

Immigration Bill

Factsheet: Police Ombudsman for Northern Ireland (Clause 59)

Immigration Minister Mark Harper:

“In England, Wales and Scotland, independent bodies oversee serious incidents, complaints and conduct matters involving immigration and customs officers.

“This Bill will bring Northern Ireland into line with the rest of the UK by giving the Police Ombudsman for Northern Ireland the same powers.

“Independent oversight means greater protection for individuals and an assurance that the Home Office will be held accountable.”

Background

Since February 2008 the Independent Police Complaints Commission (IPCC) has provided oversight of serious complaints, conduct matters and incidents involving immigration officers and officials of the Secretary of State exercising immigration and asylum enforcement powers in England and Wales.¹ In Scotland, the Crown Office and Procurator Fiscal Service and the Police Investigations & Review Commissioner (PIRC) provide independent oversight. However, there is no equivalent arrangement for immigration officers in Northern Ireland. The oversight role is an investigative function in respect of serious incidents and complaints only and is therefore different to the inspection role provided by the Independent Chief Inspector of Borders and Immigration.

Securing independent oversight will offer the public an assurance that, if things go wrong, the Home Office will be held accountable. Immigration officers exercise ‘police-like’ enforcement powers, such as powers of arrest and search, so it is appropriate that similar scrutiny is provided to that in place for the police.

What we are going to do:

- Give the Police Ombudsman for Northern Ireland (PONI) oversight of serious incidents, complaints and conduct matters within Northern Ireland concerning immigration and customs officers.
- Ensure that PONI have the same level of oversight as the IPCC have over incidents in England & Wales.

How we are going to do it:

- Establish a power for the Secretary of State and PONI to conclude an agreement establishing policy and protocol for the oversight of serious incidents, complaints and conduct matters.

¹ See The Independent Police Complaints Commission (Immigration and Asylum Enforcement Functions) Regulations 2008, SI 2008/212

The Bill will benefit:

- Civilians in Northern Ireland will receive greater protection in the event of a death/serious incident where immigration officers and customs officials exercising enforcement functions are involved.
- Immigration officers and customs officials exercising enforcement functions will benefit from PONI's oversight where complaints are unfounded.

Next steps

- This primary legislation, once enacted will need to be accompanied by an agreement with PONI and guidance will need to be developed about how the provision will operate when an incident arises.

Q&A

How many referrals are expected to be made to PONI each year?

Using the number of referrals to the IPCC and to the PIRC each year, it is expected that PONI will only receive a very small number of referrals each year, possibly zero.

Having the oversight agreement in place is necessary to ensure that if a death or serious incident were to take place in Northern Ireland, then there would be measures in place to ensure that the matter is investigated.

Oversight will ensure that lessons are learned from investigations and will strengthen the reputation of the Home Office.

How will PONI's investigations be paid for?

This will be agreed during the secondary consultation phase after the Bill is enacted, however it is envisaged that PONI will invoice the Home Office quarterly for costs incurred in that period. A similar arrangement is in place with the IPCC.

Have you discussed this with the Northern Ireland Executive?

Yes, we have discussed this with the Northern Ireland Executive. We will continue to work closely with them during the passage of the bill.

Further Reading:

- Northern Ireland Human Rights Commission report "Our Hidden Borders, the UK Border Agency's Powers of Detention" urging the Government to take actions to ensure the Police Ombudsman's remit for oversight mirrors that of the IPCC in England & Wales. <http://www.nihrc.org/documents/research-and-investigations/asylum-immigration/our-hidden-borders-uk-border-agency-powers-of-detention-immigration-report-2009.pdf>