FREEDOM OF INFORMATION REQUEST

Please note the text of this request has been reproduced exactly as received.

FOI Reference number: 41/2026

Date: 19 October 2026

Request:

Time period and general scope - 1 January 2024 to 9 August 2026

The request concerns recent Board, Committee or Human Rights Advisor consideration of legislative, policy, oversight and human rights matters, particularly those arising from the Justice Bill and associated proposals.

1. Drug checkpoints and preliminary testing

This concerns recent proposals in or associated with the Justice Bill relating to police use of authorised checkpoints or stopping arrangements for drug testing and requirements for persons stopped to cooperate with preliminary drug impairment testing.

I am seeking existing Board, Committee or Human Rights Advisor records concerning the development, scrutiny or implications of those proposals.

This includes, where held

- Board or committee papers or minutes
- Briefings
- Relevant correspondence with the Department of Justice or PSNI
- Human Rights Advisor advice or assessments, and

Northern Ireland Policing Board
James House, Block D, 2-4 Cromac Avenue
Gasworks, Belfast BT7 2JA
028 9040 8500 www.nipolicingboard.org.uk

INVESTORS IN PEOPLE

- Consideration of safeguards, proportionality, operational implications, training, equality, data handling or oversight.

I am not seeking operational records relating to individual checkpoints, stops or tests.

Answer - The Board does not hold any information within the scope of this question.

2. Former officer discipline and barred/advisory lists

I am not seeking information concerning every former PSNI officer or every individual disciplinary procedure.

This part concerns recent policy or legislative proposals dealing with police officers who resign or retire while misconduct or disciplinary proceedings are outstanding, together with arrangements for recording or sharing relevant misconduct information concerning former officers.

By barred/advisory lists I mean proposed or existing arrangements under which information concerning former officers subject to relevant misconduct findings or proceedings may be recorded, restricted, disclosed or made available to policing or law-enforcement employers.

I am not seeking individual personnel files or case – specific disciplinary records.

Answer - The Board does not hold any information within the scope of this question.

3. Police Ombudsman reporting provisions

My reference to ‘early reports’ was intended to refer to the recent policy or legislative issue concerning Police Ombudsman reporting or disclosure arrangements,

including any proposal for reports, findings or information to be supplied, considered or disclosed at an interim, advance, pre-final or otherwise earlier stage.

I was not referring to historic Police Ombudsman reports from shortly after the Ombudsman's establishment in 2000.

Please provide existing Board, committee or Human Rights Advisor records within the above date range concerning any such Justice Bill or associated proposal, including consideration of;

- When Ombudsman reports, findings or information may be supplied or disclosed
- Consultation concerning changes to reporting arrangements
- Safeguards applying to draft, interim, advance or otherwise non-final material
- Procedural fairness, confidentiality, reputation or human rights implications, and
- Board oversight of such proposed arrangements.

I am not seeking copies of Ombudsman's general collection of published investigation reports.

Answer – the following documents are within the scope of your question.

- The Board's March 2026 Performance Committee minutes refers to the response to the Police Ombudsman's five-year consultation. Attached as Annex A is a copy of the OPONI five-year review consultation paper that was discussed at Item 6.5.

- Our September 2025 Board minutes refers to the approval of the response to the Department of Justice consultation on legislative proposals relating to police officer misconduct matters. Attached at Annex B is the paper 'DOJ Consultation on Legislative Proposals Relating to Police Officer Misconduct Matters' discussed at Item 6.2.

- Our February 2026 and April 2026 Board minutes refers to the approval of the response to the Police Ombudsman's five-year consultation.

  You can find the link for the Performance Committee and Board minutes on the Northern Ireland Policing Board website - Northern Ireland Policing Board – click on publications and put the month and year into the search menu.

  - Human Rights five-year review, chapter 9, Levers of Change, Code of Ethics, complaints and discipline section refers to the Police Ombudsman's Office and their role in the oversight of the PSNI. Link to the Human Rights Five-Year review - https://www.nipolicingboard.org.uk/files/nipolicingboard/2024-07/Human%20Rights%205%20Year%20Review%20-%20Final.pdf

  - Human Rights Annual Report 2024/25, Recommendation 2, chapters 3 – vulnerable victims and 8 – complaints & discipline all refer to the Police Ombudsman's Office and their role in the oversight of the PSNI. Link to the Human Rights Annual report 2024/25 – https://www.nipolicingboard.org.uk/files/nipolicingboard/2025-09/Final%20-%20Human%20Rights%20Annual%20Report%202024%2025.pdf

Apart from the 2 papers attached the rest of these documents are available to view on the Board's website using the links provided. As such we are not providing copies of the documents as the exemption at Section 21 (Information accessible to the applicant by other means) of the Freedom of Information Act is engaged.

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4. Biometrics retention/deletion and photographs

I am seeking Board, committee and Human Rights Advisor consideration of this subject area.

Please limit this part to recent Justice Bill or associated policy proposals concerning

- Retention and deletion of DNA or other biometric material
- Retention and deletion of custody or policing photographs
- Retention periods and deletion requirements
- Access, use of sharing of such material
- Oversight, audit and safeguards
- Circumstances in which material may continue to be retained where no conviction follows, and
- Relevant legal or human rights implications

I am seeking any other existing Board, committee or Human Rights Advisor records within the clarified scope which informed, accompanied or followed consideration of these matters. I do not require another copy of material already available.

Answer – the following documents are within the scope of your question.

- Our March 2025 Performance Committee minutes in relation to discussions regarding Biometrics.

- November 2025 Board Minutes in relation to Biometrics.

  You can find the link for the Performance Committee and Board minutes on the Northern Ireland Policing Board website - Northern Ireland Policing Board – click on publications and put the month and year into the search menu.

- Human Rights five-year review – chapter 8 and rec 15 refer to privacy & surveillance references Biometrics. Link to the Human Rights Five-Year review - https://www.nipolicingboard.org.uk/files/nipolicingboard/2024-07/Human%20Rights%205%20Year%20Review%20-%20Final.pdf

- Human Rights Annual Report 2024/25 – chapter 9 retention refer to Biometrics. Link to the Human Rights Annual report 2024/25 –

  https://www.nipolicingboard.org.uk/files/nipolicingboard/2025-09/Final%20-%20Human%20Rights%20Annual%20Report%202024%2025.pdf

- Below are the links to legislation and minutes from the Justice Committee attended by the Board's Chief Executive Officer, Director of Performance and Human Rights Advisor.

  Committee for Justice - Primary Legislation - Justice Bill

  Minutes Of Evidence Report – John Wadhams attendance

  Minutes Of Evidence Report – Adrian McNamee and Sinead Simpson attendance

These documents are available to view on the internet using the links provided. As such we are not providing copies of the documents as the exemption at Section 21 (Information accessible to the applicant by other means) of the Freedom of Information Act is engaged.

- Other documentation relating to the Justice Bill & Biometrics

  The following documents are attached as they are within scope of this question.

- Annex C – extract from Chief Executive correspondence to the Justice Committee dated 9 May 2025 in relation to follow up to Justice Committee evidence on new bill.

- Annex D – extract from Chief Executive opening remarks for Justice Committee hearing on 1 May 2025.

- Annex E – extracts from Justice Committee lines to take May 25.

5. Vehicle seizure without prior warning

This concerns the recent Justice Bill proposal or amendments removing or altering a requirement for prior warning before use of a vehicle seizure power.

I am seeking existing Board, committee or Human Rights Advisor records concerning that proposed change, including any

- Board, committee paper or briefing
- Relevant correspondence with the Department of Justice, PSNI or department for Infrastructure
- Consultation or operational advice
- Human Rights Advisor or proportionality assessment
- Consideration of safeguards or procedural fairness, and
- Consideration of the removal or alteration of the prior warning requirement

I am not seeking records concerning individual vehicle seizures.

Answer: - The Board does not hold any information within the scope of this question.

If you have queries about this request or the decision please contact the Board quoting the reference number above. If you are unhappy with the service you have received and wish to make a complaint or request a review you should contact the Board's Chief Executive -

Via Email: foi@nipolicingboard.org.uk

Or in writing at the following address:

Northern Ireland Policing Board
James House
Block D
2 – 4 Cromac Avenue
The Gasworks
Belfast
BT7 2JA

You should contact the Board within 40 working days of this response.

If you are not content with the outcome of your complaint, you may apply directly to the Information Commission's Office (ICO). Generally, the ICO cannot investigate or make a decision on a case unless you have exhausted the complaints procedure provided by the Board. You should make complaints to the ICO within six weeks of receiving the outcome of an internal review.

The Information Commission's Office can be contacted at the following web link –

www.ico.org.uk/foicomplaints

or by:

Telephone: - 0303 1231114

Email: - ni@ico.org.uk

Please be advised that our replies under Freedom of Information may be released into the public domain via our website @ www.nipolicingboard.org.uk.

Personal details in respect of your request have, where applicable, been removed to protect confidentiality.

NORTHERN IRELAND POLICING BOARD PERFORMANCE COMMITTEE MEETING	
Meeting Date: 12 March 2026	
Paper Title:	OPONI Five-Year Legislative Review, Consultation Paper
Agenda Ref No:	Item 6.5
Lead Official:	[redacted] Human Rights & Professional Standards Manager.
Purpose of Paper:	The Police Ombudsman for Northern Ireland (OPONI) are required to undertake a review of the legislation which governs the work of the office every five years. This paper is to provide the Performance Committee with details of the consultation to enable the Board, as key stakeholders to provide a response. The consultation opened on Wednesday 4 February until Friday 3 April 2026. **ANNEX A – OPONI,** Email of 4 February; and **ANNEX B – OPONI,** Details of Consultation Proposals.
Considerations:	**(i) Resources** – in line with the allocated budget for 2025/26; **(ii) Equality** - none at this time. **(iii) Publication Status of paper** - the report may be considered for release under FOI subject to appropriate redaction. **(iv) Related Corporate Plan Objective -** (Objective B): to monitor, oversee and assess the performance of the PSNI through the Board and its Committees and ensure the delivery of Human Rights based, community focussed policing. and **(v) Related Business Plan 2025/26 Objective -** (Objective B Action i) Monitor the delivery of the 2025/26 Performance Plan in line with the 2025-2030 Northern Ireland Policing Plan.
Action Required by the Board:	Members are requested to: • **Consider** and provide feedback on the Police Ombudsman's proposals to allow officials to compile a draft Board response that will be brought to the April Board meeting for approval.

Information Paper	

BACKGROUND

OPONI are required to undertake a review of the legislation which governs their work every five years. This paper sets out the detail on this formal stakeholder consultation. Although the provisions of the legislation which is the subject of the review paper have been amended over the last two decades to give additional powers to the Police Ombudsman, there is no consolidated statute bringing this primary and secondary legislation together as a single reference point. Neither have the recommendations in the last review[1], which took place in 2020 yet been implemented.

The overall objective of this review is to create a series of recommendations which, if or when they are enacted, will provide a contemporary and effective legislative statutory duty of the Police Ombudsman to secure an efficient, effective and independent police complaints system and to do so in such manner and to such extent as appears to her to be the best calculated to secure the confidence of the public and of the police in that system.

CONTEXT

OPONI have stated that this consultation also takes place in the context of two others with relevance to the legislative and regulatory framework in which the Office operates.

Northern Ireland Policing Board (NIPB) consultation of the PSNI Code of Ethics.
NIPB has also undertaken a consultation exercise, the PSNI Code of Ethics, which closed on 10 November 2025. The Code sets out standards of conduct and practice for police officers so they are aware of the rights and obligations arising under the Human Rights Act 1998[2].

The Public Office (Accountability) Bill

[1] Review under Section 61(4) of the Police (Northern Ireland) Act 1998
[2] Human Rights Act 1998

This was introduced to the House of Commons on 16 September 2025 and its provisions are also relevant to the consultation. The Bill is intended to further the objective that the public authorities and public officials at all times perform their functions in the public interest and with candour and openness. The legislation may extend to Northern Ireland in due course.

The Bill also addresses Misconduct in Public Office, which the Police Ombudsman frequently calls when they encounter serious police wrongdoing. This is a Common Law offence which is frequently out of step and inadequate, and accordingly serious wrongdoing can escape criminal sanction. The Bill abolishes the common law offence of misconduct in public office and replaces it with two new statutory offences.

The first is a 'seriously improper acts' offence', which is committed when a person who holds public office uses that office to obtain a benefit or to cause another person to suffer detriment, knowing their behaviour is 'seriously improper'. This gives a statutory footing in an area where OPONI has had to rely on the common law offence of Misconduct in Public Office.

The second offence is a 'breach of duty to prevent death or serious injury'. This can only be committed by a person who holds public office whose role involves a duty to prevent (or prevent a risk of) another person suffering critical harm and it arises when they intentionally or recklessly breach that duty. The offence only covers situations where the public officer holder's actions fall far below the standard that could reasonably be expected in the circumstances. This new offence supports the collective duties under Articles 2 & 3 of the ECHR. This is likely to result in more police officers being subject to criminal investigation arising from their alleged failures to prevent harm.

OPONI support the removal of the common law offence of Misconduct in Public Office and believe that the two new statutory offences in the Bill, if applied to Northern Ireland, will significantly improve policing accountability and the ability of OPONI to address wrongdoing by police officers and other law enforcement agencies operating in Northern Ireland.

DETAIL

OPONI has recently written to inform the Board of its formal stakeholder consultation on a total of twenty-three proposals relating to their legislative review. The email of 4 February 2026 is attached at **Annex A** and requests a response from the Board by 3 April 2026. This paper lays out the twenty-three proposals below for consideration by Members. **Annex B** includes a paper that provides information on the twenty-three proposals, detailing what OPONI's current situation is, what OPONI propose and why OPONI believe it is important. As previously advised, some of the proposals were made in OPONI's 2020 five-year review and officials have detailed Members responses at that time and whether they were supportive or not. Some of the proposals are in line with a recent consultation regarding DOJ Misconduct, which the Board responded to. Officials have detailed the responses provided by Members to DOJ at the appropriate OPONI proposals. Officials have advised in relation to other proposals as a result of previous discussions at Performance Committee Meetings.

Recommendations from the Police Ombudsman's Review in 2020

OFFICER OF THE ASSEMBLY

Recommendation 1
That consideration be given to legislation providing that the Police Ombudsman be designated as an Officer of the Assembly.
(New recommendation in 2020)

A POLICE OMBUDSMAN ACT

Recommendation 2
The Police Ombudsman legislation be consolidated into a single Police Ombudsman Act, which is foundation legislation providing for further amendment and the ability to make supporting regulations.
(New recommendation in 2020)

CIVILIAN OVERSIGHT

Recommendation 3
That the Police Ombudsman legislation provide for disqualifications from holding the position of Police Ombudsman for persons who are or have been serving police officers.
(New recommendation in 2020)

APPOINTMENT OF AN INTERIM OMBUDSMAN

Recommendation 4
That the legislation be amended (i) to provide for the appointment of an interim Police Ombudsman and (ii) the appointment be subject to similar disqualifications as for the appointment of the Police Ombudsman.
((i) Previously in 2011 and 2018 Reviews and (ii) new recommendation in 2020.)

DEFINITION OF A COMPLAINT FROM A MEMBER OF THE PUBLIC

Recommendation 5
That the legislation should define a member of the public as a person connected to or affected by an incident or the matter complained of, which can include a police officer not acting in his or her capacity as such.
(New recommendation in 2020)

EXTENSION OF REMIT TO CIVILIAN SUPPORT STAFF AND THOSE CONTRACTING WITH THE PSNI

Recommendation 6
That the Police Ombudsman legislation be amended to permit the Ombudsman to refer to the conduct of an FMO to the GMC.
(New recommendation in 2020)

Recommendation 7
That those relevant civilians or other individuals acting on behalf of the Chief Constable or providing services to him in a contractual relationship can be the subject of a complaint or referral to the Police Ombudsman and investigation by her of that person's actions/conduct.
(New recommendation in 2020)

Recommendation 8
That any post which was previously carried out by a police officer, which is now fulfilled by police support staff and which involves contact with members of the public, should be brought within the remit of the Police Ombudsman for Northern Ireland for the purposes of complaints against those personnel and the exercise of the powers and duties under Part VII of the Police (Northern Ireland) Act 1998.
(Previously in 2007,2011 and 2018 Reviews)

ALTERNATIVE RESOLUTION OF A COMPLAINT

Recommendation 9
That the Police Ombudsman may recommend any action which she considers appropriate with a view to resolving a complaint; and that the Police Ombudsman may recommend any action in addition to or instead of investigating a complaint.
(New recommendation in 2020)

DISCRETION OF THE POLICE OMBUDSMAN TO INVESTIGATE

Recommendation 10

That the Police Ombudsman legislation provides clarification on the purposes of an investigation, which are - to ascertain whether the matter properly warrants investigation and the allegations contained in a complaint are in substance true.
(New recommendation in 2020)

Recommendation 11
That the Police Ombudsman legislation should provide a discretion for the Ombudsman to determine whether to begin, continue or discontinue an investigation in circumstances where the Police Ombudsman considers it is in the public interest to do so. These circumstances can include where it is not proportionate to investigate a complaint further, where there is no reasonably practical outcome to be achieved and where the complaint is vexatious or ill-founded.
(New recommendation in 2020)

Recommendation 12
That section 54 of the Police (NI) Act should be amended to give the Police Ombudsman discretion to decide whether a complaint which has been the subject of a failed Alternative Resolution should be further investigated. In such cases there will be a new closure category detailing the necessity of continuing or discontinuing an investigation. This decision will be made by the Police Ombudsman.
(Previously in 2007,2011 and 2018 Reviews)

MEDIATION

Recommendation 13
That the Police (NI) Act 1998 be amended to enable the Police Ombudsman to conduct mediation in appropriate circumstances to resolve a complaint, and that there be no requirement to investigate first.
(Previously in 2007, 2011 and 2018 Reviews)

POWERS TO OBTAIN INFORMATION AND DOCUMENTS

Recommendation 14
That the legislation is amended to include an obligation upon any person (natural or legal), to produce any documents in their custody or control relevant to an investigation; further that the legislation to require any person to provide for inspection, examination or testing any other thing in their custody or control. These obligations must be met within a reasonable time.
(New recommendation in 2020)

Recommendation 15
That the Police Ombudsman legislation is amended to provide power to compel officers (serving or retired), as witnesses and suspects to attend for interview and produce documents, and to do so within a reasonable time. The interviewees must be required to bring all documentation and records in their possession and control.
(Recommended in 2007, 2011 and 2018 reviews)

Recommendation 16

That the High Court be given powers to deal with obstruction by any person of a Police Ombudsman investigation, where such obstruction is in connection with an investigation.
(New recommendation in 2020)

DETERMINING A COMPLAINT

Recommendation 17
That the legislation be amended to provide for a power to 'determine' a complaint in circumstances where no criminality or misconduct has occurred but the complainant has a legitimate grievance.
(New recommendation in 2020)

CONSULTATION AND CO-OPERATION WITH OTHER POLICE OVERSIGHT BODIES AND OMBUDSMEN

Recommendation 18
That the legislation be amended to include a general provision enabling the Police Ombudsman to consult, co-operate and share information with other police accountability or oversight bodies, arm's length bodies of the Department (the Board, Criminal Justice Inspectorate) and other UK wide police accountability bodies (HMICFRS). Co-operation includes sharing information or conducting an investigation (jointly or otherwise) and the form, content and publication of a report'.
(New recommendation in 2020)

CO-OPERATING WITH OTHER OMBUDSMEN

Recommendation19
In order to address a complex regulatory landscape the Police Ombudsman should be enabled to consult with, liaise and co-operate with the following Offices where the Police Ombudsman forms the opinion that the matter may be the subject of an investigation or inquiry by that organisation.

(I) Northern Ireland Public Services Ombudsman
(I) Parliamentary and Health Service Ombudsman

Co-operation includes sharing information relating to a complaint or investigation, the conduct of an investigation and the form, content and publication of a report.
(New recommendation in 2020)

THE STATUTORY BAR ON DISCLOSURE OF INFORMATION OBTAINED

Recommendation 20
That the provisions for protecting information obtained for any of the Ombudsman's statutory functions be amended in Police Ombudsman legislation to take account of

new data sharing arrangements with other police accountability bodies and ombudsmen.
(New recommendation in 2020)

PUBLIC REPORTS AND PROTECTION OF POLICE OMBUDMSAN REPORTS

Recommendation 21
That the Police Ombudsman legislation be amended to permit reports on referrals from the Director of Public Prosecutions and the Secretary of State.
(New recommendation in 2020)

Recommendation 22
That the Police Ombudsman has a discretion to publish any reports on investigations and the exercise of her functions when it is in the public interest to do so.
(New recommendation in 2020)

Recommendation 23
That if Police Ombudsman legislation is amended to provide a general power to publish reports, the Ombudsman ought to be required also to take account of the rights and interests of the complainant, police officer(s) and any other person when publishing a report.
(New recommendation in 2020)

Officials would welcome Members views and comments on the twenety-three new proposals in order to compile a final Board response to the consultation.

RECOMMENDATION

Members are requested to;

- **Consider** and provide feedback on the Police Ombudsman's proposals to allow officials to compile a draft Board response that will be brought to the April Board meeting for approval.

PERFORMANCE DIRECTORATE
March 2026

CM664545

NORTHERN IRELAND POLICING BOARD BOARD MEETING	
Meeting Date: 4 September 2025	
Paper Title:	DOJ Consultation on Legislative Proposals Relating to Police Officer Misconduct Matters
Agenda Ref No:	Item 6.2
Lead Official:	Director of Performance, Adrian McNamee
Purpose of Paper:	The DOJ has previously consulted with the Board on potential changes to the Police Officer Misconduct processes. The Board responded to the initial stakeholder consultation in May 2024. DOJ has now considered the responses and has launched a formal stakeholder consultation on a total of nineteen proposals for reform. This paper sets out the proposed request from the Department and how the Board should respond. Details are also contained within the Annexes as below: **ANNEX A –** Letter 31st July 2025 from DOJ to the CEO re: Legislative Proposals Relating to Police Officer Misconduct Matters; **ANNEX B –** Legislative Proposals Relating to Police Officer Misconduct Matters Policy Paper; and **ANNEX C –** Draft Board Response to the Consultation.
Considerations:	**(i) Resources** – official's time to complete the Board response; **(ii) Equality** - none at this time. **(iii) Publication Status of paper** - the report may be considered for release under FOI subject to appropriate redaction. **(iv) Related Corporate Plan Objective -** (Objective B): to monitor, oversee and assess the performance of the PSNI through the Board and its Committees and ensure the delivery of Human Rights based, community focussed policing. and **(v) Related Business Plan 2025/26 Objective -** (Objective B Action i) Monitor the delivery of the 2025/26 Performance Plan in line with the 2025-2030 Northern Ireland Policing Plan.

Action Required by the Board: **Decision Paper**	Members are requested to: • **Consider** and provide feedback on the DOJ's Legislative Proposals Relating to Police Officer Misconduct Matters; and • **Approve** to delegate to the Performance Committee to agree the final Consultation Response which is to be submitted to DOJ by Thursday 2 October 2025.

BACKGROUND

Over the last three years the Board has discussed and identified a number of changes to the current police officer misconduct regulations. The Board published a number of these in its Review of PSNI Professional Standards, Recommendations for Improvement, which was published in November 2022[1]. The Department of Justice and PSNI have also been considering changes in this area.

In May 2024, the Board participated in a process where initial stakeholders were invited to give their views on the issues being considered. During that exercise views were sought on seven proposals, all of which require legislative change. After reviewing the responses, the Department have now launched a formal stakeholder consultation on a total of nineteen proposals for reform, which incorporate the original seven and an additional twelve proposals from the PSNI.

This paper sets out the detail on this formal stakeholder consultation.

DETAIL

The DOJ has recently written to inform the Board that it is launching a formal stakeholder consultation on a total on nineteen proposals relating to Police Officer Misconduct matters. This letter of 31st July 2025 is attached at **Annex A** and requests a response from the Board by 2nd October 2025. The letter also includes two further attachments. At **Annex B** the Department includes a paper that provides information on previous

[1] https://www.nipolicingboard.org.uk/publication/professional-standards-review-recommendations-improvement

stakeholder views and moving now to this formal stakeholder consultation. The Department states that this,

> *"Consultation will include a total of nineteen reform proposals, seven of which were subject to the initial exercise, alongside twelve further proposals submitted during the initial stakeholder view process."*

The Department's paper outlines in detail each of the nineteen proposals providing the origin of each proposal, the current position and potential effect of change. In the previous consultation, the Board had agreed a position on the first seven of these proposals in the areas of:

1. Chairing Misconduct Hearings – Disciplinary panels to be chaired by a legally qualified chairperson (LQC) with the remainder of the panel consisting of a lay person and police representative.
2. Criminal Proceedings – Amend Section 59(3) of the Police (NI) Act 1998 to remove the requirement for the Police Ombudsman to wait for criminal proceedings to conclude before issuing a memorandum relating to progress of discipline.
3. Misconduct Hearings in Public – Police disciplinary or appeal hearings to be held in public, where it is in the public interest to do so.
4. Vetting – Introduction of a secondary legislative amendment to allow a bespoke mechanism to dismiss officers who fail in-service vetting.
5. UK Barred and Advisory Lists – Individuals dismissed from the PSNI for gross misconduct and individuals who resign or retire while subject of gross misconduct proceedings to be added to the UK barred and advisory lists respectively, which are maintained by the College of Policing.
6. Former Officer Misconduct Proceedings – Individuals who have chosen to resign or been granted permission to retire while subject of a misconduct process can either return to conclude the process or it can be concluded in their absence.
7. Joint Misconduct Proceedings – Two or more cases relating to the same matter or incident, and which relate to more than one officer may be referred to a joint misconduct hearing.

The additional twelve proposals represent changes that would align with the equivalent Police Conduct Regulations in England and Wales and have been proposed by the PSNI. For the most part they are process driven constituting suggested improvements

to the existing procedures. The Board has not previously discussed or agreed a position on these proposals. They are:

8. Ability for the Appropriate Authority (AA) to be legally represented by a relevant lawyer at a misconduct hearing or special case hearing, whether or not the member chooses to be so represented. ("appropriate authority" means (a)where the member concerned is a senior officer, the Board; (b) in any other case, the Chief Constable). [Source: E&W Reg 8/PSNI response]

9. Ensuring the unavailability of one or more preferred lawyers is not a valid ground for delaying a misconduct hearing or special case hearing. [Source: E&W Reg 8/PSNI response]

10. Ability to serve misconduct papers via a police friend or an agreed 3rd party. [Source: E&W Reg 9/PSNI response].

11. Direction regarding the scheduling of misconduct interviews and the ability to direct a member to remain until the conclusion of the interview. [Source: E&W Reg 20/PSNI response].

12. The inclusion of "Reflective Practice review process" as an available outcome of the misconduct process. [Source: E&W Part 6/PSNI response].

13. The ability for investigators to submit a closing report in light of new evidence, during the investigation. [Source: E&W Reg 21/PSNI response].

14. Clarification regarding the roles and obligations of the Chair of misconduct hearings. [Source: E&W Reg 29/PSNI response].

15. Obligations on investigators regarding disclosure. [Source: E&W Reg 30/PSNI response].

16. Process for misconduct pre-meetings. [Source: E&W Reg 33/PSNI response].

17. Ability to extend the period a Final Written Warning remains in force up to a maximum of 5 years. [Source: E&W Reg 42/PSNI response].

18. Ability to define the period after a "Reduction in Rank" sanction during which the member will be barred from applying for promotion. [Source: PSNI response].

19. The inclusion of a revised Code of Ethics as a schedule to the Conduct Regulations. The Board is currently reviewing the Code of Ethics. The public consultation commenced on 18 August until 10 November 2025 and it is envisaged that the Codes will be published in 2026.

Within the Consultation documentation, there is a template for the Board to provide a response to the Department on these 19 proposals. Officials have populated the first seven areas with the Board's previously agreed position and this is attached at **Annex C.**

Officials would welcome Members views and comments on the twelve new proposals in order to compile a Board response to the consultation. Officials will compile the draft and table a draft consultation response at Performance Committee next week (11th September) for approval in order to meet the Department's deadline for a response by 2nd October 2025.

RECOMMENDATION

Members are requested to;

- **Consider** and provide feedback on the DOJ's Legislative Proposals Relating to Police Officer Misconduct Matters; and
- **Approve** to delegate to the Performance Committee to agree the final Consultation Response which is to be submitted to DOJ by Thursday 2nd October 2025.

PERFORMANCE DIRECTORATE
September 2025

CM636724

Annex C

Our ref: FOI 41/2026

Extract from Chief Executive correspondence to the Justice Committee dated 9 May 2025 in relation to follow up to Justice Committee evidence on new bill.

Privacy and Policing/ Biometrics

As mentioned during the evidence session, the Board published a **'Privacy and Policing Report'** in June 2023. This review made 6 recommendations. The report is an ambitious piece of work and the first of its kind for policing in Northern Ireland and elsewhere. It attempts to highlight how important the right to privacy is and its continued significance as policing and surveillance technologies become more and more sophisticated.

It examined a wide range of topics that demonstrate how policing and privacy impact on each other, including access to databases, biometric data collection and use, artificial intelligence, digital forensics, and data protection. It covered both how PSNI powers to investigate crime and protect the public impact on the right to privacy, and the systems of governance, control and regulation in place to prevent abuse of this important right.

Pages 30-40 of the Report deal specifically with the issue of Biometric Collection, Searching and Retention and as referenced in the evidence given, clarifies the definition of material that falls with the biometric category.

A pdf of the Report has been attached and it can also be found on the Board's website here: Human Rights Review of Privacy and Policing

Annex D

Our ref: FOI 41/2026

Extract from Chief Executive opening remarks for Justice Committee hearing on 1 May 2025

BIOMETRICS RETENTION

- Turning to biometrics retention and the other parts of the Bill we have commented on, the Board has recently agreed a policing plan which is all about PSNI being victim, community and workforce focussed and so support much of the contents of the Bill.

- On the specifics we have indicated in our submission the Board's support for a Biometric retention regime. This is an issue our Human Rights Advisor has raised in numerous annual reports noting the need for legislative change in this area.

- As the main accountability body for PSNI we want to ensure there is a legal framework in place for biometrics retention but the Board has not sought to comment on the specific framework that has been proposed in the Bill as it wouldn't be within our competence to do so.

- We do note however that it represents a graduated response and that account will be taken of type of offence, outcome and age of individual.

- We know PSNI are keen to work with the Committee, the Justice Department and stakeholders to deliver on the terms of the Bill in a way which maintains and builds confidence in policing. I will come back to implications of the Bill in a moment.

- Finally on this section the Board also supports the concept of a Biometrics Commissioner for Northern Ireland. We have, through successive human rights reports, called for this as we consider that there needs to be independent scrutiny of the retention system - a need for an independent office to provide public assurance and confidence that the system for the acquisition, retention, use and destruction of biometric data for criminal justice and police purposes is lawful, effective and ethical.

- If it would help the Committee we can send extracts from our Human Rights reports that relate to this matter. They provide, for a non-operational person, a summary of the processes used in obtaining biometrics and the databases on which they are held. The Committee may already be aware of this or have received this information from PSNI but if not we can share it.

Annex E

Our ref: FOI 41/2026

Extract from Justice Committee lines to take May 25

BIOMETRIC RETENTION

The provisions in the Bill will make changes to domestic law which contain the component parts necessary to comply with the findings of the *Gaughran v UK* judgment by:

- replacing indefinite retention with maximum retention periods for biometric data in Northern Ireland, based on age, severity of offence, and disposal/sentence;
- the introduction of a requirement for a review of long term retained material;
- the introduction of a provision for convictions outside the United Kingdom to be treated in the same way as Northern Ireland convictions; and
- the introduction of a provision to extend the role of the Northern Ireland Commissioner for the Retention of Biometric Material."

BIOMETRICS

- As the main accountability body for PSNI the Board supports a new HR compliant Biometric retention regime.
- This is an issue our Human Rights Advisor has raised in numerous annual reports noting the need for legislative change in this area.
- We also support a Biometrics Commissioner for Northern Ireland. Important to have independent scrutiny to provide confidence

where is balance between crime prevention/detection and infringement of rights.

- Will want to consider how we build oversight of the arrangements into our HR monitoring work.

- These arrangements together are important parts of ensuring confidence in policing and the justice system.

- **Photographs** -wasn't debated by Board, but understand it is considered biometric material by PSNI and yes that it would therefore be included. Also flags an issue re future proofing the bill – it covers DNA, fingerprints, and now potentially photographs, but what next?

- **Biometric data from people under 18** if they are arrested for violent or sexual offences or otherwise by exception is not something Board has a position on.

- We want to understand and discuss further with PSNI the technical, training and resource implications of the changes.

[appointment of an **Investigatory Powers Commissioner** . Can you outline the requirement for a local Commissioner and what powers should they hold ? John can you give us few bullets on this?

PRIVACY AND POLICING REPORT: OVERALL RECOMMENDATION:

- There should be an open and public debate about data driven technology in policing including developments in and use of Artificial Intelligence and Algorithms, Biometrics, Digital Forensics, Surveillance, and Investigatory Powers.

- PSNI should aim to become an organisation driven by effective and efficient use of data in an ethical way. The ethical use of data is about responsible and trustworthy use of data to ensure public trust and confidence rather than constraining its potential.

PRIVACY AND POLICING: LINES TO TAKE

- The world is changing rapidly and police need to have access to new technology that can help in the fight crime and increasing sophistication of criminals and the types of criminality. But there has to be appropriate data use and appropriate oversight.

- This is not just a conversation about policing and technological change, there needs to be a broader conversation in Northern Ireland about democratic oversight of these technologies, such as CCTV, facial recognition, mobile extraction, intrusive surveillance.

- Right now, these technological developments are largely driven by Home Office and Westminster and a Northern Ireland perspective is lacking – **this is what the Board suggested that need to be developed and there was a recommendation within the 2023 Report for locally appointed Commissioners**.
- Right to privacy will become even more important in the future as AI develops, as policing and surveillance techniques become more sophisticated. **This is about policing acting ethically in law enforcement.**

- **McCullough review** is ongoing and we expect to receive the **report in September 2025**.

- Role of Board 'oversight': we have a Human Rights Advisor who provides expert advice and guidance. The issues around biometric retention has been

reported on since 2019.

- PSNI continue to hold biometric data (fingerprints, photographs, and DNA profiles) on hundreds of thousands of people in Northern Ireland unlawfully and has been doing so since 2008. This is despite the fact that the Assembly drafted legislation to deal with this issue a few years ago (although never implemented). In addition to legislation being brought through the Assembly, PSNI has also advised that **the Inaugural meeting of the PSNI Justice Bill (Biometric Retention) Project Board will take place on 12th March 2025**.[1] (did this happen?? – UNDERSTAND ACC MCNALLY PLANS TO HOST IT IN NEXT TWO WEEKS)

[1] Correspondence from the Deputy Chief Constable, 20 February 2025.

PRIVACY AND POLICING RECOMMENDATIONS

1. PSNI and the Board agree a Memorandum of Understanding (MoU) to ensure early visibility and oversight of any new strategy, policy or practice under consideration by PSNI. The MoU would cover all novel deployment, use of technologies and focus on human rights, privacy, ethical and equality considerations alongside any issues having an impact on public perception or confidence. This MoU should be in place by November 2023.

2. The Policing Board and PSNI should hold a round-table in January 2024 with key external stakeholders to examine the developments in data-driven technology in policing, its value and the need for effective governance. Stakeholders might include the Minister of Justice, the Department of Justice, Information Commissioner's Office, the Police Ombudsman of Northern Ireland, the Northern Ireland Human Rights Commission, the Equality Commission of Northern Ireland, the Attorney General, local academics, human rights NGOs and key voluntary sector organizations.

3. Once a year, starting in November 2023 PSNI should present to the Performance Committee an update on developments in data driven technology including what systems have been implemented, what systems are being considered. This should include how those system assist PSNI with objectives, the human rights implications and any additional necessary governance arrangements.

4. By January 2024 the PSNI should develop a Data Ethics Governance Framework to ensure policing is driven by effective and efficient use of data in an ethical way.

5. By April 2024 PSNI should produce a Data Ethics Strategy engaging with external stakeholders and the wider public on the value of data driven technology, its development and use and how ethical and privacy safeguards will be effectively addressed.

6. The PSNI should give more immediate consideration to the following specific issues:

   a. The PSNI should set out its current use and future proposals on facial recognition systems in a special report to the Policing Board. Any proposals should consider the protections that the Metropolitan Police and other police forces are likely to put in place. This should also include privacy, equality and human rights impact assessments and the PSNI's plans to consult the public on its proposals.

   b. The Policing Board should invite the Biometric and Surveillance Camera Commissioner to visit Northern Ireland and to give evidence about his work generally and particularly his assessment of the PSNI and the issues more generally in Northern Ireland.

   c. As there is currently no College of Policing guidance available around artificial intelligence systems the PSNI should develop both internal guidance and a public facing document that explains PSNI's approach to the technology.

   d. The PSNI should consider using and adapting the Home Office's proposals for maintaining public trust[2] in CCTV systems by:

      i. Undertaking Data Protection Impact Assessments (DPIAs) prior to the use of a new biometric technology or a new application of an existing biometric technology, inviting scrutiny from an independent ethics panel, regulators and the Board

      ii. As a matter of transparency, PSNI should publish all their Data Protection Impact Assessments and their Privacy Impact Assessments

      iii. Follow all the relevant Codes including Surveillance Camera Code of Practice

[2] Biometrics Strategy: Better public services Maintaining public trust, Home Office, June 2018.

iv. Consider the findings of the Home Office's Custody Image Review and ensure that the Commissioner's and ICO's guidance on the use of images is followed.

e. In view of the fundamental issues of ECHR compliance with the continued retention of biometric samples by the PSNI it is essential that there is a Biometric Commissioner for Northern Ireland. This would also be an opportunity to appoint an Investigatory Powers Commissioner for Northern Ireland.

f. Given the fact that there is almost no public information available on how to challenge the retention of DNA and other identity data held by the PSNI, the PSNI should consider how to increase public awareness of the procedures.