

GD 025/10



Isle of Man
Government

Reiltys Ellan Vannin

Department of Home Affairs
Rheyynn Cooishyn Sthie

REPORT ON THE
ISLE OF MAN POLICE COMPLAINTS PROCESS

May 2010

£2.00

INDEX

<u>Section</u>	<u>Page No.</u>
Index	1
1. Executive Summary and Recommendation	2 - 3
2. Introduction and Background	4
3. The proposed new process	5 – 8
4. Impact on legislation	8
5. Resources/Funding	8
 <u>Appendices</u>	
Appendix (A) Chronology of events	9 – 10
Appendix (B) Process at the time of the Redmayne complaint	11
Appendix (C) Current process	12 – 13
Appendix (D) Formulating new proposals (each issue considered)	14 – 15

1. EXECUTIVE SUMMARY AND RECOMMENDATION

The Department of Home Affairs has undertaken a research and development project to examine the Police Complaints Process on the Island. The project was required to comply with the recommendations of a Select Committee of Tynwald and to take into account views expressed by Tynwald Members.

Consideration of the current interim process, rather than that which was in place in 2005, has influenced the Department's conclusion as to the changes now required. The interim process has provided considerable improvements, which have proved to be effective over the last three years.

In addition, the Department has given due regard to established practices elsewhere in Europe. Throughout these jurisdictions, with the exception of Northern Ireland, the investigation of the majority of complaints occurs within the Police Force concerned. It is only in serious cases when the independent investigatory body of each jurisdiction is either called upon, or determines that it must investigate, using its own resources. It is noteworthy that in these jurisdictions, as in the Island, low level complaints are investigated by other officers within the same Police Force.

Having identified Northern Ireland as a clear exception the Department investigated this jurisdiction's approach to investigating police complaints. Here all complaints against the police are dealt with by an independent body, a situation acknowledged as unique and developed to deal with the specific circumstances surrounding the "troubles".

The Department, having examined the realities of providing a full independent complaints process in the Isle of Man and the costs involved, believes the Island would be better served by establishing, in law, the interim process currently in place together with the additional safeguards contained in this proposal. In addition, it is essential that public concerns, to ensure the Police Complaints Process is objective and unbiased, are also catered for as far as possible in the proposed new procedure.

The new process includes provision for:-

- a) The appointment by the Governor in Council through the Chief Secretary's Office of a Police Ombudsman to replace the Police Complaints Commissioner;
- b) A process for dealing with complaints initially by voluntary resolution (informally);
- c) Limits on the time investigations may take;
- d) All complaints to be submitted to the Police Ombudsman except those resolved voluntarily (informally);
- e) Tri-monthly audit by the Police Ombudsman of complaints resolved voluntarily (informally);
- f) Police Ombudsman to appoint all investigation officers;
- g) Recording of investigation in a procedure document;
- h) Self referrals by the Constabulary;
- i) Complainants being kept informed;
- j) Investigation against retired officers;
- k) Serious complaints to be investigated by an off-Island body
- l) Decision on whether the complaint has been investigated satisfactorily and substantiated to lie with the Police Ombudsman;
- m) Police Ombudsman's right to direct what disciplinary action should be taken;
- n) Right of the complainant to meet the Police Ombudsman;
- o) An Appeals Tribunal to consider decisions of the Police Ombudsman on appeal;
- p) Annual feedback forms issued to complainants resulting in recommendations to the Department for change where required from the Police Ombudsman;
- q) Audit by Internal Audit or Her Majesty's Inspectorate of Constabulary.

The Department therefore proposes to progress and implement the new police complaints process as outlined in Sections 2 – 5 of this report and the attached Appendices.

Recommendation

The Department of Home Affairs progresses the proposed comprehensive Police Complaints Process as soon as possible through a Police (Amendment) Bill and associated Regulations.

2. INTRODUCTION AND BACKGROUND

This report proposes a new procedure to investigate complaints against Isle of Man police officers following the recommendations of a Select Committee of Tynwald. The objective is for the new system to be robust, comprehensive and guarantee that a complaint is investigated and supervised in a prompt, effective and sufficiently independent manner.

The Select Committee was established in October 2005 to investigate a petition for Redress of Grievance lodged by Mr Roy Redmayne claiming that the existing process had failed him.

The Committee therefore investigated the adequacy of the present framework and made the following recommendations –

- a) that an independent system of investigation of all complaints against the Police be established;*
- b) that the Department of Home Affairs be charged with developing such a system and incorporating it into the draft Police (Complaints) Regulations; and*
- c) that the Department of Home Affairs report to Tynwald Court with detailed proposals to create an independent means of investigation of complaints against the Police by March 2007.*

To explain how the Department arrived at its proposed way forward the following information has been provided.

Appendix (A) sets out the chronology of events that has led to this report, Appendix (B) outlines the Police Complaints Process at the time of Mr Redmayne's complaint and Appendix (C) details the current process that was put in place to provide an interim solution in the knowledge that the Department was progressing the development of an independent process.

The current interim process provides for a comprehensive procedure to deal with all complaints and goes a long way towards dealing with the issues that were raised by the Select Committee although the Department accepts, and will address what it sees as, the need to introduce further measures to provide for increased independence of the police complaints process.

Section 3 of the report provides an overview of the proposed new complaints process with Appendix (D) detailing the Department's considerations in developing this process. Sections 4 and 5 cover the need for new legislation and resources arising from the proposed new complaints process.

The Department believes complaints should be resolved promptly, with independent oversight, in accordance with the wishes of the public, and that the result of the complaint should be reflected into organisational learning, and delivery of proportionate response, and one where proper accountability exists.

The Department therefore proposes a system that will deliver early satisfactory resolution to the majority of complaints through a two part process.

The first element of the process will allow officers, with the agreement of the complainant, to explore and investigate the complaint, in order to provide an explanation of what occurred and why and, if appropriate, to resolve the matter informally by offering an apology.

In the event of this not being possible, or the complaint being of a serious nature, the complaint would move to the second level which involves a formal investigation.

3. THE PROPOSED NEW PROCESS

This section provides a summary of the new process:-

1. One post would be established; the Police Ombudsman and a Deputy Police Ombudsman would be appointed on a case by case basis to deal with complaints for which the Police Ombudsman was unavailable or conflicted. The substantive post would replace the current Police Complaints Commissioner position.
2. To strengthen independence, the Chief Secretary's Office, rather than the Department of Home Affairs, would have responsibility for the appointments, The Governor in Council's role in formally approving the appointment would not change. (The Chief Constable now appointed by and responsible to the Council of Ministers/Governor in Council).
3. All Police Stations would have copies of the revised complaint leaflet available on public counters, would be placed on the Department's Web Site and anyone wishing to complain would be advised of the availability of the leaflets and provided with, or sent a copy, if requested.
4. Any complaint (except those of a serious nature) would initially be considered under the voluntary resolution process, which incorporates the following elements:-
 - a (i) Complaint received;
 - a (ii) Explanation of procedure and copy of leaflet provided to complainant;
 - a (iii) Complainant agrees to voluntary resolution process being utilised (if not proceeds to b(i));
 - a (iv) Complaint considered;
 - a (v) Explanation of what happened provided to the Complainant;
 - a (vi) If deemed necessary and appropriate, apology given to the Complainant;
 - a (vii) Complaint resolved to the satisfaction of the Complainant (if not proceed to c(i));
 - b (i) Complaint referred to Police Ombudsman to decide if the complaint should be resolved by informal resolution (if not proceed to full investigation d(i));
 - b (ii) Complaint referred back to be considered under informal resolution process – see a(iv) to a(vii);
 - c (i) Police Ombudsman decides if full investigation should take place (proceed to full investigation (d(i)));
 - c (ii) Police Ombudsman decides full investigation is unnecessary, Complainant informed;
 - c (iii) Complainant may appeal to Police Complaints Appeals Tribunal;
 - c (iv) Tribunal considers the decision of the Police Ombudsman;
 - c (v) Tribunal agrees with the Police Ombudsman which completes the process;
 - c (vi) Tribunal not content with decision;
 - c (vii) Tribunal gives direction to the Police Ombudsman for full investigation to be undertaken (proceed to d(i)).
 - d (i) Full investigation process outlined in sections 5-26 below.
 - e (i) The Police Ombudsman to audit on a tri-monthly basis the complaints resolved voluntarily (informally) to ensure the process remains fair and unbiased.

5. All formal complaints, not dealt with under (4), against police officers would be sent to the Police Ombudsman, or via the Deputy Chief Constable for onward transmission to the Police Ombudsman within 5 working days, with an acknowledgment sent within 7 working days by the Police Ombudsman of receipt to the Complainant.
6. All complaints shall normally be investigated within 120 days. In the event this deadline is not met letters would be sent to both the Complainant and the Police Ombudsman explaining the reason for the delay and indicating the date by which the investigation should be concluded.
7. Complainants may use a third party, authorised by them in writing, to submit a complaint.
8. The Police Ombudsman will proactively review all Police complaints (not dealt with under the voluntary resolution process) in conjunction with the Deputy Chief Constable, or Head of Professional Standards. The Police Ombudsman would have the final say on decisions in relation to the investigating the complaint including if the following exceptions would apply:-

Dispensation: in some cases there may be reasons not to take a complaint forward. Examples may include those complaints where there is insufficient information, or which are considered vexatious, oppressive or an abuse of the complaint procedures. In such cases the Police Ombudsman, in consultation with the Deputy Chief Constable, can grant a dispensation. This means that no action needs to be taken with regard to the complaint.

Discontinuance: in some instances it may be impractical to conclude an investigation. This may occur when a Complainant refuses to cooperate, the complaint is repetitious, or the Complainant agrees to voluntary resolution.

The Complainant may appeal to the Appeals Tribunal against the decision of the Police Ombudsman with regard to dispensation and discontinuance.

Withdrawal: no further action may be taken with regard to a complaint if the Complainant decides to retract the allegation(s).

Where the complaint is against an officer who is no longer a serving member of the Constabulary, an investigation will still be permitted, although the outcome will preclude disciplinary action taking place.

9. The Police Ombudsman will arrange, with the agreement of the Council of Ministers, for an external organisation, such as the Independent Police Complaints Commission, or a United Kingdom Force, or other appropriate person/body to carry out investigations in serious cases, (such as death in custody), where specialists and a higher degree of independence are required.
10. In all other complaints the Police Ombudsman will appoint an Investigating Officer, nominated by the Deputy Chief Constable, who will undertake the investigation under the direction of and report to the Police Ombudsman. This will ensure an independent direction and management of the investigation. The Investigating Officer will be responsible for directing the Constabulary as to what information and evidence to provide. The Police Ombudsman may ask for an alternative nomination for an Investigating Officer, and the Deputy Chief Constable must provide a suitably experienced alternative.
11. Each step of the investigation would be recorded by the Investigating Officer.

The Investigation Report must –

- include the terms of reference for the investigation;
- give a clear account of the investigation and evidence received;

- show the investigation has met the terms of reference;
 - set out clear reasoning, drawing conclusions from the evidence;
 - provide clarity as to whether each aspect of the complaint is upheld or not;
 - where the complaint is upheld – a recommendation as to the action to be taken;
 - identify any learning for the Constabulary or other individuals where appropriate;
 - be written in plain language free of technical jargon.
12. Complaints against the Chief or Deputy Chief Constable, supervised by the Police Ombudsman, must be investigated by a United Kingdom Force, as is currently the case. The Department will also examine the feasibility of using the Independent Police Complaints Commission, of England and Wales, to investigate serious complaints against the two most senior officers in the Isle of Man Constabulary.
 13. In the case of a complaint received against the Chief or Deputy Chief Constable the complaint shall be submitted to the Department of Home Affairs. The Department of Home Affairs shall submit the complaint to the Police Ombudsman within 10 working days of receipt.
 14. Self referrals to the Police Ombudsman can be made by the Isle of Man Constabulary where it is deemed to be in the public interest to do so. Such cases would include matters such as police discharge of firearms and deaths after police contact. In these cases there might not have been a complaint, but for the sake of bolstering independence into the Police's own investigation a referral might be necessary.
 15. Complainants will be kept informed of the progress of the investigation concerning their complaints and be made aware of any possible delays by the Investigation Officer.
 16. If there is alleged criminal conduct involved, the Attorney General's Chambers will be asked to determine if criminal charges should be brought.
 17. Once the investigation has been concluded the Police Ombudsman will then assess the report, investigate findings, statements and evidence, and decide whether the investigation has been satisfactorily carried out, and if not, consider whether a further investigation should be conducted.

Where the Police Complaints Tribunal has found in favour of the Complainant's appeal, against the decision of the Police Ombudsman (see paragraph 23 below), the Police Ombudsman will refer the complaint through for progression as substantiated by the Tribunal.
 18. The Police Ombudsman will write to the Deputy Chief Constable informing him of the decision. The Deputy Chief Constable will then decide on any disciplinary action based on the report and decision of the Police Ombudsman.
 19. The Police Ombudsman must be informed of the disciplinary action to be taken and, if the Police Ombudsman is not satisfied, may direct the Deputy Chief Constable to produce a report on the basis of which the Police Ombudsman may direct that alternative disciplinary action be considered.
 20. The Complainant will be notified that a disciplinary hearing is being held and may be invited by the officer holding the hearing to attend as a witness.
 21. The Complainant will be informed by the Police Ombudsman of the outcome of the investigation into the complaint within 4 weeks of receiving the report.

22. If the Complainant is dissatisfied with the outcome of the investigation of the complaint, they may request, in writing, an appointment with the Police Ombudsman.
23. An appeals procedure will be provided, utilising a Tribunal appointed under the Tribunals Act 2006, Police Complaints Tribunal. This will enable a means of review if the complainant is dissatisfied with the process or outcome. This additional process is provided to ensure there is a means of appeal prior to any judicial review of the decision which is a costly process for a complainant.
24. Annually, the Police Ombudsman will issue feedback forms to anyone who has made a complaint against the police during the previous 12 months, including those dealt with by informal resolution. The results of this process will be returned to the Police Ombudsman who will report to the Department on the results of the feedback exercise and recommend any necessary changes to the complaints process.
25. An independent audit will be conducted, on a regular basis by a body, such as Government Internal Audit, or by Her Majesty's Inspectorate of Constabulary appointed by the Department of Home Affairs as with other inspectorate.
26. The Police Ombudsman will publish an Annual Report which will be laid before Tynwald which will detail the functions carried out by the Police Ombudsman during that year.

4. IMPACT ON LEGISLATION

It will be necessary to change primary legislation to embrace the proposed new procedure. This will include an appeals system, to be put in place and to allow the Police Ombudsman to oversee investigations, the change in title, and appointment through the Chief Secretary's Office of the Police Ombudsman.

Consideration is also being given to the recommendations of the Public Accounts Committee in regard to the police discipline regulations, and where necessary the Department will incorporate any changes in primary or secondary legislation.

With the increasingly complex nature of complaints against the police there is a need for internal police investigations to be overseen. Legislation will permit the Police Ombudsman to seek specialist advice from the United Kingdom and for the Police to be able to refer internal investigations to the Police Ombudsman to oversee.

5. RESOURCES/FUNDING

The process while providing an effective independent police complaints process has also been designed to use current resources and to be as cost effective as possible with additional funding relating to the Tribunal being seen at this stage as the only likely additional expenditure. However, a full impact assessment will be carried out during the course of drafting the Police (Amendment) Bill.

APPENDIX (A) **CHRONOLOGY OF EVENTS**

To comply with the Select Committee's recommendations the Department of Home Affairs has taken the following action:-

1. Prepared a draft report on a proposed way forward.
2. Council of Ministers considered the draft report on the 12th April 2007.
3. The report was sent out to Tynwald Members for consultation on 18th April, with responses requested by 25th May 2007.
4. Submission on 13th June containing agreed amendments to the Council of Ministers for consideration on 21st June 2007.
5. Submission on 25th June to Tynwald for consideration on 10-12 July 2007.
6. On 10th July 2007, the recommendation moved in Tynwald "*that the Isle of Man Police Complaints Procedure for a Proposed Way Forward Report be received and approved*" failed to be accepted by Honourable Members, the voting being 14 for to 10 against in Keys and 2 for to 7 against in Council.
7. The subsequent report submitted to Tynwald resulted in a second consultation period for the Department and, having considered the views expressed, arranged for a visit to the Northern Ireland Ombudsman and decided further research should be conducted. A statement was given to Tynwald to this effect in October 2007.
8. At the March 2008 sitting of Tynwald a statement was given that the Department's intention was to utilise the Tynwald Commissioner provided for in the proposed "Tynwald Commissioner for Administration Bill" to provide for a new police complaints process. The statement was designed to give Hon. Members the opportunity to express their views at the sitting and for the more detailed debate to take place whilst the primary legislation was being progressed. It became apparent during the debate however, that there was a desire to have the opportunity to approve, or reject, any proposals prior to the introduction of primary legislation.
9. Subsequently, whilst firming up the proposals to include a complaints process under the Tynwald Commissioner the Department has reverted to a stand alone process agreeing that a separate Police Ombudsman was a more appropriate solution.
10. The Department has been working on a number of proposals, to address concerns, and has recently researched an alternative through the attendance at the European Partners Against Corruption Network Conference. This proposal is designed to assist each jurisdiction to gain a knowledge of best practice, in other jurisdictions, to develop, and improve, their own systems for overseeing the investigation of complaints against the police across Europe.
11. Whilst ongoing consideration was being given to this issue a Police Complaints Leaflet was issued in October 2008 to assist complainants understand the current process and this is available on the Department's Website.
12. The new United Kingdom Police (Performance) Regulations and Police (Conduct) Regulations, which came into force in late 2008, have been examined so that they can be

incorporated to fit the comprehensive Isle of Man Police Complaints Process and ensure the terms and conditions of Manx police officers are kept in line with their United Kingdom counterparts.

13. More recently a brief by the Independent Police Complaints Commission (IPCC) to move towards a system of early resolution of complaints was provided at the 4th National Conference on Conduct and Standards held in the United Kingdom, in January 2009. This update has assisted the Department to ensure the system being proposed is as up to date as possible.
14. The results from the research, and the utilisation of the new regulations, have allowed the Department to develop a new system for dealing with complaints against police officers which is cost effective, quick and efficient and carried out under independent supervision, which it is hoped will find favour with Tynwald Members.
15. More recently given the current constraints on Government finances a re-appraisal of the need to have a permanent Deputy Ombudsman has been considered and as the use of this post holder has not been required for 2 years it has been decided to reduce costs by appointing an individual when a deputy is required on a case by case basis.

APPENDIX (B)
PROCESS AT THE TIME OF THE REDMAYNE COMPLAINT

The Police Act 1993 empowered the Lieutenant Governor in consultation with the Department of Home Affairs to appoint a Police Complaints Commissioner, to supervise investigations and review reports on the outcome of complaints against serving Police Officers.

Complaints were received either by the Chief Constable or the Complaints Officer at the Department of Home Affairs and in both cases forwarded to the Deputy Chief Constable who, subject to approval by the Police Complaints Commissioner, would appoint an appropriate serving Police Officer to investigate individual complaints.

On completion of an investigation, the subsequent report was submitted through the Deputy Chief Constable to the Police Complaints Commissioner for consideration to assess if the investigation had been carried out in a satisfactory manner. Assuming it was, the outcome of the investigation would then be relayed to the Complainant by the Commissioner.

At this time there were only limited targets established for concluding investigations. There were no requirements to keep complainants informed, auditing of the process was not comprehensive and the level of service complainants received was varied.

This procedure was reviewed by a Select Committee, following the Petition for Redress of Grievance of Roy Redmayne, and the report recommended a new independent system of investigation be established.

APPENDIX (C) **CURRENT PROCESS**

As a result of the unacceptable delays that occurred in the Redmayne investigation and the subsequent Select Committee's report, a new process for dealing with complaints was developed and implemented.

This provided an interim solution in the knowledge the Department was overhauling the procedure in accordance with the Tynwald resolution.

It provides a comprehensive procedure to deal with all complaints and goes a long way towards dealing with the issues raised by the Select Committee although the Department accepts, and is addressing what it sees as, the need to introduce further measures to provide for additional independence.

The current interim process continues to provide for the appointment of the Police Complaints Commissioner by the Lieutenant Governor in consultation with the Department of Home Affairs. However, the means by which a complaint can be made has been amended to allow four opportunities for a complainant to make a complaint:-

- 1) At any Police Station, where an officer will take details of the complaint. The Complainant then decides if the notes of the complaint are correct or require alteration and then signs and dates the notes;
- 2) If a complainant prefers not to attend a police station they may send the complaint direct to the Deputy Chief Constable;
- 3) If the complainant does not wish to complain directly to the police they may write to the Police Complaints Commissioner;
- 4) If the Complainant wishes to engage a third party to assist them make a complaint, the complainant has only to provide a letter authorising the person selected to put forward the complaint on their behalf.

The previous route of sending the complaint to the Department of Home Affairs has been removed with the choice of the direct route to the Police Complaints Commissioner seen as an improved method. If complaints are now received by the Department, these are promptly forwarded to both the Police Complaints Commissioner and the Deputy Chief Constable.

Once the complaint has been received by any of the aforementioned routes, it is recorded and sent to the Police Complaints Commissioner. The exception to this being where the complaint is sent direct to the Commissioner who will record receipt and forward the complaint to the Deputy Chief Constable. A letter acknowledging the receipt of the complaint is sent to the Complainant within 7 working days.

The Deputy Chief Constable, or Chief Inspector Professional Standards, then determines whether or not the complaint can be resolved informally or will require formal investigation. The purpose of distinguishing between the different procedures for dealing with complaints is that members of the public are often satisfied with an apology for an unsatisfactory level of service. The intention of this is to ensure the complaint is resolved to the satisfaction of the Complainant promptly and action is taken to ensure any shortcomings in the service are improved.

Where it is determined a complaint can be resolved by informal investigation, if the Complainant is not satisfied with this approach, then the Deputy Chief Constable **must** inform the Police Complaints Commissioner forthwith.

In all cases, not resolved by informal resolution, the Police Complaints Commissioner must approve the appointment of the investigating officer, oversee the investigative process and read all statements and examine all evidence.

Where complaints are against the Chief or Deputy Chief Constable, the complaint will be investigated by a senior United Kingdom Police Officer, appointed by the Department, under the Police Complaints Commissioner's supervision.

During the investigation, the Complainant is kept informed of progress by the investigation officer.

Where the report indicates there may be a criminal element in the action of the officer(s), subject to the complaint, the matter will be referred to the Attorney General's Chambers to determine if criminal charges should be considered.

When the investigation is complete the report is sent to the Police Complaints Commissioner who examines the report, statements and evidence, and decides having overseen the investigation:-

- a) Whether the investigation has been carried out satisfactorily and if not, should further investigation be considered;
- b) Whether the complaint is substantiated.

If the complaint is substantiated, the Deputy Chief Constable will decide if any officers should face disciplinary charges. The Police Complaints Commissioner will be informed of the Deputy Chief Constable's decision and may call for a report if dissatisfied with the decision. Where charges are not preferred, officers are given formal words of advice, which are recorded and may be cited in future cases.

Should a disciplinary hearing be held the Investigating Officer will notify the Complainant who may be invited to attend as they may be required as a witness.

The Complainant will receive a letter from the Police Complaints Commissioner explaining the outcome of the complaint. In the event that the Complainant is not satisfied with the outcome this does not affect the right to take the Constabulary to Court to sue for damages.

The time taken to investigate complaints is a critical part of the process, in ensuring a Complainant is satisfied the complaint is progressed promptly. The time taken can vary substantially dependent on complexity. The target is to complete all investigations within 120 days of receipt against which the Constabulary have to achieve a 90% success rate. There are cases, for example those involving a court case, which may result in the investigation being delayed.

Another issue that has been addressed is on the provision of information on how to make a complaint, which has been achieved by providing an explanatory leaflet at all police stations as well as on the Department of Home Affairs website <http://www.gov.im/dha/ceo/pcc.xml>.

The current process appears to have been effective in dealing with complaints against police officers. However, it is recognised a perception continues to exist that the current process requires a greater degree of independence which the Department intends to provide.

APPENDIX (D)
FORMULATING NEW PROPOSALS (EACH ISSUE CONSIDERED)

The Tynwald debate in July 2007 appeared to provide a level of contentment with the present interim process, but the Department was nevertheless invited to re-consider bolstering the aspect of independence of the process.

The Department shares the view that the current interim process has significantly improved the previous procedure and is far more effective in delivering objective, timely and unbiased investigations with the target of investigating complaints within 120 days being met in 90% of cases and the remainder within 150 days.

* Note

The 120 days does not include any time that the matter is sub judice. Once evidence has been obtained, the investigation goes on hold until such time as the matter has concluded its progress through court.

However, it is recognised further improvement is achievable and as such the Department proposes changes to upgrade the current interim process, subject to Tynwald approval.

The way complaints against the police are dealt with in other jurisdictions

There are two main processes utilised in Europe to investigate complaints against the police, the Northern Ireland model, which is a bespoke approach not used elsewhere, and the England and Wales model which is used across Europe.

The Northern Irish model was formulated in unique circumstances, those of dealing with a police force of mainly Protestant officers, whilst coming out of the "troubles", to try to gain the confidence of the whole community both Catholic and Protestants. The decision was, therefore, made to establish a body to deal with all complaints against the police and this has been successful. The needs of the Isle of Man, however, are different and the previous Northern Ireland Ombudsman, and her senior team, were of the view that such a system was inappropriate for the Isle of Man as it was developed to deal with the particular situation in Northern Ireland.

The England and Wales model uses an organisation called the Independent Police Complaints Commission to investigate and oversee complaints. Most complaints are still investigated by officers within the force against which the complaint is made and overseen by the Independent Police Complaints Commission, much as in the Isle of Man. Only in the case of serious incidents, is the Independent Police Complaints Commission the body that actually investigates the complaint. In such cases in the Isle of Man, the Police Ombudsman will invite, through the Council of Ministers, another Police Force to investigate the complaint, therefore ensuring independent investigation.

Serious incidents include the following:-

- Death;
- Serious injury;
- Serious assault;
- Serious sexual assault;
- Serious corruption, which would amount to an offence under the Corruption Act 1986;
- Conduct which would be an offence under specific Regulations of the Department of Home Affairs;
- Complaints against the Chief Constable or Deputy Chief Constable.

In the United Kingdom the Independent Police Complaints Commission is moving towards a new system to provide for the early, satisfactory resolution of a Complainant's concerns, leaving more resources to deal with serious complaints. The Department has therefore also taken this into account in providing a new system for investigating and dealing with complaints.

The level of seriousness of complaints made in the Isle of Man

The complaints against police officers in the Isle of Man are low in number and relate in the most part to procedural issues such as untimely taking of statements, attitude of officers etc. Such complaints in the United Kingdom would be investigated by officers within the same force, as is the case in the Isle of Man.

In the event of the receipt of a more serious complaint, a United Kingdom Force or the Independent Police Complaints Commissioner would be used.

The realities and practicalities of providing a police complaints process in a small jurisdiction The Department has examined three alternatives in relation to providing a stand alone body to investigate all complaints against police officers in the Isle of Man.

Firstly, in relation to a stand alone body, the Department does not believe following the Northern Ireland model is appropriate for the Isle of Man. In addition, a stand alone body to investigate an average of 24 complaints per annum handled by the Police Complaints Commissioner would not be cost effective or realistic in small jurisdictions like the Island.

Secondly, the use of United Kingdom Forces for investigating all complaints would be prohibitively expensive and slow down the process due to requiring officers, each time a complaint is made, to travel to the Island before the investigation could be commenced.

The preferred option of the Department is therefore to enhance the existing interim process to provide the independence recommended in the Select Committee's report, which will result in a system that meets the needs of those involved in a speedy, appropriate and proportionate way.

The need to ensure the public are satisfied that the police complaints process is objective and unbiased The Department believes it is of paramount importance that not only is the process independent in reality but that the public perception of the process is that it is objective and unbiased.

It is, however, clear that without a fully independent body investigating complaints it is unlikely that complainants will be entirely satisfied that their complaints are being independently investigated. In England and Wales and in most of the rest of Europe, and even in Northern Ireland, officers employed by the bodies tasked with providing the investigation of serious complaints are often retired or ex police officers, leading to a perception of bias in their investigations.

The Department is, therefore, of the view that the best means of increasing public confidence for the Police Complaints Process is to ensure users are satisfied they are treated fairly and the body overseeing the role and decision on the outcome of the complaint is completely independent. To help achieve this, the Department therefore recommends the title of Police Complaints Commissioner be changed to Ombudsman to reinforce the independence of the changed role; although there will always be, by the very nature of complaints, those that are not satisfied.

The need to provide value for money in providing a complaints process

The Department's provision of a comprehensive, extensive Police Complaints Process, without concern for budget, would have been a relatively easy task. Such an approach however, would be inappropriate and disproportionate to the needs of the Isle of Man. It is therefore the Department's opinion the revised process will provide a system producing a more satisfactory level of independence whilst avoiding a substantial increase in cost.