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11 October 1999 **No of pages including this one:** 2

To: **HQ**
For: **Secretary Gallagher**

From: **Belfast**
From: **Joint Secretary**

cc Pol Dev Div
Mr Burke, Ad Mtrl, PIC,
Arbo, Sec + L,
Comms, AI

Subject: Appointment of Police Ombudsman

The appointment of Nuala O'Loan to the post of NI Police Ombudsman Designate was announced this morning.

As Police Ombudsman, O'Loan will exercise independent control of the Police Complaints system under the Police (Northern Ireland) Act, 1998. The office is based on proposals made by Maurice Hayes in his review of the NI Police Complaints system. As the press release states, this is a high profile post in a sensitive and important area.

Today's announcement regarding the appointment of O'Loan to the post of Police Ombudsman has (privately) drawn a highly critical reaction from the nationalist side. While the SDLP's public response has been to wish her well and to look forward to the additional powers to be given to the post, in private the reaction has been quite scathing. There is severe disappointment at the O'Loan designation, which is viewed as being unimpressive and as catering to a minimalist functioning of the new post. Far from being a confidence-building measure, the appointment is being seen as amounting to an effective "shackling" of the post of Police Ombudsman.

I had lunch today with Maurice Hayes - who as you know basically wrote the terms of reference for the post - and he was also very critical of the appointment. He does not feel that O'Loan has the background or the ability to prove a truly independent and effective Police Ombudsman ("a complete wet"). He had had in mind someone like a Reggie Weir or a Desmond Boal - a lawyer of stature and experience. Apart from such factors, however, Hayes felt that her presence on the Police Authority should have sufficed to have ruled her out of contention.

Staffing and Resources

On the staffing front, Hayes believes that the new Police Ombudsman will require the support of a Deputy, ideally a person with police experience and having the capability, for

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example, of running a major murder inquiry. Both the public and the police must have confidence in the Office. His own view is that the Office will require a staff of some 30-40 - roughly one-third from a police background (non-RUC, at least during the first five years), one-third Customs/Social Security investigatory experts and one-third young lawyers. He also stressed the need to ensure proper funding for the Office, e.g., to pay a team of up to eighty (80) police officers - from somewhere like Strathclyde Police Department, for example - to whom a major investigation like the Robert Hamill case could be contracted out. He mentioned that the Office of Police Ombudsman in South Africa is almost exactly similar to what is needed in Northern Ireland.

Other

Arising directly out of our discussion of the Police Ombudsman appointment, Maurice Hayes stressed the even greater importance now attached to getting the right candidates for the posts of Oversight Commission and his/her two Assistants and for the Chairman of the new Police Board (see separate report).

Comment

We have repeatedly drawn the attention of the British side - most recently at my meeting with Minister Ingram last Friday - to the importance of selecting a candidate who will win support and confidence across the community, as well as within the police. That does not appear likely to be so in this case.

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Date: 11 October 1999 **No of pages including this one:** 1+6

To: HQ
For: Secretary Gallagher

From: Belfast
From: Bill Nolan

Attached please find copy of Press Release and biographical note re appointment of Police Ombudsman which has just been handed to us by the other side. Am forwarding this to you immediately for your information. Report by the Joint Secretary on this announcement will follow.

cc PS T, PS ar, PS NS
Mr Tahn, Mr Dallin, Mr Mawhinney
Number 10 + 2
Cabinet Office A1
11/10.

Not impressed. Yes a member of Patten's body without any Republican credibility. No sense of Republican concern about, or action on, issues? Authority, what is it based on? How could we have confidence in Policing Board if no Republican raised at meetings of Policing Board? Sinn Fein councillor in Ballymena

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APPOINTMENT OF POLICE OMBUDSMAN

The Adam Ingram MP, Minister of State, today announced the appointment of Mrs Nuala O'Loan as Police Ombudsman Designate.

He said: "When I announced the government's intention in May to appoint an Ombudsman I said that this was a high profile and sensitive post which required a person of outstanding ability.

"The Government were determined to find that person. We wanted someone who could secure the confidence of both the public and the police in the new system.

"I am now delighted to announce the appointment of Mrs O'Loan as Police Ombudsman Designate. The post was advertised earlier this year and attracted a number of high quality applicants. I am grateful to them all.

"Following a rigorous selection process the Secretary of State and I interviewed Mrs O'Loan and were impressed by her strong record of public and voluntary service, her legal background, personal integrity and wide knowledge of policing issues in Northern Ireland. We know that she will do an excellent job."

Adam Ingram explained that the office of the Police Ombudsman was a radical new system for dealing with complaints against the conduct of police officers.

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The Minister said: "This appointment is breaking new ground in the field of investigation into complaints against the police."

"The Ombudsman will have complete control over the Police Complaints system. She will be required to carry out independent investigations into serious complaints against the police - those where it is alleged that the conduct of a police officer caused death or serious injury," he said.

"In cases of other complaints the Ombudsman may decide to carry out independent investigations or she may refer them to the police to investigate and may supervise that investigation.

"The Police Ombudsman is being appointed on a designate basis until the new office is established, probably in summer of next year when she will formally assume her new statutory powers.

"This interim period will enable the Ombudsman Designate to have a direct say in the structure, staffing and ethos of the office. It will also allow her to recruit her own staff. This highlights the independence of the office.

"In the meantime the Independent Commission for Police Complaints will continue to supervise the investigation of serious complaints against the RUC.

"I would like to reiterate the commitment that the Government has given that we will ensure that the new office is properly resourced and funded to carry out its functions efficiently and effectively."

The Minister added: "I would like to thank Dr Maurice Hayes for his report into the Police Complaints System in Northern Ireland. The Police Ombudsman is based on his recommendations which received widespread support across the political spectrum in Northern Ireland. The Chief Constable has welcomed the appointment of an ombudsman to investigate police complaints."

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Police Ombudsman Designate Mrs O'Loan said: "I am delighted and honoured to accept this appointment. This is a unique opportunity to create a new police complaints system.

"It is fundamentally important that there is confidence in the ombudsman system, and I pledge that complaints will be given both rigorous and fair investigation.

"Cooperation across the whole community and with the police is key to success and I will be working hard to ensure that it is achieved."

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Notes to Editors

Profile of the Ombudsman

1. Mrs Nuala O'Loan is a Senior Lecturer in Law and has held a Jean Monnet Chair in European Law at the University of Ulster since 1992. She is currently the Chairman of the Northern Ireland Consumer Committee for Electricity, and is also a Member of the Police Authority for Northern Ireland, and Vice-Chair of the Authority's Community Relations Committee. In the past she has held a number of public appointments including Membership of the General Consumer Council for Northern Ireland from 1991-1996. From 1994-1996 she was Convenor of the General Consumer Council's Transport and Energy Group with responsibility for transport complaints. She was a Legal Expert Member of the European Commission's Consumers Consultative Committee from 1994-1995. She was a Member of the Northern Health and Social Services Board from 1994-1997. She served as the Northern Health and Social Services Board's Convenor for Complaints from 1996-1997, and was responsible for all complaints against the Board itself and against doctors, dentists, nursing and other medical staff, as well as GPs and all administrative staff with whom Northern Board residents come into contact.

   From 1991-1997 she was a voluntary Lay Visitor to police stations, and had 24 hour access to police Custody Suites and to people who had been detained by the police. Since 1986 she has been a trained voluntary counsellor specialising in marriage counselling and preparation for marriage.

   Mrs O'Loan is married and has fives sons.

The Law on Police Complaints

2. The Police (Northern Ireland) Act 1998 provides for the establishment of a Police Ombudsman who will have independent control of the police complaints system. It also sets out the aim of the Ombudsman when it states that:

> "The Ombudsman shall exercise his powers in such manner to secure -
>
> (a) the efficiency, effectiveness and independence of the police complaints system; and
> (b) the confidence of the public and of members of the police force in that system."

3. The creation of the Office follows from a proposal by Dr Maurice Hayes in his review of the police complaints system in Northern Ireland (HMSO ISBN 0-337-03077-4).

4. The Ombudsman will be the focal point for complaints about the police. All complaints, and not just those on police conduct, will be made through the Ombudsman in the first instance. Where, however, complaints are againstpolicy or

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operational instructions, the Ombudsman will pass them to the Chief Constable or Police Authority for action. The Ombudsman will decide how complaints which relate to the conduct of officers should be handled. She will also have the power to intervene in non-complaints cases about police conduct if this is in the public interest. The Ombudsman will be required to investigate cases of death or serious injury.

5. She may investigate other complaints as she sees fit or may refer them to the police to investigate, possibly under supervision. The Ombudsman's power to investigate includes examination of both criminal offences and possible disciplinary breaches. Reports on cases where a criminal offence may have been committed by a member of the police force will be sent to the Director of Public Prosecutions, with a recommendation by the Ombudsman. After any criminal aspects have been dealt with, the Ombudsman will then consider the disciplinary aspects of a case. She will make a recommendation to the Chief Constable - (or Police Authority for Northern Ireland for a senior officer, above Superintendent).

6. The legislation also provides for the Ombudsman to produce an annual report, and such other reports as are requested by the Secretary of State. The Ombudsman's office will also be expected to analyse trends in respect of complaints. For example the extent to which specific policing practices or policies, the use of certain types of equipment, etc, tend to increase the occasion for complaint, and to make recommendations on these issues.

7. This is a high profile post in a sensitive and important area which will require a candidate of the highest calibre to ensure that the body acquires the confidence of both the public and the police in the new police complaints system from day one. The Ombudsman will have dealings with the public, police, Government, Police Authority, Director of Public Prosecutions, solicitors and various organisations, as well as with the media. In addition to ensuring the proper investigation of cases, she will be required to promote the role of the Police Ombudsman and its Office, preserve its independence, set its strategic direction and ensure that its aims and objectives are met. She will be supported by her staff in doing this.

Organisation

8. Work is in hand to implement the new office of Police Ombudsman. Mrs O'Loan will be appointed as Ombudsman designate until the new body is established. Her formal appointment, and the abolition of the ICPC, is planned for summer 2000. Mrs O'Loan will be able to influence the structure and ethos of the new office thereby ensuring her independence.

Method of Appointment

9. The appointment was made in accordance with the guidance issued by the Office of the Commission for Public Appointments. The post was advertised and candidates were shortlisted and interviewed by a panel which included a human resource specialist who is independent of government.

Remuneration

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10. The post will attract annual remuneration of approximately £75,000.

Current Public Appointments and remuneration

11. Chairman, Northern Ireland Consumer Committee for Electricity (£16,001 per annum).

12. Member of the Police Authority for Northern Ireland (£5,060 per annum).

Political Activity

13. Mrs O'Loan is not and has not been a member of any political party. Her husband is an SDLP councillor. Mrs O'Loan has given peripheral support to her husband in the last local council elections.

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