

Agreement under section 60 of the Police (Northern Ireland) Act 1998

Police Ombudsman for Northern Ireland

THIS AGREEMENT is made the 28th day of July 2014 BETWEEN:

THE PARTIES

The West Midlands Police and Crime Commissioner
Lloyd House, Colmore Circus Queensway, Birmingham, B4 6NQ

and

The Police Ombudsman for Northern Ireland of New Cathedral
Buildings, 11 Church Street, Belfast, BT1 1PG.

INTERPRETATION

In this agreement:

“the Act” means the Police (Northern Ireland) Act 1998;

“the assisting police force” means the police force maintained by the West Midlands Police and Crime Commissioner

“complaint” means a complaint as defined by section 50(1) of the Act. Complaints made about conduct of a relevant member while off duty shall only be dealt with under this agreement if the fact of being a relevant member is relevant to the complaint; such relevance is to be determined by PONI;

“PONI” means the Police Ombudsman for Northern Ireland;

“PSNI” means the Police Service of Northern Ireland;

“relevant member” means any person appointed as a police officer in the assisting police force who is or has been present in Northern Ireland as a result of a mutual aid agreement in Northern Ireland in compliance with section 98 of the Police Act 1996.

“other matter” means any matter referred to in section 55 of the Act.

WHEREAS

- A. By virtue of the provisions of section 60 of the Act, the parties have power to enter into an agreement for the establishment, in relation to the assisting police force, of procedures corresponding or similar to any of those established by virtue of Part VII of the Act.
- B. It is the intention of the parties that any complaint made by or on behalf of a member of the public regarding the conduct of a relevant member in connection with the provision of cross border assistance whilst he or she is serving in Northern Ireland shall be dealt with by the parties in accordance with the procedures laid down by Part VII of the Act. Any other matter shall be similarly dealt with.
- C. Any reference to the masculine or singular shall be taken to include reference to the feminine and plural.

NOW IT IS HEREBY AGREED AND DECLARED between the parties, in pursuance of section 60 of the Act and with the approval of the Department of Justice:-

1. A complaint or other matter shall be treated and dealt with as if it were made under Part VII of the Act and accordingly PONI shall act in relation to the complaint as nearly as may be as if it were a complaint so made. The West Midlands Police and Crime Commissioner shall ensure that the Chief Constable of the assisting police force shall also act in relation to the complaint as nearly as maybe as if it were a complaint so made.
2. The West Midlands Police and Crime Commissioner shall so far as is possible in accordance with the law require the Chief Constable of the assisting police force to undertake the duties and obligations and exercise the rights and powers imposed and conferred under Part VII of the Act in relation to a complaint about a relevant member as if that relevant member was a member of the PSNI or the PSNI Reserve.
3. PONI shall undertake the duties and obligations and exercise the rights and powers imposed and conferred on him by Part VII of the Act in relation to relevant members of the assisting police force so far as possible as if such relevant members of the assisting police force itself were members of the PSNI or PSNI reserve.
4. In so discharging their functions under this agreement PONI shall have regard to any guidance issued by the Department of Justice or the Secretary of State in relation to the operation of Part VII of the Act. The West Midlands Police and Crime Commissioner shall similarly have such regard and shall ensure so far as is possible in accordance with the law that the Chief Constable of the assisting police force shall similarly have such regard.

5. The West Midlands Police and Crime Commissioner shall so far as is possible in accordance with the law require the Chief Constable of the assisting police force to ensure that his officers fully co-operate with an investigation in relation to a complaint about a relevant member and will so far as is possible in accordance with the law, after consultation with PONI, make a relevant member available to progress a PONI investigation as required by PONI.
6. The arrangements set out in this agreement have been approved by the Department of Justice and shall come into force and be applicable to all complaints made or matters to be investigated on or after the date of this agreement.
7. This Agreement shall be governed by and construed in accordance with Northern Ireland law and the parties agree to submit to the exclusive jurisdiction of the Northern Ireland courts.
8. Subject to section 60(3) of the Act, this Agreement shall remain in force until either party informs the other, in writing, of its intention to withdraw from the Agreement.

Signed by the Acting West Midlands Police and Crime Commissioner in the presence of:-

Signed by the Police Ombudsman for Northern Ireland in the presence of:-

Signed by [a senior officer] of the Department of Justice in the presence of:

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SCHEDULE 1

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

1. That the conduct of a relevant member led to the death or serious injury of a member of the public. Serious injury shall be one as defined by section 50 of the Act.
2. That a relevant member committed a serious assault or serious sexual offence. It shall be for PONI to determine what constitutes a serious assault or a serious sexual offence.
3. That a relevant member is guilty of serious corruption and it shall be for PONI to determine what constitutes serious corruption.
4. Any complaint that raises an issue of significant public interest and it shall be for PONI to determine what constitutes significant public interest.