quality assurance process has been reviewed and a sustainable model agreed. It is important, and I want to acknowledge the impact of that recommendation on the various families. They have already shown great patience since the office received their complaints many years ago, and, of course, this will cause further anguish and issues.

Finally, the CJI report concludes that the flawed nature of the investigation process in historical cases, the divisions in senior management and the concerns around the handling of sensitive material have undermined confidence in the work of OPONI among some staff and some key stakeholders. That has led to a lowering of the operational independence of the office. That conclusion does not make for pleasant reading, but I have accepted the CJI recommendations relating to the improvement of historical investigations.

At the time of the inspection, there were divisions in senior management, and there were concerns about the handling and security of sensitive information. That led to the strict firewalls. Security of information must remain tightly controlled, but I also accept that information must be subjected to a vigorous examination designed to release the maximum permissible amount into the public domain.

With respect to the flawed investigation process, the historical investigations strategic plan and new resources are designed to have a consistent approach to the new investigations in a timelier manner and with dedicated resources. I have invited the CJI back to confirm the implementation of the recommendations, and I am happy to return and update the Committee at any future date.

There are some final points to cover with respect to other issues arising from the McCusker report. As recommended, we have recently selected an expert to work with the office and the Department of Justice on defining the boundaries of independence and, in particular, the role of the chief executive, as well as the appropriate corporate governance model for the office. That initial work is expected to be completed by mid-October. When the work has been completed, the post of chief executive will be graded relative to the senior director of investigations post. The former chief executive has left his post as of 31 August. His replacement will be selected once the process I have described has been completed.

There was another personnel matter raised by the McCusker report. I had the matter investigated independently and have received the report. The matter is now subject to due process, and I cannot comment further. I have already indicated my departure on 1 June 2012. I have the trust and confidence of the senior management team in continuing the work until that time to ensure that there is a stable and appropriate corporate governance structure, a cohesive senior management team and a robust and sustainable model for dealing with historical investigations.

Chairman, I thank you and the Committee members for allowing me to make the opening statements. My colleagues and I will take any questions.

The Chairperson:

Thank you for that. I will touch on your opening statements first and I will then ask some questions about the report. You said that there are those who attacked you personally because they have their own narrow agenda and want to use the ombudsman's office as a proxy to further that agenda. Can you define exactly what you mean by "narrow agenda"? Who are they and what is the agenda?

Mr Hutchinson:

One of the answers is that, as Dr Maguire pointed out, we are buffeted from several directions. In Northern Ireland, collusion is a word that is very toxic but very emotive. There is a genuine belief that collusion pervaded the actions of the police during that time. The police, of course, have another view. My office has to look at the evidence and decide whether there has been collusion. It became a very toxic issue in the three cases that have been discussed before the Committee, and I am confident in my findings. I respect the interest groups and the families that are victimised by the regurgitation of the past. They are fully entitled to have an answer. Whether they believe it based on evidence is another issue. I pay respect to the families that really want answers, but this points to a need to resolve the legacy issues and to try to find a way forward. I will not single out any particular group, Chairman, but they have been well identified.

The Chairperson:

You are caught in the position of being damned if you do and damned if you don't. For instance, I am not happy with how you handled the McGurk's Bar report in that, as a result of pressure by families and political parties, you recalled the report and produced one that was very critical of the police. The police did not get the opportunity, under your normal protocol, to check that for accuracy. I think that you were influenced on that one and placed the Chief Constable in a very difficult position. He said that there was no evidence and that, therefore, he could not say sorry. That is in direct conflict to what your report says.

Mr Hutchinson:

I disagree with you to some extent. I have tried to engage with families and interest groups more than before, and that has caused the buffeting. The families deserve the chance to engage, and there is an influence from that.

The first report was withdrawn because there was not full engagement and because there were unacceptable errors in it. Having said that, I engaged with the families, and it was through that process that new information came to light that signposted a very critical document. That changed the flavour. I am comfortable in stating that there was an investigative bias when one looks at the totality. The Chief Constable did not agree with me, but I am comfortable, in the

evidence that I found, that it was a proper conclusion. It illustrates the nature.

It is extremely important that we engage with the families. Michael Maguire demonstrated that there has been constant engagement over the years; people were told different things as the investigation progressed that led them to believe that certain events were correct. Of course, the report is not ended until we put it all together. The flawed nature of the investigatory process is key to that.

The Chairperson:

In the report, the 2008 review seems to have caused a lot of division among investigators and in the critical review panel as to how sensitive material was being handled. I asked Dr Maguire about that. The report states that the police were very concerned about leaks coming from the ombudsman's office. They have more confidence now because of the way that that review changed things but are still concerned that there are leaks when it comes to sensitive material. Why was it necessary to have the 2008 review? Was it because you, as the head of the ombudsman's office, were concerned that people in the office were leaking sensitive information and putting current or former police officers in jeopardy?

Mr Hutchinson:

I will not talk about specifics. I suppose that it is fair to say that, following Operation Ballast, concerns were raised about the release of information. It demonstrates the challenge between protecting and releasing information. We have article 2 obligations with respect to protecting life. There was a concern when the senior director, appropriately, brought in four experts in that area and they produced 17 recommendations that were critical to tightening things up. Ultimately, that caused us some problems. I have no issue with that.

To be fair, Michael Maguire pointed out that putting a firewall around the information is important but that there is also a public duty to be transparent and release information. That is something that we address in every case. Let me point out that under our Act the police must — shall — provide us with information that we ask for, so there are no issues of which we are aware. We also have protocols with the military and the security service, all of which are designed to get the maximum amount of information so that we can assist the families, triangulate

information and arrive at a sustainable conclusion. My point is that balance is important: we must get the information in, evaluate it, sift it through our process and regurgitate it. That is where the issue is. However, if we tinker with the security of information, and there is evidence of a leak or challenges, then that information will substantially dry up. Therefore, it is important to get the balance right.

The Chairperson:

As regards the argument that the perception that your independence has been lowered and the reality of that, the Chief Constable says that the relationship is professional and you are saying that it is professional. Is there a different perception among some in your office, including investigators, senior investigators and, ultimately, the former chief executive? When I read the report, I saw that one individual felt that there was bias in favour of the police because mention of Special Branch in a report was reduced from 20 occasions to five. That was his perception, although the reality was quite different. Another person complained that he felt that employees had too close a social relationship with the PSNI. Again, there is no evidence to prove that that has led to a lowering of independence. From your position, why is there a culture among some people in your office of having an automatic suspicion that there are those who are somehow trying to protect the police?

Mr Hutchinson:

Our office is made up of very competent, capable and independent individuals. I encourage the debates, and sometimes they may get out of hand. It is important that we have robust debate in our office and that it stays within our office.

As Michael noted in his report, perceptions become reality. That is the issue with which we are dealing in respect of historical investigations. There is the issue of lowering our operational independence, but where on the continuum, on the vertical axis, is that? We do not know where the ceiling is and there is no quantitative measure for it. The only quantitative measure is the measure of independence for our current cases, and our confidence in that and in those cases is extremely high. It has been high over the years and continues to rise. So, disaggregating history and internal opinions from the day-to-day work that we do is extremely important to appreciate.

The Chairperson:

Have some of those issues arisen because of a personal vendetta against you, as an individual, by some in your organisation?

Mr Hutchinson:

I would not go that far. I talked about personal attacks with respect to the issues in the office. The leaks are extremely important. We are dealing with the leak of the draft CJI report. It is Michael Maguire's report, but it seems clear that the leak came from our office. We have to deal with those integrity issues, and we are doing so. I would not put it down to personal attacks. Personality differences will emerge in an organisation of 144 people, and they certainly did so at senior level.

Mr Givan:

I am trying to understand why that is the case. Some take the view that there are individuals in your office who want to get at the RUC and are using the office to fulfil that agenda. Others take the view that you and some others are trying to protect the police and that there is a conflict between the two different factions in your office. Can you dispel that as a myth, or is it a reality?

Mr Hutchinson:

I think that that is a myth. As Michael pointed out, a narrative is emerging about former police officers versus civilian staff. That is unfortunate; it is not the case. Virtually everybody in our office is a civilian member, but the idea of having police balance among staff is extremely important. Michael discussed and noted that 41% of our staff, including me, have some sort of former police background. He did not talk about the oversight agencies. At the Independent Police Complaints Commission (IPCC) and the Garda Síochána Ombudsman Commission, 46% and 51% of staff respectively have a former police background. It shows that you need that expertise. I think that Michael talked about the example of a recent shooting by a police officer that involved a death, which has to be treated as a homicide. You need skilled investigators who are trained to deal with that. We strive to have that balance. So, there is a police/non-police issue in the background. I think that the challenge is to build a cohesive unit that is neither police nor non-police.

Mr Givan:

Finally, what background should the individual replacing you on 1 June 2012 have? Should it be someone who does or does not have policing experience? Should it be someone with a judicial background?

Mr Hutchinson:

In his report, Maurice Hayes called for somebody with a judicial background. I will not enter the fray too much, because it is really up to OFMDFM to announce that. I think that it will be a difficult choice. However, it is an important consideration that has to be subject to debate in this Committee or in public. I think that you need the skill and experience of somebody who understands the criminal justice system.

My being a former police officer has created a perception that I am biased towards the police. My answer is simply that I am not biased towards the police; I am biased towards good policing. I have tried to help improve policing. If I had to guess, I would say that it would be easier if the candidate selected has a non-policing background, because that will remove the issue, which, I think, is an artificial one. My integrity is intact, but that perception did become an issue.

The legal complication in Northern Ireland is that things are very equality-based: therefore, how can you exclude a class of people in Northern Ireland? Police officers are spread throughout society and are part of it. Michael Maguire has two police officers on his team who represent good value and have high degrees of integrity. So, I do not think that picking on a class of people and excluding them is fair. However, it is an important debate that will have to be held by others.

Mr Givan:

Thank you for those responses.

Ms J McCann:

You are very welcome, Mr Hutchinson. First, I want to discuss what you said about a myth. We have just had a detailed discussion with Michael Maguire about his report. He pointed to issues with the way in which sensitive information was handled, a major split among senior staff and the

approach taken to historical investigations. In the report, he said that the independence of your office was very much undermined. Are you now trying to tell us that everything that Michael Maguire said in that report is a myth?

Secondly, given our past, do you agree that for the new beginning to policing to succeed there really needs to be public confidence and faith in the Office of the Police Ombudsman and that it cannot be seen to be tainted nor have its credibility and independence undermined? I am very sad to hear that you are staying until next May, because I think that that will undermine public confidence again. By the way, this is not a personal attack. I am talking about the credibility of the office, which is an essential mechanism for ensuring the accountability of policing. I ask you to reflect on that and take on board the criticisms in the report.

I also want to explore a few points of information. You talked about the investigations into historical cases. The Committee debated some of that during its previous evidence session, and I want to concentrate on two parts of it. You talked about collusion, and Michael Maguire also discussed that. Collusion was defined very clearly by Lord Stephens, Judge Cory and your predecessor Nuala O'Loan. Some may feel that I am making this point for political reasons, but the families of those who were killed in the McGurk's Bar bombing and in Loughinisland have problems with the way in which your reports on those cases were written. A blind person could see that there was collusion in both cases. For example, the car used in the Loughinisland attack was destroyed 10 months after the murders, yet you did not recommend criminal or disciplinary proceedings against the RUC officers who destroyed it. Are you saying that your definition of collusion is different to that of everyone else? That is my main point to you today. There is an issue of credibility involved. You can talk around it all you like, but those families are entitled to the truth about what happened to their loved ones. For you to try and dress it up, change reports, and say that collusion did not happen in those cases is wrong.

You need to reconsider your position. In the community, there is a big issue of confidence in Office of the Police Ombudsman that will be affected by your not standing down until next year. It is an essential office, it is needed, and people must have faith in it and have the sense that justice flows from it. You really must reconsider your position.

Mr Hutchinson:

I respect your viewpoint, but I have made my decision. I accept Michael Maguire's report, which I think is clear in that I have accepted the recommendations. However, I can disagree with the way in which he said many things.

With respect to collusion, I used Justice Cory's definition — we have a legal definition — and that fundamentally involves intent and deliberation. The office was set up in such a way that if we find evidence of collusion, as we did with the Claudy bombing, we state that. It is also important when we find no evidence of collusion that we state that too. Whether it was investigative bias, of which we found evidence in the case of the McGurk's Bar bombing, or where there is no evidence but there is a chronicle and litany of failures as there was in the Loughinisland killings, I think that it is important that I say so, and I did.

The destruction of the car was not evidence of collusion. It was not a crime, and it was dealt with. People can put their own perspectives into the public domain, and they are entitled to do so. However, I arrived at my judgement and I am comfortable with it.

Ms J McCann:

As a follow up to that, the note on the RUC file stated that Agent Mechanic in the Loughinisland case was only to be contacted through his police handler, who was known as police officer 4. How can you say that there was no collusion in that case? It is very clear that he was contacted by his police handler the day after. If a police agent was involved in that case, how can you say that there was no collusion?

Mr Hutchinson:

You are probably well aware that we neither confirm nor deny the status of any individual. If you recall from the report, I stated that there was insufficient evidence of any collusion.

Ms J McCann:

I beg to differ. I really believe that, in the interests of the Police Ombudsman's office, you should reconsider your position.

Mr McCartney:

I have a couple of points to make. In response to Jennifer McCann's question, you said that you accept Michael Maguire's report by accepting his recommendations.

Mr Hutchinson:

I do. I said at the beginning that I disagree with some parts but that I accept his recommendations.

Mr McCartney:

We heard Dr Maguire's presentation today. He stated very clearly over and over again that he is in no doubt that reports were altered to limit criticisms of the police, yet you say that that did not take place.

Mr Hutchinson:

Reports were changed. There are always changes up to the last report.

Mr McCartney:

I am not saying "changed". I am quoting what you said on UTV:

"Reports were not altered to limit criticisms of the police".

That is a factual find, and it is wrong.

Mr Hutchinson:

If Michael Maguire said that, I disagree with him. We have three cases. Why would you say that they were changed to limit criticisms of the police? They were not.

Mr McCartney:

That is my point. Michael Maguire was here for more than an hour. I asked him about this, and the thrust of what he said is that he is totally, absolutely, 100% certain that reports were changed to limit damage to the police. If you fundamentally disagree with that, how can you say that you agree with the report and the recommendations?

Mr Hutchinson:

I have already said that I do not agree with everything in the report but that I agree with the recommendations.

Mr McCartney:

I accept that, but fundamental to all of this is whether reports were altered. You cannot make this out to be some small or side issue; it is fundamental. You cannot decide that.

Mr Hutchinson:

If you want a definitive statement from me: reports were not changed to limit the criticism of the police.

Mr McCartney:

That is my next point. In some ways, you are undermining Dr Maguire. You heard his evidence here today. I want you to comment on what he said. He is 100% certain that they were.

Mr Hutchinson:

We will have to disagree. I would like to see the evidence.

Mr McCartney:

He said what the evidence was very clearly. Are you prepared to bring to the Committee the first draft of the report, from paragraph 3.18, and the report of 24 May so that we can read those and look up our minutes? Are you prepared to do that?

Mr Hutchinson:

No; that report is still pending publication.

Mr McCartney:

We could do it in a confidential or private session.

Mr Hutchinson:

The answer is no. I will share the final report with you.

Mr McCartney:

In my opinion, you are hiding behind that. You know that the first report and the final report of 24 May are materially different. You know that, Dr Maguire knows that, and you are hiding behind it.

Mr Hutchinson:

No, I am not.

Mr McCartney:

I want to move on. Do you believe that, given your current position, you can help to repair the damage that you accept has been done to your office?

Mr Hutchinson:

Yes, I do.

Mr McCartney:

Why do you believe that?

Mr Hutchinson:

I have confidence in the senior management team to move that forward. We have six clear recommendations to take action on, and we have a clear way forward.

Mr McCartney:

Dr Maguire described your office as being “dysfunctional”. He said that there is no agreement among your senior management team and that there are divisions in it, yet you are sitting here today telling us that you have trust and confidence in your senior management team to do this. Is Michael Maguire wrong that there are divisions in your senior management team?

Mr Hutchinson:

I remind you that Michael said that that is what they found when they did the inspection in June.

Mr McCartney:

And all has changed between June and now?

Mr Hutchinson:

I have the confidence and support of the team to move ahead.

Mr McCartney:

How can you say that when we are told that your office is dysfunctional and that there are serious splits among your senior management team?

Mr Hutchinson:

I disagree that it is dysfunctional. Michael and I had that debate.

Mr McCartney:

So, that is the second point of Michael Maguire's report that you disagree with.

Mr Hutchinson:

Yes; Michael knows that.

Mr McCartney:

So, the idea that you accept his recommendations is diminishing by the second.

Mr Hutchinson:

Mr McCartney, that is rather disingenuous. I accepted the recommendations.

Mr McCartney:

Yes, but every time we highlight one of the issues that led Michael Maguire to make his recommendations, you say that you do not accept it.

Mr Hutchinson:

There are two people here from the senior team; why not ask them?

Mr McCartney:

Michael Maguire said that of the public offices that he has scrutinised, the flaws in yours are unprecedented. Do you accept that?

Mr Hutchinson:

I have to accept that that is his view.

Mr McCartney:

I am not asking whether you accept that that is his view; I am asking whether you accept that the flaws in your office are unprecedented.

Mr Hutchinson:

In my 44 years' experience in the public sector, it is unprecedented; I have never encountered anything like this.

Mr McCartney:

Did it take the resignation of the chief executive to bring the issue to public attention?

Mr Hutchinson:

Actually, it did.

Mr McCartney:

That leads me to an important question. There are no personalised attacks from our party. You are in a public office that we feel is important to policing. You accept that this is unprecedented. Therefore, I have to ask: were you asleep at the wheel or was someone else driving?

Mr Hutchinson:

I was not asleep at the wheel, and no one else was driving. I accept responsibility for where we are, but I do not accept responsibility for the conduct.

Mr McCartney:

You accept that the dysfunctional nature of your office is unprecedented and that you were at the

wheel when that happened, yet you expect us to accept that you are the person to repair the damage. It is impossible for me to have any confidence that you can do it, particularly when you accept that you were driving and that the situation is unprecedented. You tell us that you have the trust and confidence of the senior management team, even though the report tells us that that team is split in so many ways the splits cannot be counted.

Mr Hutchinson:

I will accept your opinion, although I disagree with it.

Mr McCartney:

It is about more than accepting my opinion. We are here to hold you to account and to ensure that the independence of your office is protected. You have accepted that there has been a lowering of independence in your office and that it is unprecedented in your 44 years in public service. You accept that you were driving the organisation while that happened, yet you expect us to have confidence that you are the person to change the unprecedented dysfunction in your office.

When I asked Michael Maguire about the need for change, he said that change would not happen under the status quo. You are the status quo. I do not wish to personalise my remarks or to misquote people, but Alban Maginness said that he found it difficult to accept that those who led the organisation will be the people to bring about the necessary change. Do you accept that?

Mr Hutchinson:

No, I do not. I can bring about the change.

Mr McCartney:

How can you bring about the change when you accept that you led the organisation into the present disaster?

Mr Hutchinson:

I accept responsibility because I was driving, to use your term. However, I will fix it, and I will do so by next June.

Mr McCartney:

Long goodbyes do not work. I may be misquoting you, but I think that you said that you had a vocation to improve policing. However, if you want to improve policing, the best thing that you can do is step aside to allow someone else to take us to the place where we should be and where we were in the past in relation to this office. You have, in your own words, led this organisation into an unprecedented place; into a place that is dysfunctional and not working. You have to repair that damage by stepping aside.

Mr Weir:

I am glad to see that we are not personalising this or scapegoating anyone.

Mr Hutchinson, do you accept that there clearly were problems involving senior management at the time that this report was written?

Mr Hutchinson:

I do. Indeed, there were problems before I arrived.

Mr Weir:

From previous experience, I know that such a situation is not unique to the ombudsman's office. Without concentrating on personalities, have there been changes in the senior management team? Can you confirm that it is different from when the report was written?

Mr Hutchinson:

I mentioned that Sam Pollock has left the office formally, as of 31 August. With regard to the personnel matter, I have said that there is due process under way.

Mr Weir:

I appreciate that you do not agree with every word of the report, and I will be careful not to put spin or a twist on what other people have said. However, by accepting the recommendations, do you accept that there needs to be systemic change in the Police Ombudsman's office, particularly with regard to the historical side of things?

Mr Hutchinson:

This is all about the historical side; make no mistake about that. With regard to the corporate governance coming out of the McCusker report, Tony mentioned that we should get an expert in to deal with the Department of Justice, ourselves, the limits of independence and a whole number of steps. We are dealing with the corporate governance issue. This will deal with the historical matters that are plaguing us. However, I disagree with Michael; he is rearranging the deckchairs on the Titanic. What he is saying is right in that the process has to be fixed, but it is not all about process; it is about what the business of this office is and what is destroying the office, and that is history.

Mr Weir:

I will come to that in a minute. Just as some organisations have criticised the office, do you accept that other organisations may have criticisms of the office that come from a diametrically opposed position? For example, there will be criticism of the office from the Retired Police Officers' Association and, indeed, from some of those who are engaged now, although I am not judging whether they are right or wrong. There is criticism on different sides, and the buffeting is coming from different directions.

Mr Hutchinson:

We get fairly robust criticism, as did my predecessor, from retired officers.

Mr Weir:

I know that, during your predecessor's time, there was considerable concern about the ombudsman's office from what I describe as the police family. I think that the heart of the problem lies with the current remit of the Police Ombudsman's office. You have drawn a distinction, as has Mr Maguire, between what you describe as the bread-and-butter work of the Police Ombudsman's office of dealing with current cases and the historical side of it. From the report, from what you have said and from what Mr Maguire said, if an incident happened on the way home today, we would have complete confidence in reporting it to the ombudsman's office. However, the problem seems to be with the historical side. Is it reasonable to draw the conclusion that dealing with legacy and historical issues is injecting poison into the heart of the

ombudsman's office with regard to its efficiency and public confidence in it, and, in many ways, may be damaging the work being done on current cases?

Mr Hutchinson:

Yes, there is a toxic spillover. Raymond is right in that regard, and I want to make an effort to segregate the two. Of course, 80% of our work — the bulk of it and the reason why the office was set up — deals with current, everyday work, and we do that very well, reasonably well. The confidence levels and public surveys demonstrate that, and that is important.

I have a couple of points on the toxic effect. You are probably aware that, as a police oversight commissioner, I made comments on leaving about the Historical Enquiries Team and the Police Ombudsman's office being blunt instruments to deal with the past. It was an important statement that has followed me through. What I did not realise until I came to the office was that it had 80 cases on the shelf that were not being investigated. The public were not aware of that. The office had struggled to deal with that and get more resources, which were inadequate. The model that was chosen was inadequate. In May 2008, I put a business case to the Secretary of State in the Northern Ireland Office. I reviewed that and put it back in again in December. I was then told that we would not get the resources.

I should make it clear that the benefit of devolution is that the Administration here and the Executive recognised that we needed resources. So, the third and final business case that I put to the DOJ in May 2010 dealt with that. I have tried to look at it strategically, because my underlying belief is that you cannot draw a line under the past; the families' needs have to be dealt with, as do those of the police. It is a question of finding that balance.

We have created a historical directorate, we have an adequate plan to deal with this and we just need resourcing, which we will ramp up. That whole apparatus is ready to go to any new agency. I disagree with Michael's view that changing the process will solve the problem. My caution to everybody is that doing that will not solve the problem: it must be dealt with. You cannot create a National Asset Management Agency for historical investigations and put all the toxic issues from the past into that box. Make no mistake: as I have said from the beginning, although I believe that our office is not the proper one to deal with historical legacy issues,

somebody must. In the absence of anybody else doing that, we will.

Mr Weir:

Given the need to deal with the past in some way, when the review ends and recommendations arise, may I take it that you agree that the historical investigations, which must be handled, should be disaggregated from the work of the Police Ombudsman's office?

Mr Hutchinson:

That is obviously the best solution; there is no doubt about that. There is also no doubt that it is a poisoned chalice. Movement one way or the other aggravates the police or the families. They both deserve recognition, so our trying to stay in the middle based on evidence and trying to find some solutions is just an impossible task. I am not using that as an excuse; it is the reality of where we are. The McGurk's case showed that well. Loughinisland, among many other cases, demonstrates that, based on evidence, we did not meet the narrative of the family. I am comfortable with the conclusions but that illustrates the issues that you highlighted in a global sense.

Mr B McCrea:

Al, I will take up your offer to ask your colleagues what they think about the situation. Mr O'Sullivan, what is your background? What do you think about the ombudsman's decision, announced here, to stand down?

Mr Peter O'Sullivan (Office of the Police Ombudsman for Northern Ireland):

I am a seconded police officer from a GB police force. I am a detective superintendent with 28 years' service in policing. Mr Hutchinson has stated his intention to stand down earlier than he intended. He has done that on the basis that he feels that he can put in place a more robust strategic management of the ombudsman's office. If I did not have confidence in him and support him, I would not be sitting here. I believe that it can be achieved and that the senior management team, as constructed at the moment, will deliver that.

Mr B McCrea:

How long have you been in post?

Mr O’Sullivan:

I have been in post as the acting senior director since November last year. I have been with the ombudsman’s office for 16 months.

Mr B McCrea:

Perhaps Ms Laird would care to answer a similar question.

Ms Olwen Laird (Office of the Police Ombudsman for Northern Ireland):

I have been with the office for nearly eight years, although only recently in the role of acting chief executive; first to cover for a period of illness and then, more substantively, since the summer. The ombudsman has received a series of difficult reports with a number of actions recommended, but he has committed to fully addressing all of the recommendations in those reports and to doing so inclusively, with all senior members of the team. In doing so, I believe that we can take the office forward.

Mr B McCrea:

The point has been made that long goodbyes are difficult because once you have announced that you are going, you are sort of history. Do you think that that is the appropriate way to deal with this delicate situation?

Ms Laird:

Mr Hutchinson has indicated his intentions. It might be more difficult if there were the vacuum of not having an ombudsman. We have issues to address, and that has been accepted. We need to move forward in an inclusive way, and Mr Hutchinson has committed to doing that.

The Chairperson:

I do not want to drag staff into what is a personalised campaign by some. It is bad enough that the ombudsman is in that position, and I am really reluctant for members to continue the approach of asking witnesses what they think of Al Hutchinson and taking that type of agenda. Ultimately, he will go in nine months, and the staff will still be here. I caution members about how exactly they phrase their questions.

Mr B McCrea:

I take your point, Chair. The seminal point was about the dysfunctional nature of the senior management team, so I thought that I would ask since no one had. Mr Hutchinson, why on earth do you want to stay for nine months? There has been a litany of disaster, whoever's fault that is. There have been public rifts between senior colleagues, a series of less than satisfactory reports and a lot of people making, in your terms, personal attacks. Why are you staying?

Mr Hutchinson:

Maybe the question should be addressed to my wife.

Mr B McCrea:

I am not allowed to ask her any questions.

Mr Hutchinson:

In a more serious vein, I have committed a decade to this important process. I continued in the ombudsman's office, which is an important commitment, but the most important thing is that the policing change in Northern Ireland is part of the fabric of Northern Ireland. I have made that commitment and I have recognised that I have to step aside and let someone else come in, but I will leave behind a solid ship on a solid footing. It is a commitment. I have never walked away from anything before, and I do not want to walk away from this. However, I recognise that there is a time to walk away, and I have identified what that time is.

Mr B McCrea:

When you put that point to the Minister of Justice, did he agree with you?

Mr Hutchinson:

Clearly, it is my decision on when to go, and the Minister recognised that, for the good of everything, he would support me in that. I think that he is coming here, so you can ask him.

Mr B McCrea:

I thought that I would ask you, but we will check. Serious issues have been highlighted in the

report, and there are many points. Paragraph 3.20 states:

“In early May 2010 the draft report was circulated amongst senior OPONI staff and the SIO in this case believed that there was general agreement as to its content and findings.”

Paragraph 3.21 states:

“However, this report was changed substantially later in May 2010.”

The timescale is early May 2010 to later May 2010. The inspector reports:

“It is unclear exactly why the report was changed. Following a meeting on 24 May 2010 involving the Police Ombudsman, Senior Director of Investigations, Director of History and Director of Information (who stated he was opposed to the proposed changes), a further report was redrafted by the Director of Information at the dictation of the Director of History. This report was substantially different in content and findings to the one that existed in early May 2010.”

The inspector’s point was that he could find no process that substantiated why such changes had been made. Can you shed any light on that?

Mr Hutchinson:

That is the case that was referred to earlier. That has not been finalised, and, regrettably, it will be delayed a bit more. That was to present a summary to the families; it was not a report. It is one of those cases where investigators had relayed to a family particular information that was not substantiated and required further investigation. A summary report was prepared, and, indeed, there was investigation after that time that came out of that whole process, and it leads us to having a report almost ready today. I cannot recall the specific reason why the changes were made; I would have to look at the documentation. We have had to reinvestigate some of the historical cases that had been investigated since 2005 and earlier that were not well documented or required further investigative steps to be taken. It is part of the quality assurance process.

Mr B McCrea:

That is the point, though: although I would not necessarily expect you to tell me what was going on around the generation of a confidential report, there appears to be no documentation. The inspector said it is not clear exactly why the report was changed. His argument was all about process and quality assurance, and he accepts that changes will be made as reports progress, but there should be some process that outlines why something was changed. Is there any documentation that explains why the changes were made between early May 2010 and late May 2010?

Mr Hutchinson:

I would have to go back to look at the file. Peter, do you have an answer to that question?

Mr O'Sullivan:

No.

Mr Hutchinson:

All those should be documented. We demand the same of the police. Explanations should be given using policy logs.

Mr B McCrea:

That is seminal to the difference between what the CJI report said and the issue that we are talking about. At some appropriate time and place, I would be interested in whether we can reconcile that. I will conclude —

Mr McCartney:

I want to again suggest that we be provided with the documentation.

Mr B McCrea:

You made the suggestion; I asked —

Mr McCartney:

The Chair could be provided with it, and we could then read it in confidence.

Mr Hutchinson:

Until the final report is ready, I am not prepared to provide that.

Mr McCartney:

Will you let us see all the documentation when the report is finalised?

Mr Hutchinson:

I would be willing to undertake to do that, but we will have to discuss the process because it

contains sensitive information, and —

The Chairperson:

You do not want it to get leaked.

Mr B McCrea:

That is an interesting statement. Can you give us any indication as to when the final report might be ready for publication?

Mr Hutchinson:

We were aiming to release it at the end of August. However, that was delayed because of Michael's recommendation that we review the quality assurance process, which is appropriate. That is the first step, and it will be done fairly well. We have seen the report, which is nearing completion. The challenge now, though, is that, because of the confidence issues, there will have to be another mechanism to assure the public and, indeed, the Committee, that we have done our quality assurance check.

Mr B McCrea:

I accept that point. There will have to be some discussion as to how that is done, given the points raised by Mr McCartney. When the report is finalised, it is important that we get to see what happened in a way that protects the sensitivity of the information but that is to the satisfaction of my colleagues. As it sits, it is quite damning, and it would be really useful for us to see what happened. Thank you for your acceptance of that point.

The real issue that is coming out of this, and I mentioned this to the inspector, is about whether we were expecting too much of the organisation, given the complexities of the case, the workload and Northern Ireland's background. Do you feel that we should be looking at some separation of the historical cases and perhaps putting the onus back on political representatives or some other body, for example, the Eames/Bradley group? Do you think that that is the appropriate way to go, leaving in place the Office of the Police Ombudsman, which is secure in looking forward? Or, do you think that, with appropriate investment and the processes that you are putting in place, the right way to do it is through the unified Office of the Police

Ombudsman?

Mr Hutchinson:

I have made my view clear and I will certainly repeat it: this will destroy the office, whoever is there and whatever processes are involved.

Mr B McCrea:

By “this” you mean the office having to do historical cases?

Mr Hutchinson:

Yes, if we do historical cases. I add a caveat to that: there has to be a way to do it. The families deserve that. The police deserve it, too, to clear their name when it is appropriate. Broader society and government at all levels need to redouble their efforts. It is toxic. I appreciate that the status quo may be an option politically, but it will be destructive.

Mr Lynch:

I know that most of the issue has been about historical cases and that they have been the problem. However, are there not also current cases that are problematic? Paragraph 3.35 states:

“On examination of a selection of current case files, Inspectors found that two current cases had adversely affected perceptions of the independence of the OPONI both within it and externally.”

Mr Hutchinson:

I am not sure to which cases that refers. I said —

Mr Lynch:

The first of those was the death of Mr Marc Ringland on 3 February 2011. A member of staff was involved in investigating that.

Mr Hutchinson:

The Ringland case is public and it related to the article 2 issue of whether a former police officer should be the senior investigating officer. The chief executive and I disagreed on that. The member who investigated it was certainly the most experienced person in the office and there were no issues of integrity. Therefore, I and the former chief executive accepted that, ultimately,

that was not an issue. What surfaced was that it was most appropriate that we should review our article 2 policy, which ensures that no former police or military officers who served in Northern Ireland should serve in our historical unit. It is sharpening our policy around what “conflict of interest” means. I do not think that Michael said that that affected confidence, though I forget his exact words.

The Chairperson:

It is important to be clear that Dr Maguire did not say that. The report says that it is not clear that that would have failed the article 2 test or that it was inappropriate. Members should be careful in presenting that as a failing. The report did not present it in such a clear fashion.

Mr Huchinson:

Sorry, did you said that there was a second case?

Mr Lynch:

Yes.

“On examination of a selection of current case files, Inspectors found that two current cases had adversely affected perceptions of the independence of the OPONI both within it and externally.”

That is clear to me. This is not only to do with historical cases. Dr Maguire has mentioned two current cases.

Mr Hutchinson:

We have covered one: Mr Ringland’s case. What was the second case?

Mr Lynch:

It is not referred to by name; the report only says:

“The first of these was the death of Mr Marc Ringland on 3 February 2011.”

Mr Hutchinson:

Olwen Laird has reminded me of the second case. It was the 2003 case investigated by our office. That was the case referred to that is currently in litigation.

Mr Lynch:

Yes. Paragraph 3.38 states:

“The second was an investigation which arose from a minor complaint made in 2003 and was escalated to a Crown Court case in which the judge used his discretion to withdraw the case from the jury and to direct verdicts of not guilty. This case followed a PSNI investigation of complainants after their case had been found to be not substantiated”

— by your office’s investigators.

Mr Hutchinson:

That is right. The then chief executive conducted what we call a maladministration complaint about the process of the office in 2003 and 2004, found some failings and engaged in a process. That is the one for which, as Dr Maguire said, I tried to mediate a resolution that was not successful. The matter is now in litigation, so I do not want to say any more.

Mr Lynch:

So it is not the case that only historical cases are involved?

Mr Hutchinson:

No.

Mr A Maginness:

There is absolutely no doubt that the report is highly damaging to the Office of the Police Ombudsman. Everyone shares that view. It followed the McCusker report, which was also very damaging. Both reports reveal the creation of a situation in which there was a level of dysfunction in the Office of the Police Ombudsman. The office was not functioning properly, and that happened on your watch.

Mr Hutchinson:

Yes.

Mr A Maginness:

Yet, you have not said clearly to the Committee that you bear the personal responsibility for all those things happening and for the dysfunctionality of the office that developed over at least three years and perhaps longer. I do not sense any personal responsibility on your part in response to

the report.

Mr Hutchinson:

Let me be clear. I thought that I said that at two points. I think my resignation demonstrates that, and, earlier, I think I responded to one of the comments by saying that I accepted responsibility for the issues that happened on my watch. I do not accept responsibility for the conduct of individuals. Those issues have moved on, and that is where we are.

Mr A Maginness:

You also said, though, that despite the fact that you accept personal responsibility, you can clear up this particular mess and that you can work it through and bring about a process whereby the Office of the Police Ombudsman becomes functional again. That is what you are actually saying to the Committee.

Mr Hutchinson:

I am saying that I can and I will.

Mr A Maginness:

Having created this mess, how can you then say that you are going to cure it? That seems to be inconsistent and contradictory.

Mr Hutchinson:

It is not. I said that I will. I will stabilise the office and establish cohesion amongst the senior team.

Mr A Maginness:

That is an aspiration. Your track record in the running of the office is not good. It does not show any evidence of a capacity to bring about the reform that is necessary to allow the Office of the Police Ombudsman to function effectively again.

Mr Hutchinson:

I will challenge you on that. Why are 80% of our cases proceeding well? Why do we have high

confidence levels? Why have we had all the positive changes over the past three years? I will be very clear: it is directly related to personnel issues and the conduct of three historical cases. If you want to put a quantum on it, I have an 80% chance of succeeding. Actually, I have a 100% chance with respect to current matters.

Mr A Maginness:

That is a common case: everyone is accepting the 80%, and that, in fact, as far as current cases are concerned, the office is operational. That is accepted. However, the fact is that the 20% concerning historical cases affects the overall performance of the Office of the Police Ombudsman and has created unbearable tensions in it. That has created the dysfunctionality in the office.

Mr Hutchinson:

I am clearly saying that times have moved on. We are now into September, and the way forward is clear.

Mr A Maginness:

You said that you believe that you should stay on until June in order to clear up the problems that exist in the Office of the Police Ombudsman. That is essentially what you are saying today.

Mr Hutchinson:

Yes.

Mr A Maginness:

Did it not occur to you that it might be better for you to leave office and move on to allow someone else to take over the job of Police Ombudsman and start afresh? Is that not a reasonable position?

Mr Hutchinson:

It is not a practical position. First, there is a whole process, as you are well aware. We are a corporation sole, and my job is a 365-days-a-year job. There has to be a formal process of selection, of moving on and of appointment.

Mr A Maginness:

You do not need so many months for a selection process.

Mr Hutchinson:

That will be up to OFMDFM. I have set my outer limit.

Mr A Maginness:

Having gone through your responses to the report's recommendations and the individual responsibility for dealing with those recommendations, it is clear to me that there is only one recommendation for which you have personal responsibility, which is recommendation 1. All the others are the function of either the senior director of investigations or the chief executive. In fact, you have no real function other than to deal with the first recommendation, and, according to the timetable, that should finish in October 2011.

Mr Hutchinson:

Let me correct you: I have responsibility for all of those. We sat around as a management team and decided who would take the discrete accountability for delivering those. I have responsibility for all of those. Pete and Olwen have taken on responsibility in their respective areas.

Mr Dickson:

Thank you for coming today, Mr Hutchinson. I am new to the Assembly and this Committee, and we have not met before. I like to think that I represent the reasonable voice of many people outside the Assembly who may be listening to this debate. Also, I was a public servant for most of my life prior to joining the Assembly. It seems to me that, when public servants get into a situation where their organisation is described as "dysfunctional", particularly where that organisation has very public personnel issues, it is very difficult for the accounting officer, whom others have described as the person with whom the buck stops, to implement, in the fundamental way described by Dr Maguire, the changes that are necessary. Yet, you have tenaciously told us today that you intend to stay until the end of June 2012. How can you convince the people of Northern Ireland that you are the best person to drive forward those changes and that, in doing so, you will be acceptable to a cross-section of the community?

Mr Hutchinson:

That is a very good question. Just to correct you on a small point: it will be 1 June 2012. Olwen is the accounting officer, not the head of the organisation. That is the corporate sort of structure that we have. Your question was about how I can convince a cross-section of the community that I am the best person to lead this change. Apart from the issues that have emerged in the reports that have been mentioned, I certainly know that I am. I know the office; I know the team; I know the strategic issues. Certainly, I have the ability to lead them forward. However, the challenge is whether I can convince everybody of that. It has to start with our office. It is about confidence and building confidence across the community, and that includes the police as well, to deliver this. By setting an ending, which is the final benchmark, people will realise that I am going, and it will stabilise the organisation and deliver. I am sure that, after tonight's news reports, people will be speculating on who my successor will be.

Mr Dickson:

You said that the reports will be released — as they will have to be, because they are in preparation and in train. How can people have confidence in those reports, given the situation that we are going through? How can we have appropriate quality assurance? Who, in effect, will ombudsman the ombudsman?

Mr Hutchinson:

Again, that is a good question and one that we have pondered internally. Were it not for the confidence issue, which I accept, we could generate a positive report — evidence-based and with logical conclusions, which will either meet the satisfaction of the police or the families or not or perhaps get it right, depending on the circumstance. The unknown, the imponderable, but that which we recognise we have to do, is to have an independent figure look at that for a period of time while we build confidence. We have talked about judicial review, capable people, peer review and the IPCC. There are a number of mechanisms, but we have not decided on how we will do it. That is the added piece to fix our internal process.

Mr Dickson:

Is it the reality today that you are attempting to choreograph your exit and that, in fact, that exit

would be better choreographed elsewhere? You actually said that there is now a necessity for someone to have oversight of what you are doing with your reports.

Mr Hutchinson:

For this period, we are talking about seven reports that have investigated since 2003. I accept that the last three were on my watch. Therefore, the stop/start nature of all those investigations has been problematic. We were living with that situation and, of course, with the quality issues that came out of it. I therefore recognise that we are going to need an extra assurance mechanism. I am not sure what that is yet, but we will debate that and find one.

Mr Dickson:

You said that you have set the outer limit of your departure. If OFMDFM were to produce a new ombudsman within, say, three months —

Mr Hutchinson:

Are you talking about miracles?

Mr Dickson:

I am speculating. If that were to happen, would you go at that point?

Mr Hutchinson:

That would be subject to discussion, and I would not rule it out. I have given a definitive time, and my judgement was nine months, because the process, and it sounds as though you are quite aware of it, will be that protracted.

Mr S Anderson:

Thank you, Mr Hutchinson. I think that you said at some point that the historical cases section has the potential to destroy the office. As you know, one of the recommendations is to suspend the historical aspect of the work and another is to carry out an immediate skills and competency audit of your office. Are you confident that those people who are working in the historical section have the necessary skills and competencies? Also, was there a problem with the lack of resourcing to the extent that, if things had been different and more resources had been applied, we

might have had a different outcome and not have been considering these recommendations?

Mr Hutchinson:

On your latter point, that is absolutely the case. A few months after I was in the job, I started to realise what was already happening with the number of cases that were not being investigated or dealt with. That is when I put in my first business case, which was May 2008. A variety of reasons meant that that work was never accomplished, but it would have changed the whole landscape. I am confident that I recognise that a strategic approach should have been taken to the problem, but I am caught in the middle of delivering, and I have to accept the responsibility for that.

The second part of your question referred to the skills and competencies of our staff. I am very confident that the historical investigations directorate has all the necessary skills and competencies. Michael is saying that the police have raised that issue, that is, our own internal staff in revisiting historical investigations —

Mr S Anderson:

Are you confident in your staff?

Mr Hutchinson:

I have seen some of the benchmarks that we have. Of course, we have to do the audit, which is under way, and that will then remove that as an issue. In fact, if gaps show up, Olwen and her team will deal with delivering training in those areas.

Mr S Anderson:

However, if those staff were shown to be sufficiently competent to deal with that work and if you get additional resources, would you still be of the opinion that your office is not the place for historical cases?

Mr Hutchinson:

When I said that we were re-arranging the deckchairs, I did so somewhat lightly. In fact, however, you could take this work out of the office and put it in a separate process, but that

would not deal with reconciliation or the information needs of the family concerned. That is why I supported the Eames/Bradley framework — I am careful not to say that that is just a model. However, it is important to follow the model of doing the investigation, putting the information into the public domain, looking at thematic issues such as collusion but, most importantly I believe, dealing with the reconciliation of society. That is why that horizontal filter is extremely important.

I acknowledge that, in the real world of politics, leaving the status quo may be the end result. If cases were produced faster, that would show the failures or would probably aggravate the police or the families, depending on the particular case and the results. However, that work will be evidence based and we will put more information in, but it keeps picking the scab.

Ms J McCann:

I just have a quick point to make, which is about what my colleague Seán alluded to earlier. This whole evidence session has been portrayed as discussing historical cases with a political agenda and, indeed, that there is a personal vendetta against you and your office. So, I am just going back to paragraph 3.35 in the report and the case of Marc Ringland. It says that the senior director of investigations who was put in charge of investigating the death of Mr Ringland had actually been at the scene of his death. You say that you are willing to take on some of the criticism and willing to make the changes necessary, but how can you be confident that your office is independent, or inspire any confidence in the community, when it is the police investigating the police? If ex-PSNI officers are involved, as it is evident that they were in that case, who were members of the PSNI during the time of the incident and who are now investigating that case, how can you say there is independence there or how can you inspire confidence?

Mr Hutchinson:

We have 12 former PSNI officers in our organisation. With respect to the case you mentioned, I asked Peter to attend the scene. He is an experienced detective superintendent and, ultimately, it is his responsibility. The officer you talked about was not at the scene but attended subsequent investigations. Of course, the case went to the Public Prosecution Service, which made a decision, and there will be an inquest. So, the confidence issue was dealt with and will be dealt

with. In that particular case, there are no issues.

Ms J McCann:

You are happy enough that the police are going to investigate the police?

Mr Hutchinson:

I have said that there are 12 former police officers out of approximately 70 investigators.

Ms J McCann:

And you are not going to make any change to that?

Mr Hutchinson:

There can well be a debate about the issue. I explained that we are at 41%, with some having a former policing background. The IPCC has 46% and the Garda Síochána has 51%. Michael Maguire's team was composed of former police officers, except himself. There can be a debate about that, but my judgement is that you need the skills and experience of some former police officers to do the investigations.

The Chairperson:

I take it that, when you are reviewing how the confidential unit operates, it will be paramount that the PSNI — both current and past officers, including those in the RUC — retain some level of confidence that that information will still be handled sensitively and securely? If you lose the confidence of present and past, your office is useless. There is a clear agenda for some who want all that put in the public domain to further the particular focus that they have. However, if you lose any confidence from a police perspective, your office will fail as well.

Mr Hutchinson:

Hopefully, I have been clear in my explanation. Michael was clear in his report that it is a double-edged sword. He is not disputing that we need firewalls. The other side of the coin, as you accurately pointed out, is that if that information dries up, the office will, essentially, be ineffective. A balance between information public accountability and acquiring the information is extremely important, as you pointed out. That has to be part of the debate. Peter is leading the

review on that issue, and it is going to be difficult. It also relates to benchmarking with other good policing practices and how that information is contained and released.

The Chairperson:

Finally, I just want to nail down where, internally, the dysfunctional nature of your office came about. I am still not quite clear about that. Let me put this to you, and you can disagree or agree: were the processes in place, convoluted as they are, used and exploited by people with their own agenda?

Mr Hutchinson:

I am not sure that I understand the full import of your question, but no —

The Chairperson:

You said earlier that one of the key areas was personnel-driven and that that has now moved on. How has that moved on?

Mr Hutchinson:

It has moved on because people have moved on.

The Chairperson:

So you were not to blame; it was other individuals who are no longer in your organisation?

Mr Hutchinson:

No. Alban challenged me on that, and I do not want to leave you with any impression that I am not accepting responsibility. I am. It happened on my watch. I am just saying that I am not accepting responsibility for the conduct of individuals that led to some issues.

The Chairperson:

Finally, on the issue of reviewing the office, do you agree that it is time that there was an oversight body to which people can complain about how the Police Ombudsman's office and staff have conducted investigations?

Mr Hutchinson:

Tom Frawley would love that job; he has made that clear. When I speak about accountability and governance, I refer to the accountability spiral. Where does it end? There is an issue of an ombudsman for the ombudsmen, as was mentioned earlier. Those are serious issues.

The accountability of our office is extremely important. We deal with maladministration internally; Olwen does that. Ultimately, the accountability route goes to the Justice Minister. There are serious talks about having the Northern Ireland Ombudsman investigate maladministration on our part, and that may well be viable.

The Chairperson:

I thank Al Hutchinson, Peter O'Sullivan and Olwen Laird for coming. We appreciate your time. Thank you very much.