

**ASSEMBLY AND EXECUTIVE REVIEW COMMITTEE  
INQUIRY INTO THE DEVOLUTION OF POLICING AND JUSTICE MATTERS**

**ORAL EVIDENCE SESSION - 2 OCTOBER 2007  
BOARD SUBMISSION**

**CHAIRMAN'S OPENING REMARKS**

Chairman / Committee Members.

I am Professor Sir Desmond Rea, Chairman of the Northern Ireland Policing Board and I am joined this morning by Barry Gilligan, Board Vice Chairman and Trevor Reaney, Board Chief Executive.

Can I first thank you for the invitation to attend this morning's session. You will appreciate that I am Chairman of a corporate body which has diverse political and community views on many issues, including the devolution of policing and justice. I will do my best to reflect the mind of the Board but you will understand that I may have to reflect a personal view on some of the questions which you ask or that I might come back to you in writing on specific points when I have sought the Board's corporate view. I am also conscious that there are current and former Members of the Board represented on the Committee.

The Committee will have received a copy of the Board's written submission to the Committee's Inquiry. This written response was considered and agreed by the Board's Corporate Policy, Planning, and Performance Committee at its meeting held on 19<sup>th</sup> July 2007.

The Board welcomes the opportunity to attend today's oral evidence session of the Committee to:

- first, to give the Committee an overview of the work of the Board;
- secondly, to amplify its written submission;

- thirdly, to brief the Committee on its experience of the current tripartite arrangements, including the relationship between the Board, the Chief Constable and the relevant Minister and Government Department (NIO); and
- finally, to address issues related to the operation of the tripartite arrangements under devolution.

Following my opening remarks, I along with my Vice Chairman and the Board's Chief Executive, will of course be happy to answer your questions and provide any information which will assist the Committee in its work.

### **Background on the Role and Work of the Board**

The Policing Board has a unique accountability and governance role with strong powers devolved under the relevant legislation to ensure it fulfils its essential oversight responsibilities.

It is the role of the Board to secure an effective, efficient and impartial policing service and to hold the Chief Constable to account for the exercise of his functions and those of the police service in an open and transparent way. The Board is broadly representative of the whole community, through both its Political Members and its Independent Members, each bringing a valuable perspective to debate and decision-making. We have entered a new and welcome phase in the history of policing in Northern Ireland with full political support for policing secured. The Board is now fully representative of the whole community and District Policing Partnerships (DPPs) will soon follow.

Since its establishment in 2001, the Board has made solid progress in establishing and developing this role, and its achievements in establishing a framework of accountability for policing in Northern Ireland have been significant and a matter of public record. I will leave copies of the publication 'The Life and Times of the First Northern Ireland Policing Board' which gives a flavour of this success. You will note issues where the Board has exerted significant influence in shaping the delivery of policing in Northern Ireland, for example:

- the development and monitoring of the Annual Policing Plan, which is the key document for policing in Northern Ireland setting the priorities, objectives, targets and performance indicators for an effective and efficient police service;
- the appointment of senior police officers – all of the current Chief Officer team;
- the monitoring of Human Rights compliance and the development of a Code of Ethics;
- the formation of the Crime Operations Department;
- the framework for reassurance in respect of intelligence issues around the transfer of national security responsibility; and
- many others which we do not have time to list.

The Board has driven forward on a programme of policing change unprecedented in the history of policing in these islands – and tribute must be paid to the Chief Constable, Sir Hugh Orde, and his senior officer team for driving its implementation; and also the previous Chief Constable, Sir Ronnie Flanagan, for initially embracing the change; a programme of change designed to secure the support and confidence of the whole community.

Policing is an essential public service and local people and communities must have confidence that the policing service is both representative of, and responsive to, the needs of all sections of an increasingly diverse society. The Board has an important responsibility to ensure the delivery of this service at both strategic and local levels.

Like the Board, DPPs marked a new milestone in injecting community involvement in policing – through council and local independent membership. DPPs have delivered a level of community involvement, openness and transparency to policing that was new to these islands. DPPs continue to evolve and the Board is committed to ensuring that they remain, as far as possible, representative of and inclusive of the community they serve.

In exercising its governance role, the Board has put in place accountability mechanisms to monitor and assess the performance of the Chief Constable and the PSNI across all aspects of its work.

A 'healthy tension' exists between the Board and the Chief Constable. A tension that ensures there is an appropriate balance in both supporting the PSNI, for example in negotiating the annual budget with Government, and in scrutiny, challenge and accountability.

Through its work the Board has made difficult decisions successfully in a complex political environment; and when necessary has intervened in 'critical incidents' and issues that impacted on the effectiveness of policing or public confidence in policing. For example, in responding to the Police Ombudsman's report into the Omagh bomb atrocity.

The Board has established important working relationships with a wide range of stakeholders and interested parties, both within the wider criminal justice sector and the community. These include local agencies such as the Police Ombudsman and Criminal Justice Inspectorate for NI, and national agencies such as the Association of Police Authorities and the Serious and Organised Crime Agency/Assets Recovery Agency. In respect of the wider community the Board has recently established reference groups to engage with various parts of the community. These include the minority ethnic communities, the LGBT (lesbian, Gay, Bi-sexual, Transgender) community, older persons, and women's organisations.

As a public body, the Board must also be subject to scrutiny on how it conducts its business. In recent years this scrutiny has included:

- Reports from the Office of Police Oversight Commissioner;
- a NI Affairs Committee Report in 2005
- an independent assessment report commissioned by the Board
- Best Value Inspection Reports conducted by the National Audit Office which consider all aspects of Board business – the most recent being a report on how the Board holds the Chief Constable to account.

The Board believes such scrutiny is important to assist it in improving the discharge of its functions.

The term of the Office of the Police Oversight Commissioner for Northern Ireland completed in May 2007 and the Board has been given responsibility for oversight of implementation of remaining recommendations within its remit. A responsibility which I believe reinforces

confidence in the Board's track record of delivery on the change agenda, and essential role in the policing architecture. The Board is moving forward the oversight of those remaining recommendations through the various Committees of the Board.

## **PRINCIPLES**

Turning now to the Board's written submission. The Board supports the concept of devolution of policing as set out in Recommendation 20 of the Independent Commission on Policing (Patten Report) which states:

*“Responsibility for policing should be devolved to the Northern Ireland Executive as soon as possible, except for matters of national security.”*

In this context the Policing Board recognises that the major decisions around the devolution of policing and justice matters, as set out in the Terms of Reference for the Committee's Inquiry, are primarily matters for the Political Parties to consider. However, there are two points of principle which the Board would wish present.

- Firstly, that the role and powers of the Board should not be diminished under the devolution of policing and justice, including that the Chief Constable should remain accountable solely to the Board for the delivery of a policing service in Northern Ireland.

This principle is:

- consistent with Recommendation 21 of the Independent Commission on Policing (Patten Report);

*“The powers of the Policing Board proposed in this report, in relation to both Government (as now represented by the Secretary of State) and the Chief Constable, should in no way be diminished when the government role in the tripartite arrangement passes to the Northern Ireland Executive.”*

- consistent with paragraph 13.7 of the Government’s Discussion Paper on Devolving Policing and Justice in Northern Ireland (February 2006);

*“Patten also recommended that the powers of the Policing Board should in no way be diminished when responsibility for policing is devolved. The Government has accepted this recommendation, and will transfer responsibility for the Board’s statutory framework, except where this relates to excepted matters. The detail of the relationship between the Board, the Northern Ireland Minister for policing and an Assembly policing committee will need to be determined before policing and justice are devolved.”*

- and was also a conclusion unanimously agreed by the Assembly’s Committee on the Preparation for Government when it reported on law and order issues in September 2006.

*(Paragraph 40 – The Board should retain its current powers.)*

- Secondly, that the Chief Constable’s operational responsibility should not be undermined when policing and justice powers are devolved.

Again this principle is:

- consistent with Recommendation 24 of the Patten Report paragraph 6.21; and

*“The Chief Constable should be deemed to have operational responsibility for the exercise of his or her functions and the activities of the police officers and civilian staff under his or her direction and control.”*

- paragraph 13:13 of the Government’s Discussion Paper on Devolving Policing and Justice in Northern Ireland.

*“The Police Service of Northern Ireland is under the day to day direction and control of the Chief Constable. The operational independence from political control of a Chief Constable is a fundamental principle of UK policing and, in the Northern Ireland context, is enshrined in legislation under Section 33 of the Police (NI) Act 2000. Patten also recognised (paragraph 6.21, recommendation 24) this important concept as a key tenet of his report.”*

These principles represent the unanimous view of the Board.

It is essential that these fundamental principles are embedded in future devolution arrangements, with appropriate arrangements and protocols put in place to ensure that they are given full effect.

## **CURRENT TRIPARTITE ARRANGEMENTS**

The tripartite structure in Northern Ireland policing terms refers to the working relationship between the Board, the Chief Constable and the Government of the day through the Secretary of State and Northern Ireland Office Ministers. Each has a direct interest and role in respect of policing in Northern Ireland.

Whilst the tri-partite relationship resembles the arrangements for police services and Police Authorities in Scotland, England and Wales, in Northern Ireland the tri-partite model of policing involves ‘one to one relationships’. One police service, one Policing Board, one Department and one Secretary of State. It should be noted that Northern Ireland has set the standards on best practice in police accountability. For example, the Board’s role in monitoring Human Rights compliance has now been included in the legislative role of Police Authorities in England and Wales.

The Northern Ireland Office exists to support the Secretary of State (SoS) in taking forward Government policy in Northern Ireland.

The Chief Constable is operationally responsible for the overall management of PSNI and the delivery of the policing service.

The Board's primary role is to secure an effective, efficient and impartial policing service and to hold the Chief Constable to account.

On most policing issues there will be a role, responsibility or interest for each of the organisations in the tripartite structure. The exact scope and limitations of these interests is not precisely defined and there is a degree of tension at times between the three, with the Chief Constable seeking to maintain his operational responsibility; the Board striving to achieve, in a transparent fashion, effective accountability for the operational decisions the Chief Constable has made; and the Government defining the overall policy, legislative and funding framework for policing.

The Board has a constructive working relationship with Government Ministers and Northern Ireland Office officials which is at times challenging and robust. The Board would wish to see this type of relationship continue under devolution. The Board has at times been successful in persuading Ministers of its position, for example on Restorative Justice, and at times not making the progress it would wish to see on issues, for example on resolving the overlapping roles of District Policing Partnerships (DPPs) and Community Safety Partnerships (CSPs).

The story of policing reform in Northern Ireland post Good Friday Agreement and Patten report is one of overwhelming success. This is in no small measure due to the successful operation of the 'checks and balances' in the current tripartite arrangements. The legislative provision combined with the checks and balances built into the structures have achieved the excellent progress on police reform, effectiveness and in the new policing era working towards building public confidence in communities.

## **FUTURE TRIPARTITE ARRANGEMENTS**

The current tripartite approach to governance and delivery of policing services is well tried and tested and proven to be effective. Under devolution the new tripartite arrangements will have the potential to become more complex and 'crowded', with the potential for duplication in approach, unnecessary additional bureaucracy and potential 'mission creep'.

Two of the three 'legs' of the tripartite 'stool' will remain unchanged if the above principles are maintained (ie, the Board and Chief Constable).

It is in the third 'leg' that change will take place and it is our responsibility to ensure the arrangements and protocols being put in place for operation under devolution ensure that the reality of devolution as envisioned in the Patten Report is delivered whilst enshrining the principles outlined earlier in my remarks.

The role of Assembly Committees is distinct from that of the Policing Board and their respective roles are set out unambiguously in statute. Within the current tripartite structure the Board ensures the delivery of an effective, efficient and impartial police service and holds the Chief Constable to account, while the NI Affairs Committee scrutinises the work of the Secretary of State and the Department. The new Assembly Committee would fulfil its

scrutiny and policy development role, assuming responsibility for that function from the NI Affairs Committee. It would have a wide brief across the whole of the criminal justice system in Northern Ireland.

It should be noted that the Board will need to have a continuing relationship with the Secretary of State in respect of non-devolved matters and national issues in which the Board will have an interest, for example, oversight of the PSNI role in national security matters.

## **POWERS TO BE DEVOLVED**

The Board has not considered the detail of powers which should be devolved across the criminal justice system but I would reiterate the Board's unanimous position in support of the recommendation made by the Independent Commission on Policing that:

*"Responsibility for policing should be devolved to the Northern Ireland Executive as soon as possible, except for matters of national security."*

## **NATIONAL POLICING INSTITUTIONS**

The Board values the productive working relationships which it has developed with a range of national policing instructions including Her Majesty's Inspector of Constabulary (HMIC), National Police Improvement Agency (NPIA), Surveillance Commissioner, Assets Recovery Agency (ARA), Serious and Organised Crime Agency (SOCA), Association of Police Authorities (APA), amongst others and would expect to see these continue under devolution. Each has a contribution to make in ensuring that policing in Northern Ireland is aware of, adopts and shares emerging best practice.

## **FUTURE CHALLENGES**

Six years into delivery of the 10 year police reform programme many challenges remain for policing; challenges that the Board is very much alive to and which it is committed to dealing with. Perhaps public confidence, public expectations, quality of service delivery and availability of resources will feature most highly in the years ahead.

As witnessed in recent weeks the community want and need a policing service that is responsive to, and meets, community needs. In our important respective roles prior to and following devolution, that will be the real test of delivery. We must continue to move forward on the policing issue – building community confidence as we go – ensuring the delivery of effective, efficient, accountable and impartial policing for the whole community. These are issues which feature regularly in the Board's engagements with the Chief Constable and the PSNI.

In a devolved arena, policing will be competing with other essential public sector services for funding and resources. More will be required from less – anticipated Comprehensive Spending Review (CSR) 2007 figures indicate that trend. The Board will continue its work in ensuring that the Chief Constable makes the best use of scarce resources for the delivery of effective and efficient policing.

In conclusion, Chairman, as we continue to consider the implications of new devolved arrangements and plan for the establishment of effective and efficient working relationships under devolution, we would welcome the opportunity to make further submissions, or meet with the Committee, before it concludes its report in February 2008.

Thank you, we are now happy to take questions.

