

MEMORANDUM OF UNDERSTANDING

**Joint agreement between
Police Ombudsman for Northern Ireland
and
Independent Police Complaints Commission**

**Agreement in relation to Cross Jurisdictional incidents involving the
Police Service of Northern Ireland, English and Welsh Police Forces and non
Home Office Bodies operating in England, Wales and Northern Ireland**

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Part I - Introduction

1. The Police Ombudsman for Northern Ireland (PONI) was established by virtue of the Police (Northern Ireland) Act 1998 (as amended) and the workings of his Office are governed by statute and subordinate regulations.
2. In addition to allegations of misconduct on the part of members of the Police Service of Northern Ireland (PSNI) and their designated civilians, PONI has remit to investigate alleged misconduct on the part of officers of the Belfast International Airport Police, Belfast Harbour Police, Ministry of Defence Police, officers of the National Crime Agency, certain PSNI civilians and certain allegations against certain Home Office employees (Immigration officers, designated customs officials and custom revenue officials when operating in Northern Ireland).
3. PONI has no remit over the investigation of complaints against any police officer who is not a member of the PSNI, or PSNI Reserve, unless an agreement has been entered into and approved by the Department of Justice, in accordance with section 60 of the Police (NI) Act 1998. As of the date of this MoU, such agreements exist for all English and Welsh police forces (except Derbyshire).
4. PONI does not have jurisdiction in relation to how complaints have been recorded or investigated by police forces in England and Wales. Oversight of the police complaints system in England and Wales is provided by the Independent Police Complaints Commission (IPCC) – further to the Police Reform Act 2002. The IPCC jurisdiction extends to oversee complaints and conduct matters (referred or otherwise) made about persons serving with the police only in England and Wales.
5. Section 26 of the Police Reform Act 2002 gives the IPCC the ability to enter into agreements with other authorities maintaining bodies of constables (i.e. non-Home Office police forces) that carry out police-like functions in England and Wales. These bodies include the Ministry of Defence Police, the Civil Nuclear Constabulary (CNC) and the British Transport Police Force (BTP).
6. Furthermore, the IPCC's jurisdiction extends to complaints (referred or otherwise) made about Her Majesty's Revenue and Customs (HMRC), the UK Border Agency (UKBA) and the National Crime Agency in England and Wales further to provisions made in the Police Reform Act 2002, the Police and Justice Act 2006, the Commissioners for Revenue and Customs Act 2005 and related regulations¹.
7. It is recognised that there may be instances of "cross border" incidents where there is an allegation of a criminal offence that may have been committed by a police officer serving with a force in Great Britain and/or involving conduct which may have occurred in Great Britain but has occurred either in concert with or at the behest of officers from the PSNI or vice versa.

¹ Revenue and Customs (Complaints and Misconduct) Regulations 2010, The UK Boarder Agency (Complaints and Misconduct) Regulations 2010 and the National Crime Agency (Complaints and Misconduct) Regulations 2013 respectively. As amended from time to time.

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8. This Memorandum of Understanding provides the framework for the relationship between the IPCC and PONI in such instances.

Part II - General Principles

9. The relationship between PONI and the IPCC is required to be transparent in order to satisfy Ministers that any incident/complaint will be dealt with appropriately and fairly.
10. Both organisations, whilst required to maintain their independence, recognise the need to cooperate, share information lawfully (with particular regard to the operation of section 63 of the Police (Northern Ireland) Act 1998) and support one another in investigations where cooperation is necessary.

Part III - Determining Roles – criminal allegations and misconduct activities

11. In this Part and Part IV, any reference to an ‘officer’ of a police service (whether in Northern Ireland, England or Wales), should be read as an officer of a relevant body also. A relevant body is one of those bodies referred to in paragraph 2 or 5 of Part I.
12. There may be matters that are brought to the attention of either PONI or the IPCC which involve potential criminal or misconduct activity by a single officer or group of officers, which appears to have occurred or been planned or otherwise involve an element of criminal conduct which involves cross jurisdictional misconduct. In such instances, close cooperation will be required between the IPCC and PONI.
13. The IPCC will undertake to inform PONI of any information, allegation or incident relating to potential criminal activity or misconduct committed in England, Wales or Northern Ireland by a member of the PSNI that it becomes aware of; either through its own investigations or through any other means. This includes where an incident was initially assumed to fall within the IPCC’s jurisdiction but later appears to have occurred within Northern Ireland. The IPCC will inform the relevant police service that it has made PONI aware of the information.
14. Similarly PONI will inform the IPCC of any information, allegation or incident relating to potential criminal activity or misconduct committed in England, Wales or Northern Ireland by a member of a police service maintained in England or Wales that it becomes aware of, either through its own investigations or through any other means. This includes where an incident was initially assumed to fall within the jurisdiction of PONI but later appears to have occurred within England or Wales. PONI will inform the relevant police service that it has made the IPCC aware of the information.
15. Where elements of the alleged criminal activity have taken place in each of the two jurisdictions, then the IPCC and PONI will consult with a view to agreeing that one organisation (the organisation within whose jurisdiction the majority of the conduct is thought to have taken place) will take primacy, with the other conducting a parallel investigation with cooperation and information sharing occurring according to the needs of the investigation as permitted by law.
16. The IPCC and PONI will aim to provide assistance and resources where required. This may included (but is not restricted to) facilitating the interview of witnesses within their own jurisdiction, information sharing, advice and cooperation. Although both organisations reserve the right to decline such assistance, they acknowledge that, where possible, such assistance will be provided.
17. Upon conclusion of the investigation each organisation may submit reports to their respective prosecution services in accordance with their respective statutes.

Part IV - Disclosure of Information

Subject to any legal obligation to disclose information, the parties hereto will consult each other before disclosing any information obtained in furtherance of this Memorandum of Understanding. Each organisation will bear the responsibility to notify (if necessary) any police service or relevant body potentially affected by any such disclosure.

18. Where a PONI investigation has identified misconduct issues in England and Wales it will inform the IPCC accordingly and similarly where an IPCC investigation has identified misconduct issues in Northern Ireland, it will inform PONI accordingly.

Part V - Review and amendments to this Memorandum of Understanding

19. This Memorandum of Understanding will be reviewed every two years by both parties and amended as required.
20. If following discussion it is considered that any part of this Memorandum of Understanding had become unworkable by virtue of any change in legislation, policy, guidance or practice; then either party may request amendment at any time before the biennial review.

Signed:

Signed:

Date:

Date:

Adrian McAllister
Chief Executive Officer
PONI

Lesley Longstone
Chief Executive Officer
IPCC