

**NORTHERN IRELAND POLICING BOARD**

**MINUTES OF MEETING OF THE PERFORMANCE COMMITTEE HELD ON  
10 November 2022 AT 09:30**

**PRESENT:** Mr Gerry Kelly, Chairperson  
Dr Janet Gray, Vice-Chair\*  
Mr Edgar Jardine  
Ms Liz Kimmins\*  
Ms Deirdre Toner\* (4)  
Mr Mike Nesbitt (2)  
Mr Trevor Clarke (3)  
Mr Mark H. Durkan

**POLICE SERVICE OF  
NORTHERN IRELAND IN  
ATTENDANCE:** (1) ACC Mark McEwan  
(1) D/C/Supt Andy Hill  
(1) D/Supt Stuart Griffin  
(1) Supt Gillian Kearney  
(1) 1 PSNI staff

**OFFICIALS IN  
ATTENDANCE:** Ms Sinead Simpson\*, Chief Executive  
Mr Adrian McNamee, Director of Performance  
5 Board Officials

- (1) Present for Item 6.1 only
- (2) Present from Item 6.1
- (3) Present from Item 4.1 to Item 6.6
- (4) Present to Item 6.6

\*Attended via video conferencing

## **1. APOLOGIES**

Apologies were received in advance of the meeting from Joanne Bunting. Apologies were also received from Nuala McAllister.

The Committee agreed the agenda for the meeting.

The Chair asked Members to advise of any items they wished to raise at Item 9 under “Any Other Business”. No further items were declared.

## **2. CONFLICTS OF INTEREST**

No conflicts of interest were declared.

## **3. MINUTES OF THE PREVIOUS MEETING**

The Committee considered the draft minutes of the Performance Committee meeting held on 13 October 2022.

It was **RESOLVED**:-

That Minutes of the Performance Committee meeting on 13 October 2022 were agreed.

## **4. UPDATE ON ACTION LOG**

The Director of Performance provided an update on the actions listed on the Action Log. Members noted the remaining current open actions and expected timeframes for these to be brought back to the Performance Committee.

**NOTED.**

The Director provided an update on AP6 from the meeting held on 10 March 2022. Members had requested further information on Arrest Rates and Community Background. This issue has been highlighted and updated within

the Human Rights Annual Report in Recommendation 5 on page 27 of the draft report. When PSNI respond to this recommendation, officials will bring it back into the Performance Committee.

The Director provided an update on AP3 from the meeting held on 8 September 2022 in respect of Spit and Bite Guards and the Human Rights Advisor's Recommendations and further monitoring data. A letter of response has been received from Chief Superintendent Jon Henry and included in today's papers at Item 4.1. A full report is due to come back to Committee in February 2023.

The Director provided an update on AP4 from the meeting held on 8 September 2022 relating to Police Ombudsman (OPONI) to establish if they are willing to review the use of SBG deployment on those aged under 18. OPONI have confirmed their agreement to review all deployments on persons under 18 and provide a Report to the Board after 12 months. Correspondence of 25 October 2022 enclosed at Item 4.1.

The Director provided an update on AP1 from the meeting held on 13 October 2022 relating to inviting the Chair and representatives of the Northern Ireland Firearms Representative Group to a future Committee meeting to present a briefing to Members. Arrangements have been made for NIFRG to attend the January meeting of the Performance Committee.

The Director provided an update on AP2 from the meeting held on 13 October 2022 relating to the Critical Incident that was declared in response to the application backlogs at Firearms and Explosive Branch. A letter has been issued to ACC Chris Todd requesting the information on 25 October 2022. Awaiting response.

The Director provided an update on AP3 from the meeting held on 13 October 2022 relating to PSNI statisticians. Members had requested that Officials

invite PSNI statisticians to brief Members on the processes surrounding the collation of statistics and the accuracy of data provided as part of the PULSE demonstration in January 2022. PSNI have been informed of this request and will include as part of their presentation on PULSE as part of the January Committee Meeting.

The Director provided an update on AP4 from the meeting held on 13 October 2022 relating to the issue of Organised Crime Gangs and links with the exploitation of children and to consider further as part of Policing Plan Measure 1.2.2 as part of the November Committee agenda. A letter was issued to ACC McEwan requesting the information on 26 October 2022. A response was received from ACC McEwan and included at Item 4.1 today. It states that there were no further issues identified. The Director of Performance stated that this issue is coming up under Item 6.1 on today's agenda and if Members had any further questions they could be asked when ACC McEwan is in attendance.

The Director provided an update on AP5 from the meeting held on 13 October 2022 in respect of the reduction in PSNI neighbourhood outreach programmes. A letter was issued to ACC McEwan requesting the information on 26 October 2022. Awaiting response.

The Director provided an update on AP6 from the meeting held on 13 October 2022 in relation to the Human Rights Programme of Work: Officials to bring item back to a future Committee. The Human Rights Programme of Work is included in Item 6.4 of today's agenda.

The Director provided an update on AP7 from the meeting held on 13 October 2022 in relation to emailing Members requesting that after their consideration of the Draft Human Rights Annual Report 2021/22 and its recommendations that they provide comments by Friday 28 October 2022. Email was issued. The deadline was extended to 1<sup>st</sup> November and comments were received.

Members were content with the updates provided in relation to the Action Log.

## **5. CHAIRPERSON'S BUSINESS**

The Chair confirmed that no items of business have been received for discussion.

## **6. ITEMS FOR COMMITTEE BUSINESS**

### **6.1 Policing Plan Measure 1.2.2 – Organised Crime Gangs &**

### **6.2 NCA / SOC 6 Monthly Update to September 2022.**

The PPM Manager stated that due to the transferable nature of information reported in both Item 6.1 relating to Organised Crime Gangs (OCGs) and Item 6.2 regarding the update on the NCA/SOC Q1 reports, Board officials have aligned Performance Plan reporting of OCGs with NCA and SOC reports. This is aimed to best meet Member's needs in order to ensure this key strategic area is brought to Members collectively.

The PPM Manager also referred Members to the key issues that have been identified regarding Item 6.1 which can be asked of PSNI officials in attendance today. However, Members may wish to consider key issues in Item 6.2 in anticipation for the Chief Constable and NCA Director General's attendance at the 8<sup>th</sup> December 2022 Board meeting.

In relation to Item 6.1 OCG's, Members will welcome that the PSNI's report shows an increase in frustrations and disruptions, while there has been no change in OCG's dismantled. However, in relation to whether the capacity and capability of OCG's has increased or decreased, it is somewhat surprising that the PSNI have previously reported that there is no data sets available to provide an assessment of meaningful figures. It would be assumed that the recent increase in frustrations and disruptions would

decrease the capacity and capability of OCGs. Members may wish to ask the PSNI whether the data on frustrations, disruptions and dismantling can be used to demonstrate the impact on capacity and capability of OCGs and what they are doing to in order to effectively address the Measure.

The PPM Manager referred to Item 6.2 NCA/SOC Q1 reports, Members will welcome that the NCA outline that in quarter one there was a 30% (17) increase in disruptions when compared to quarter four. This has been largely driven by a significant increase in minor disruptions in the cybercrime threat area. Members will also welcome the PSNI SOC report that outlines a significant increase in OCGs frustrated from Q4 while OCGs disrupted and dismantled have largely remained the same.

The Chairperson welcomed the PSNI to the meeting. He invited them to brief Members on the work relating to Policing Plan Measure 1.2.2 Organised Crime Gangs.

The PSNI presented information through their report card and provided a statistical commentary of their performance against Measure 1.2.2 Organised Crime Gangs and discussed with Members the work carried out on a number of key areas including:

- The PSNI informed Members that good progress is being made to frustrate and dismantle OCG's reporting that 4 groups have been dismantled. As the number of OCG's fluctuates PSNI referred to their SOC strategy to combat this criminality and the partnerships between OCTF and PCTF and other agencies to share knowledge and resources;
- It was highlighted to Members that drugs remains the main commodity of trade by OCG's. The PSNI referred to Poly-drug use and the postal system for delivery of drugs;
- The PSNI referred to the high number of drugs related deaths with numbers that are rising to pre Covid-19 pandemic levels. The PSNI

stressed that not all drugs related deaths are directly related to homeless persons;

- Closer alignment with NCA is a focus for the PSNI, accessing all the capabilities they bring to operations. The PSNI also seek to work closer with HMRC, Border Force and Immigration;
- The PSNI report an increase in Modern Slavery Human Trafficking mostly as labour exploitation but also as sexual exploitation with many victims originating from Eritrea and Somalia. Local vulnerable females have also been exploited by OCG's and single actors;
- Cyber fraud is a growing threat according to the PSNI's assessment with the source of these emails, texts and phone calls originating outside the jurisdiction. Ransomware attacks are also an issue and the PSNI encourage businesses to come forward if they have been a victim of this crime. The PSNI referred to the 'Scamwise' campaign to raise awareness of the risks of cybercrime.
- The PSNI report a slight increase in extreme right-wing ideology mainly confined to online activities;
- In relation to cyber fraud the PSNI referred to Authorised and Unauthorised Fraud in which the victim gives consent to fraudster's willingly or without permission. The PSNI report that there has been a reduction in financial loss to victims but an increase in reporting of this crime;
- The PSNI referred to Agency and Partner Management Information System (APMIS) that is due to become operational at the end of November 2022. This system will assist in the analysis of OCG's and will support tasking and co-ordination between all law enforcement agencies and assist in the collective fight against SOC;
- Operation Connexus has been cited by the PSNI as a successful local policing initiative in the Southeast Antrim area that involves a whole system approach to tackle crime. The aim of Operation Connexus is to reduce the stranglehold of paramilitaries and their entrapment of local communities. The operation also aims to create better connections

between the police and the community. The operation has seen information sharing and a focus on preventing harm at a local level. Multi-Agency Support Hubs are utilised to better share information and to create a more visible local policing footprint. Improved communications between PCTF and local policing so they can work better together to align on the overall SOC strategy. The Connexus initiative is viewed as an important first step that sees police making early interventions with young people to reduce risk to them;

- The PSNI referred to the work of TIU, their joint investigatory work with other organisations and provided an update on the activities of the Terrorist Offender Management Unit (TOMU).

Members engaged in discussion with PSNI and sought clarity on a number of issues including: -

- A Member referred to paramilitary organisations involvement in housing intimidation and queried why this does not form part of the PSNI tackling paramilitary activity strategy;
- The 'Ending the Harm' campaign was referred to by a Member in relation to illegal money lending and queried if there has been an increase in reporting of illegal money lending by paramilitary groups, as was the intent of the campaign;
- Further clarity was sought by a Member in relation to the TIU, PCTF, JCTF and how the PSNI present a seamless service;
- Attention was drawn by a Member to drugs and the postal system of distribution and queried whether Royal Mail could alert the PSNI to this type of activity;
- A member referred to the PSNI's operational 'connectiveness' and queried in relation to drugs and cash seizures if police were gaining control in this area and how in inner city Belfast this connectiveness is working in practice. The Member also referred to inchoate crime law in France;
- The dismantling of OCG's was referred to by Members with reference to Southeast Antrim area. Members queried if paramilitary gangs are



increasing in presence or are they being diminished as a consequence of police actions;

- A Member referred to the partnerships between police and social services with regards youth intervention and family liaison and queried if there is a bespoke programme for children in care. The Member also asked if the PSNI had any concerns regarding members of OCG's in the provision of care such as foster carers; and
- A Member referred to the 62 OCG's identified by the PSNI and queried if these groups are specific to this jurisdiction or do they also operate in Great Britain or internationally.

The PSNI provided the following responses:-

- In relation to housing intimidation the PSNI referred to their ongoing work with NIHE. The PSNI informed Members that intimidation is criminality and they do investigate;
- The PSNI advised Members that the data from the 'End the Harm' campaign has not yet been collated or analysed. The PSNI are aware that the cost of living crisis may exacerbate illegal money lending and may place vulnerable people at risk;
- In relation to OCG's in Southeast Antrim the PSNI reiterated their determination to dismantle this grouping. They referred to closer working with local district policing and surge capacity which enables more resources to be directed to emerging priorities and investigations;
- With regards the increase in drug deaths the PSNI referred to the dependency issues and chaotic lifestyles of many of the victims as a factor. Early intervention with young people to help get their lives on track is viewed as a beneficial long-term strategy. The PSNI referred to their ongoing intelligence led work with partner agencies to intercept and disrupt the illegal drug trade. With regards the postal system distribution of illegal drugs the PSNI firmly respects the integrity of the postal system and will be discussing with Royal Mail, and other partners, processes that could be adopted to stem the flow of this activity;

- The PSNI reiterated their determination to dismantle OCG's but recognise that the fluctuating nature of these groupings requires closer alignment and co-operation between specialised PSNI units and local neighbourhood policing to achieve this;
- In relation to Southeast Antrim area the PSNI suggested that they could provide Members with information on the strength or weakness of the gangs operating and their recruitment of new members;
- The PSNI referred to the 'cloak of legitimacy' that lures young people to these criminal groups and the challenges of policing in the community where an OCG has a grip. They acknowledge that they cannot deal with this issue by enforcement alone and understand the frustrations of the local community;
- The PSNI referred to the fluctuating numbers of Looked After Children (LAC's) and their work with Social Services in the Multi-Agency Support Hubs to navigate people to the right help. The PSNI have not seen a scenario where an OCG gang or member has provision of care for a young person; and
- The APMIS system being introduced by the PSNI will allow greater mapping of OCG activity in Northern Ireland allowing them to focus on threat, vulnerabilities and enablers. The system is focused on partnership with other forces and agencies and will be compatible with NCA and HMRC in terms of risk assessments providing greater operational consistency and alignment. OCG's fluctuate within Northern Ireland and there is also a cross border element.

The Chairperson thanked the PSNI for their attendance and briefing and they left.

Following discussion it was:-

**AGREED**

Officials to follow up with PSNI on the issue of paramilitary groupings, to obtain PSNI's assessment of the strength of these organisations and the level of continuous recruitment. **(AP 1)**

### **6.3 Independent Reviewer of Justice and Security (JSA) (NI) Act 2007**

Board Officials provided Members with a paper providing a summary of the annual report of the Independent Reviewer of JSA, Professor Marie Breen-Smyth.

The Chair welcomed Professor Marie Breen-Smyth to the meeting and invited her to brief Members.

Professor Breen-Smyth provided an overview on a number of key areas of her work including:

- The security situation in Northern Ireland and continued context for special additional powers for the prosecution service and the PSNI;
- Road closures and acquisitions;
- Complaints against the British Army;
- Non-Jury Trials; and
- JSA Stop and Search.

Professor Breen-Smyth discussed with Members:-

- The establishment of a non-jury trials under the special arrangements in Northern Ireland under JSA and that the non-jury provisions are subject to review every 2 years and the public consultation is currently underway and will close in January 2023;
- The use of Stop and Search by the PSNI is far greater than the outcome rate which sees fewer than 1% leading to a criminal justice outcome; the downward trend in the use of Stop and Search which she argues empowers police to act when there is no reasonable suspicion for a search; the statistical variations between districts for numbers stopped and searched is acknowledged by Professor Breen-Smyth

who emphasised that if the Stop and Search is intelligence led then this is justified;

- The recommendation made by her predecessor, Mr David Seymour CB, to monitor community background for Stop and Search, PSNI's objections regarding its implementation since, and her efforts with NISRA to offer a method of recording this information utilising local postcode data;
- The seizure and retention of electronic devices is a cause for concern where items are retained, at times, beyond the time needed to analyse them and is an imposition to the owner or family concerned;
- the fortnightly renewal of JSA authorisations and the quality of the content submitted in the Community Impact Assessments which could be better developed by the PSNI;
- The use of Stop and Search on young people and the impact of Stop and Search of adults with a child present and its impact on the relationship between those in working class communities and the police;
- Number of complaints made to OPONI regarding Stop and Search;
- The Funding for the Tackling Paramilitarism, Criminality and Organised Crime Programme;
- Body Worn Video of JSA Stop and Search powers on children has been viewed by Professor Breen-Smyth and she has also discussed this issue with the PSNI; and
- The repeated misuse or misapplication of Stop and Search powers is a matter for Professor Breen-Smyth to investigate any other complaints are referred to OPONI. Repeated Stop and Search with no outcome is a matter of concern as this could be potentially harassment.

The Chair thanked Professor Breen-Smyth for attending the Committee and her presentation to Members.

#### **6.4 Human Rights Advisor Update Report October 2022**

The Human Rights Advisor provided Members with an overview of areas within his current work programme including, finalising the Human Rights Annual Report 2021/22, finalising the Human Rights of Police Officers Report and finalising the PSNI Use of Force Report on CED (Taser).

The Human Rights Advisor updated Members on a range of meetings he attended in September including; Performance Committee, Board meetings, senior police staff meetings, meeting with JSA Reviewer, Parades Commission, Migrants NGO, Seapark Gold Group, MLA Board Member's, PSNI officers and various meetings with Board officials.

He also informed Members of his November work plan including; finalising the range of reports. During November the Human Rights Advisor also plans to meet with the Victims Commissioner, Children's rights NGO's, PSNI officers, PSNI lawyers and the Deputy Chief Constable.

The Human Rights Advisor referred Members to the Lessons Learnt Policing of Sensitive Events during COVID-19 Report. It was recalled to Members that they had previously discussed the PSNI's issue of Fixed Penalty Notices in response to the Black Lives Matter protests and partly as a consequence of the Board's Human Rights COVID Report the PSNI has just set out its Lessons Learnt response.

The Human Rights Advisor provided an update on the future Programme of Work. Following discussion with Board officials on the future work programme, the Advisor has proposed some updates to the three-year programme highlighting to Members that these related to the reporting schedule as opposed to changes to the programme of reports.

The Human Rights Advisor suggested that Covert Policing and Privacy be combined. The Human Rights Advisor briefly discussed facial recognition

technology with reference to the PSNI's response to the recommendation of the previous Human Rights Annual Report and following the Board's previous limited agreement for the use of this technology following a PSNI request relating to a specific investigation.

Members discussed the Policing of Sensitive Events in COVID19 document and the Three Year Programme of Work.

Following discussion it was:-

### **NOTED**

That Members agreed that human rights reports on Covert Policing (including CHIS) and Privacy should be scheduled next with Victims of Crime and Custody following. That Members were also content with the Human Rights Advisors Update Report and the remaining schedule of work for November 2022.

#### **6.5 Draft Human Rights Annual Report**

The Performance Committee had an opportunity to discuss the draft Human Rights Annual Report at their October Committee meeting. Following the October meeting, Members were provided with an opportunity to make comments and provide feedback on the current draft.

Board Officials and the Human Rights Advisor have considered the comments received from Members and have provided a response and proposed action. Members were asked to agree to recommend the Report to the Board for approval to publish before International Human Rights Day on 8 December 2022.

Following discussion it was:-

## **AGREED**

That Officials to draft a Foreword to the Human Rights Annual Report and circulate to Members requesting their comments prior to the full final Report being shared with the Board. **(AP 2)**

Officials to draft a letter from the Chair to DCC Hamilton to request a progress update on the Human Rights Advisors Recommendations from previous reports. **(AP 3)**

### **6.6 Update on the Draft Use of Force Report.**

The Human Rights Advisor presented Members with a draft of the Human Rights Review of PSNI's Use of Force Report. In the past twelve months, the Human Rights Advisor and Board officials have focused on two uses of force: Spit and Bite Guards, a report on which was published in February 2022, and Conducted Energy Devices (CED).

The CED report is similarly in-depth, reviewing body-worn video and considering evidence from England and Wales. The purpose of this report is to provide an overview of PSNI's use of force. The legitimate use of force by police officers is one of their most significant and symbolic powers. Part I gives an overview of all types of force that PSNI currently employ and the legal basis for the use of force. Part II focuses on the current use of Conducted Energy Devices.

The report provides 10 recommendations for PSNI on how to respect human rights when using CED and other types of force in the course of their duty. The Human Rights Advisor asked that Members consider and comment on the Draft Human Rights Review of PSNI's Use of Force and, dependent on

feedback, agree to recommend the Report to the Board for approval and publication.

Members engaged in discussion with the Human Rights Advisor on a number of the draft recommendations including:-

- Use of Force on children; and
- Use of police dogs.

In relation to the Use of Force on Children, Sinn Fein Members do not support the use of tasers on children, those aged under 18.

Members discussed the use of police dogs on children aged under 18. The Chairperson suggested an amendment to the text could be added to the Report suggesting that ‘Police dogs should never be used on children under 18’ to address Member concerns. Members engaged in a discussion on the revised wording suggested by the Chairperson.

The Chairperson proposed that the 8 Members present vote via a show of hands on whether Members are ‘For’ adding the additional text in the report or ‘Against’ inserting the text in the Report.

The result of the vote was as follows:

<b>For</b>	3	Mark H. Durkan Liz Kimmins Deirdre Toner
<b>Against</b>	4	Trevor Clarke Mike Nesbitt Dr Janet Gray Edgar Jardine



Following the Member vote Members agreed to reword the text and remove a specific section of the recommendation:-

It was also:-

**NOTED**

That Members were content and approved the paper to be presented for the Board meeting on 8 December 2022 seeking approval for publication.

**6.7 Committee on the Administration of Justice Presentation / Report.**

The Director of Performance reminded Members that CAJ had published a research report entitled “Dealing with hate expression in public space in Northern Ireland” which looks at the removal of hate expression from public space, focusing on public authorities’ duties and practice towards removing racist, sectarian, homophobic, and other hate expression from public space.

Correspondence was received from CAJ requesting an opportunity to attend Committee and discuss their report as they are also engaging directly with the PSNI on the recommendations of their report and suggest that given the key oversight role of the Policing Board and the human rights remit of the Performance Committee in particular, they are keen to present and engage the Committee on the findings and recommendations of the report.

The Chair welcomed Daniel Holder, Deputy Director of CAJ, to the meeting and invited him to brief Members.

Mr Holder thanked the Chair and welcomed the opportunity to introduce himself to Members and provide an overview of a number of key areas of the report including:

- The background to the report and methodology used;

- A definition of hate expression and how it must relate to one of the protected grounds in anti-discrimination and equality law;
- Incitement to Hatred offence and other related criminal offences;
- Hate expression as Content or Context based. Content based material can be graffiti messages or certain flags to incite hatred. Context based material, that is, hate expression in the context it is placed in e.g., burning items on bonfires or a flag placed to intimidate persons from taking up housing;
- The legal framework including criminal offences;
- Policy formulation and the law;
- Public authority policies;
- PSNI policy and practice; and
- CAJ recommendations relevant to the PSNI.

Members engaged in discussion with Mr Holder on a number of issues including:-

- The issue of flags, the scenario where one flag is removed but is then replaced by multiple others and how the CAJ proposal on greater police surveillance and how they propose this would work;
- Police resources and de-escalation of issues;
- Impacts of housing intimidation and hate expression on vulnerable people;
- The distinction between what is harmful and what is hate expression with regards certain flags being flown; and
- Disability crime and in particular crimes against those in the blind community.

The Chair thanked Mr Holder for attending the Committee and his presentation to Members.

## 7. QUESTIONS FOR THE CHIEF CONSTABLE

7.1 One question was identified by Members at the October 2022 Performance Committee meeting. The Chief Constable's response was **NOTED**.

7.2 Identify any questions arising out of this meeting which Members wish to raise with the Chief Constable at the next Board Meeting.

No questions were identified to ask the Chief Constable:

## 8. COMMUNICATION ISSUES

There were no communication issues arising from the meeting.

## 9. ANY OTHER BUSINESS

The Director of Performance highlighted to Members a letter received from NIO regarding the Non-Jury Trial Provisions: Public Consultation 2022/23. This consultation will run for a period of 12 weeks. The deadline for responses is 30 January 2023.

The Chair confirmed that the Board would not reach consensus on this issue and therefore should not make a corporate response to the consultation. He advised Members to consider making an individual response instead.

## 10. DATE OF NEXT MEETING

It was also agreed that the following Performance Committee meeting would take place on **Thursday 8 December 2022** at **2:00pm**

Meeting closed at 3:10pm.

**PERFORMANCE DIRECTORATE**

**10 November 2022**

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**Chairperson**