

**NORTHERN IRELAND POLICING BOARD**

**MINUTES OF A MEETING OF THE PERFORMANCE COMMITTEE MEETING  
HELD ON 13 FEBRUARY 2020 at 10.00, WATERSIDE TOWER**

<b>PRESENT:</b>		Mr Mervyn Storey, Chairperson
		Prof. Brice Dickson, Vice Chairperson
	<b>1</b>	Mrs Joanne Bunting
		Mr Gerry Kelly
		Ms Liz Kimmins
		Mrs Dolores Kelly
		Dr Tom Frawley
	<b>2</b>	Mrs Debbie Watters, Board Vice-Chair
<b>POLICE FEDERATION</b>	<b>3</b>	Mark Lindsay, Chairman
<b>FOR NORTHERN IRELAND</b>	<b>3</b>	Damian Walsh, H&S Co-ordinator
<b>IN ATTENDANCE:</b>		
<b>POLICE SERVICE OF</b>	<b>4</b>	D/Chief Superintendent Paula Hilman
<b>NORTHERN IRELAND IN</b>	<b>4</b>	D/Superintendent Anne Marks
<b>ATTENDANCE:</b>	<b>4</b>	1 PSNI Official
<b>OFFICIALS IN</b>		Ms Jenny Passmore, Director of Performance
<b>ATTENDANCE:</b>		Five Board Officials
<b>HUMAN RIGHTS ADVISOR:</b>	<b>5</b>	Mr John Wadham

- (1) Item numbers: 4 to 10**
- (2) Item numbers: 4 to 6.2**
- (3) Item number: 6.1**
- (4) Item number: 6.5**
- (5) Item numbers: 1 to 6.3**

## 1. APOLOGIES

Apologies were received from Dr Paul Nolan, Mr Keith Buchanan and Mr Alan Chambers.

The Committee agreed the agenda for the meeting.

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

## 2. CONFLICTS OF INTEREST

The Chairperson declared a conflict at Agenda Item 5.1 and members agreed that the Deputy Chair would preside over that item.

## 3. DRAFT MINUTES OF MEETING OF THE PERFORMANCE COMMITTEE

The Committee considered the minutes of the meetings held on the 17 December 2019. The Director of Performance requested that the wording in the draft minutes at Agenda Item 4.2 be amended from:

“The Committee considered the PSNI written response in relation to the implementation of a new approach to PSNI’s human rights compliance. The Deputy Chief Constable welcomed the Board’s new oversight approach and **showed** a commitment to working with the Board’s Human Rights Advisor to develop the new reporting requirements.”

to

“The Committee considered the PSNI written response in relation to the implementation of a new approach to PSNI’s human rights compliance. The Deputy Chief Constable welcomed the Board’s new oversight approach and **gave** a commitment to working with the Board’s Human Rights Advisor to develop the new reporting requirements.”

Members were in agreement with the change in wording and to the content of the remaining draft minutes.

It was therefore:-

**RESOLVED:-**

That the draft minutes of the Performance Committee meetings held on the 17 December 2019 were agreed with the recorded amendment.

#### **4.0 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 matters to be brought back to the Performance Committee.

The Director of Performance reported on AP3 from 17 December 2019's meeting - *"That the PSNI's Code of Ethics should be brought to the next Committee meeting and that the Board's Human Rights Advisor deliver a report on his proposed changes to PSNI's draft document"* Unfortunately the item had to be removed from the agenda as the relevant information from PSNI had not been received within the required timeframe.

The Director of Performance reported that Officials had taken steps to escalate the matter within PSNI's command due to the number of delays in providing a full draft.

Committee Members discussed their concerns in the delay in the provision of the Code of Ethics and what actions were available for the Board to progress the issue.

It was:-

**AGREED:-**

To write to PSNI expressing the Members disappointment at the delay in providing the information in a timely manner and highlight the expectation that the Code of Ethics document should be provided to Officials at the earliest opportunity. **(AP1)**

#### **4.1 PSNI RESPONSE TO THE HUMAN RIGHTS ANNUAL REPORT 2016/17 RECOMMENDATIONS (AP7 12 OCTOBER 2019)**

The Committee considered the PSNI response to the proposed recommendations within the Human Rights Annual Report 2016/17. PSNI have agreed in principle to accept all the recommendations, however, it was highlighted that some will require collaboration with other agencies in order to achieve implementation.

It was:-

##### **AGREED:-**

To write to PSNI seeking an update on the recommendations outlined in the Human Rights Annual Report 2016/17 and request that the information is available for the Human Rights Annual Report for 2019/2020. **(AP2)**

#### **4.2 NATIONAL CRIME AGENCY (NCA) RESPONSE ON THE REVISION OF THE MEMORANDUM OF UNDERSTANDING (AP15 14 NOVEMBER 2019)**

The Committee considered the NCA written response in relation to their requested amendments to the Memorandum of Understanding (MoU). The Director General of the NCA confirmed acceptance of the Board's proposals and had signed the amended MoU.

#### **4.3 PSNI RESPONSE REGARDING BRXT CLOSING CODE IN RELATION TO HATE CRIME (AP1 17 DECEMBER 2019)**

The Committee considered the PSNI response of their rationale as why the BRXT closing code was not used in an incident of hate crime mentioning BREXIT and to the example of when BRXT may be applied.

Members agreed that PSNI had provided sufficient information to address the issues raised.

#### 4.4 PSNI RESPONSE TO THE PROPOSED INTRODUCTION OF SPIT AND BITE GUARDS (AP6 14 NOVEMBER 2019)

The Committee considered the PSNI responses to 7 separate points raised by Members following the briefing provided by ACC Todd and his colleagues on 14 November 2019.

The responses related to the following issues:-

- Guidance for officers in their use;
- Age restriction;
- Alternatives;
- Equality Impact Assessment;
- Reputational damage for PSNI;
- Use of Force; and
- Evidence from other forces regarding the contraction of disease following a spit and/or bite.

Members accepted that PSNI have a duty of care to provide their officers with a safe working environment however they must ensure that such an item could not be abused and that vulnerable groups are protected with safeguards supported in a robust service instruction that as yet has not been developed. The Committee agreed that further information would be required on what they see as a novel and contentious issue and that the Board should be included in any PSNI decision prior to any proposed implementation.

Following discussion it was:-

**AGREED:-**

To write to PSNI to ask for an in-depth analysis on the overall evidential base used in their proposals to introduce spit and bite guards. **(AP3)**

## 5.0 CHAIRPERSON'S BUSINESS

### 5.1 POST OPERATIONAL REVIEW OF APPRENTICE BOYS OF DERRY PROCESSION – DERRY/LONDONDERRY – 10 AUGUST 2019

The Director of Performance provided Members with a letter that was received from the Chief Constable to the Chair of the Policing Board in response to questions raised at September's Board meeting on the policing operation of the Apprentice Boys of Derry Procession, 10 August 2019. The letter advised that the Chief Constable commenced an independent review of the policing operation of the event by Police Scotland. The resulting report on the review, which was protectively marked and not available to Board Members, made eight recommendations which were subsequently accepted by PSN.

The letter was considered at the Board meeting on 6 February 2020 and the Board Chair asked that it was tabled at Performance Committee for further consideration.

The Board's Human Rights Advisor informed Members that he had viewed the full Police Scotland report and indicated that it had been a robust review from a police perspective and that the recommendations were appropriate. However the Advisor indicated that he was not in a position to provide a view on the human rights considerations as he did not view the information that Police Scotland had when conducting the review.

Members discussed the feedback from the Human Rights Advisor and indicated that the Chief Constable's letter and Police Scotland's recommendations did not contain sufficient detail on the matter.

Following discussion it was:-

#### **AGREED:-**

For the Human Rights Advisor to review the information that was provided to Police Scotland in respect of the of the Apprentice Boys of Derry Procession.**(AP4)**

## **6.0 ITEMS FOR COMMITTEE BUSINESS**

### **6.1 PROPOSED INTRODUCTION OF SPIT AND BITE GUARDS**

The Chair welcomed the Police Federation Northern Ireland (PFNI) Chairman Mr Mark Lindsay and Health and Safety Co-ordinator Mr Damian Walsh to the meeting and invited them to brief Members on the Federation's view of PSNI's proposal to introduce spit and bite guards.

The Federation Officials provided a presentation and their views supporting the proposed introduction of spit and bite guards. The main concern for the PFNI the protection of their officers and that Chief Constable is bound under the Health and Safety at Work Act 1974 to provide this protection. The relevant legislation in NI is Health & Safety at Work (Northern Ireland) Order 1978.

Members were provided with information on the risks to officer health and safety following assault by spitting/biting; the use of spit and bite guards by all UK police services, including Scotland and all 43 forces in England and Wales; and information on the 'Spit Guard Pro' model in use by the Metropolitan Police. The PFNI feel that spit and bite guards are the only viable tactical option available for officers; contending that spitting is a foreseeable hazard in the risk assessment for policing which requires a control measure. It was advised that spit incidents cause a negative impact psychologically on members and their families which can result in periods of prolonged sickness. The PFNI emphasised an officers' right to adequate protection and, by not supplying the guards, it could be seen to breach the Personal Protective Equipment at Work Regulations 1992. The PFNI also advised they are currently supporting a number of officers with legal claims.

The PFNI Officials answered a number of queries raised by members and including the recognition that this is a use of force and therefore requires justification. PFNI Officials were supportive of OPONI to reviewing any incident in which a spit and bite guard has been used.

On a separate note Members confirmed their support for Peadar Heffron in the recent abhorrent anti-PSNI posters bearing his image. The Police Federation were asked to convey the message of support from Committee Members to their colleague.

The Chair thanked the Federation Officials for their attendance and they left the meeting.

## **6.2 PSNI RESPONSE AND STATISTICAL BULLETIN ON STOP AND SEARCH (AP1 27 NOVEMBER 2019)**

A Board Official delivered a paper asking Members to note the correspondence and information provided. Members were reminded that following the meeting of the Performance Committee on 27 November 2019 there has been engaged with PSNI on a number of key issues to which some answer PSNI provided a detailed response on 3 January 2020.

Key issues summarised included:

- Stop and Search Service Instruction;
- Supervision and Monitoring;
- Body Worn Video;
- Record Keeping;
- Children and Young People;
- Monitoring of Community Background;
- Reports by Dr John Topping;
- Guidance on PSNI's STOP system; and
- PSNI Proposal to change Statistical Reports.

It was:-

**AGREED:-**

To write to PSNI to seek further clarification on a number of key issues that they had addressed in the previous correspondence regarding PSNI Stop and Search dated 3 January 2020. **(AP5)**



### 6.3 HATE CRIME LEGISLATIVE REVIEW – DRAFT CONSULTATION PROCESS

The Committee considered a paper for a response to the consultation of the independent review from Judge Desmond Marrinan on Hate Crime Legislation in Northern Ireland.

Judge Marrinan had provided a presentation to the Board in October 2019. At that time Members considered that, while the Board is not a delivery body, it was agreed that they would respond to the Consultation to provide assurance, support and commitment to the principles set out in the consultation into the review of Hate Crime in Legislation in Northern Ireland through the Board's oversight role of PSNI.

Members discussed the information available and the how hate crime should be prosecuted and the need for legal definitions to raise awareness for this specific type of crime.

It was:-

**AGREED:-**

To provide a draft letter of response and recommend to the Board that it is issued by the Board Chair. **(AP6)**

### 6.4 UPDATE ON THE POLICING PLAN 2019/20

- **Child Sexual Abuse and Exploitation (CSAE); and**
- **Children who go missing.**

A Board Official presented the paper highlighting the analysis of the work relating to PSNI performance against the Policing Plan 2019/20 in regards to CSAE and Children who go missing.

Members were provided with statistics that included –

- In 2018-2019 there was a decrease in missing children reports compared to the 2017-2018 figures, and
- Crimes committed against children have increased and become more harmful as over 25% of crimes against children in 2018-2019 were sexual offences. There has also been a steady increase in reporting of rape, sexual grooming and other sexual offences involving children over the last three years.

Members were asked to give attention to a number of key issues identified throughout the analysis of the report that they may require PSNI to address.

These included –

- Clarity surrounding thresholds for a young person to be deemed to be at risk of CSAE;
- The changing nature of CSAE and the surge in online offences, and how effective PSNI are at addressing this type of online criminality;
- To request further information from PSNI in regards to the number of subsequent arrests or prosecutions through Child Abduction Warning Notices (CAWNs) and the reason that a CAWNs have been considered, but not issued; and
- Members were asked to note that improvements were evident as a result of PSNI policies and practice, which included closer co-operation and strong working relationships between PSNI and Social Services that has allowed for greater and easier exchange of information to appropriately identify young persons at high risk as well as ensuring that safeguarding information is passed effectively and efficiently in a timely manner through daily communication with Social Services.

Following discussion it was:-

**AGREED:-**

To write to PSNI and ask for additional information and clarity in regards to their approach and issues identified following the analysis of PSNI performance against CSAE and Children that go missing. **(AP7)**

## **6.5 PSNI RESPONSE TO THE IMPLEMENTATION OF THE RECOMMENDATIONS WITHIN THE GILLEN REVIEW INTO THE LAW AND PROCEDURES IN SERIOUS SEXUAL OFFENCES IN NORTHERN IRELAND**

A Board Official presented the paper to provide Members with an overview of the Gillen Review Report into the law and procedures in serious sexual offences in NI published on 9 May 2019.

Summaries were provided for the key areas identified for PSNI review, of which PSNI identified 30 recommendations specifically for them, under the themes of –

- Delay;
- Disclosure;
- The Voice of the Marginalised Communities;
- The Voice of the Child; and
- Training.

Members were asked to note the information within the paper to inform them for their discussion with PSNI who would be in attendance.

The Chair welcomed Detective Chief Superintendent Paula Hilman, Detective Superintendent Anne Mark and invited them to brief members on the PSNI response to the Gillen Review Recommendations.

D/C Supt Hilman provided a presentation to members, highlighting PSNI's approach to implementation. D/C Supt Hilman is the Gillen Champion for PSNI and is responsible for PSNI's accountability and governance of the implementation of the Review's recommendations across three Departments. A breakdown of the work streams undertaken by each Department includes –

- Crime Operation Department
  - Public Protection action Achieving Best Evidence, Child Abuse Interview Unit and Digital Material recommendations;

- Innovation and Standards Department
  - Criminal Justice action Disclosure and File Quality recommendations;
  - Policing in the Community action Marginalised Communities recommendations;
- Operational Support Department
  - Statistics action Statistics for Marginalised Communities; and
  - Police College action training recommendations including Investigative Mind Set Training and Digital Investigative Training.

Members were provided with an update on PSNI's current status in implementation of their recommendations. To date they have completed 5 of the 30 recommendations identified with work ongoing on the remaining 25 recommendations.

Following the presentation Members and PSNI engaged in discussion covering a variety of issues including -

- PSNI are working with colleagues in PPS to identify weakness and improve processes to provide better outcomes;
- PSNI are committed to carry on from the successful children and young people pilot driven by Judge Smith for the fast tracking of cases involving victims under the age of 13 until September 2020;
- Improvement in equipment with more robust checks for existing stock and adapting systems to be more compatible with Courts;
- Change to the recruitment process for Public Protection staff with officers now personally applying to join the branch; and
- Wellbeing of staff working in the Public Protection Unit and the measures PSNI have in place support staff working in this challenging environment.

The Chairman thanked PSNI for their attendance and they left the meeting.

## 7.0 QUESTIONS FOR THE CHIEF CONSTABLE

Members were reminded that there were no questions submitted to the Chief Constable following the Performance Committee meeting on 17 December 2019.

Members **agreed** to ask the Chief Constable the following questions:

### Biometric Retention

What would the implications of the recent European Court of Human Rights Judgement regarding PSNI's retention of Mr Gaughran's data as a violation mean for the retention of biometric evidence held by PSNI? Furthermore, when will PSNI be in a position to publish their policy on retention of biometric materials?

### Spit and Bite Guard

A member indicated that they wished to raise a question regarding Spit and Bite Guards with the Chief Constable during the private session of the next Board meeting.

## 8.0 COMMUNICATION ISSUES

Members were asked to consider if there were any communications issues arising from the meeting. No communications issued were raised.

## 9.0 ANY OTHER BUSINESS

There was no other business.

## 10. DATE OF NEXT MEETINGS

It was agreed that the next meeting would take place on Thursday 12 March 2020 at 10.00am in Waterside Tower.

The meeting closed 1.55pm.