

NORTHERN IRELAND POLICING BOARD**MINUTES OF A MEETING OF THE PERFORMANCE COMMITTEE HELD ON
14 JANUARY 2021 AT 10.00AM VIA VIDEO CONFERENCING FACILITY****PRESENT:**

Mr Mervyn Storey, Chair

Mr Edgar Jardine

Ms Deirdre Toner

Mr Trevor Clarke

(1) Mrs Dolores Kelly

Mr Gerry Kelly

Ms Liz Kimmins

Mr Mike Nesbitt

Ms Joanne Bunting

**EX-OFFICIO MEMBERS IN
ATTENDANCE**

Mr Tom Frawley, Board Vice-Chair*

**POLICE SERVICE OF
NORTHERN IRELAND IN
ATTENDANCE****(2)** ACC Barbara Gray**(2)** Chief Supt Lindsey Jeapes**(2)** PSNI staff member**OFFICIALS IN
ATTENDANCE:**

Amanda Stewart, Chief Executive

Mr Adrian McNamee, Director of Performance

Six Board Officials

HUMAN RIGHTS ADVISOR:

Mr John Wadham

(1) Item numbers: 1 to 6.4**(2) Item number: 6.1**

1. APOLOGIES

An apology was received from Ms Carmel McKinney.

The Committee Chairperson, Mr Mervyn Storey, extended sincere sympathies on behalf of the Committee Members to Ms McKinney and her family circle on the recent bereavement of her father.

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”.

A Member declared that they would like to discuss PSNI officers’ rights to enter properties under current COVID legislation with the Board’s Human Rights Advisor especially with mixed and confusing messages coming from The Executive and PSNI.

The Chair indicated that the Committee would consider this item straightaway and Members engaged with Mr Wadham in respect of the human rights implications for PSNI officers entering premises including:-

- If a warrant is required;
- If officers can enter home on suspicion;
- That officers can ask for owner/occupants permission to enter; and
- The use of Prohibition Orders.

Members agreed that there was a requirement for clarity as PSNI’s lead official and the Police Federation have conflicting attitudes with the legislation, however an upcoming challenge through the court system may provide some transparency.

Following discussion it was:-

AGREED:-

To write to ACC Todd requesting an explanation as to why PSNI consider that they have the powers to enter properties and copy the Justice Minister into this correspondence.

(AP1)

2. CONFLICTS OF INTEREST

No conflicts of interest were declared.

3. DRAFT MINUTES OF MEETING OF THE PERFORMANCE COMMITTEE

The Committee considered the minutes of the meeting held on the 10 December 2020 and agreed the minutes.

It was therefore:-

RESOLVED:-

That the draft minutes of the Performance Committee meetings held on the 12 December 2020 were agreed.

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. **NOTED.**

The Board's Human Rights Advisor, Mr Wadham, updated Members that he had as per AP9 from their meeting held on 10 September 2020 now visited with PSNI's team that operate Small Unmanned Aircraft. He had viewed the 'drone-type' devices and engaged in discussion with PSNI about what type operations they may be used for and examined privacy issues including collection, storage and use of data.

Following his update and discussion with Members it was:-

AGREED:-

For the Board's Human Rights Advisor to bring a paper on Small Unmanned Aircraft (SUA) back to a future Committee meeting when he has received all information including the Service Instruction and the Privacy Impact Assessment, with future correspondence to address the Equality Impact Assessment for SUA's.

Officials will also explore the possibility to arrange a site visit and demonstration for Members after the pandemic restrictions come to an end. **(AP2)**

A Member raised his concern in respect of AP5 from 10 December 2020 that was correspondence to PSNI for further information on Mental Health Courts. This included the labelling and that the initiative did not seem to be mainstreaming with criminal justice system. **NOTED**

Members discussed the updates on AP6 and AP7 from the meeting held on 10 December 2020 both in relation to the CHIS (Covert Human Intelligence Sources) Bill. The Director Performance provided a summary on information held on CHIS mainly from the Human Rights Annual Reports for 2016/17.

The Human Rights Advisor gave an update of the Bill's current position within the House of Commons and the House of Lords and the proposed amendments. Members raised concerns including the potential to use young people as intelligence sources, however, Mr Wadham suggested that the Committee could better address issues when the Chief Constable responds to correspondence on introduction of guidance, compliant with a full EQIA if/when the Bill is enacted. This may address PSNI's policy on young people as intelligence sources in this jurisdiction.

It was:-

AGREED:-

To write to PSNI when the CHIS Bill has been progressed through the House of Commons and House of Lords to continue discussion and raise Member's concerns.

(AP3)

4.1 SUMMARY OF ACTION LOG AND ACCOMPANYING CORRESPONDENCE/DOCUMENTATION

The Director of Performance informed Members that two actions raised at previous Committee meeting held in December 2020 had been addressed through correspondence provided by PSNI and the Department of Justice (DoJ).

PSNI's update in response for a further information on-

- **If there are any plans to introduce a dedicated faith/religious hate crime advocate; and**
- **If there are any plans to expand the disability hate crime advocate service.**

The Director of Performance provided Members with ACC McEwan's response highlighting they are consulting with DoJ to assess recommendations within the review of hate crime legislation report including the information referred to in the Committee's correspondence. PSNI have recorded that they will update the Committee as work continues through 2021. Further information was provided in respect of the commissioning model for advocacy services and the service delivery to existing and future categories that includes disability.

The Director of Performance informed Members that Judge Marrinan's Review into Hate Crime Legislation has been completed and that Officials would consider the recommendations and provide an update to Members as part of their future work.

Officials clarification for the evaluation of Support Hubs and ascertain details in respect of their future funding.

Correspondence that had been issued to the Board's Chief Executive from Dr Julie Harrison, Director for Safer Communities in DoJ, in respect of Support Hub funding was provided to inform Members. The correspondence confirmed that the Department was fully committed to Support Hubs and the approach that they had adopted.

Members discussed the information and were in agreement to the importance of the continuation of the Support Hub mechanism. This is a function that is monitored by Partnership Committee and they will continue to monitor the initiative.

5.0 CHAIRPERSON'S BUSINESS

The Chair brought to the attention of Members information that had been raised by a number of his constituents in respect of firearm licencing changes that he had brought to the attention of T/ACC Roberts. Members discussed the issues including an increase in costs and potential risks as firearm components could be purchased online without identification.

The Board's Chief Executive confirmed that she had received correspondence and it was:-

AGREED:-

That the Chief Executive would share the updated correspondence and that this would be discussed at a future Committee meeting if required. **(AP4)**

6.0 ITEMS FOR COMMITTEE BUSINESS

6.1 PERFORMANCE PLAN: MEASURE 1.4.1 BENCHMARK PSNI CRIME RATES AGAINST PREVIOUS PSNI LEVELS AND OTHER MOST SIMILAR POLICE SERVICES

A Board Official presented a paper providing Members with analysis of work relating to PSNI's performance against a Measure within the Performance Plan 2020/21 specific to:-

- Outcome 1 We Have a Safe Community;

- Indicator 1.4 Crime rates and trends showcase an effective police response; and
- 1.4.1 Benchmark PSNI crime rates against previous PSNI levels and other most similar police services.

Members were asked to note the key issues and opportunities within the paper to assist with further scrutiny of police performance and to inform discussion with PSNI who attended the meeting.

The Chair welcomed ACC Barbara Gray and Lindsey Jeapes and invited them to brief Members on PSNI's performance in respect of benchmarking. PSNI presented information in the OBA report card and provided a statistical commentary of their performance against the Measure.

ACC Gray acknowledged that this was the first time that she had reported to the Committee using the OBA report card and that this was in a development stage along with PSNI's Pulse reporting. The recorded data would provide outcomes, indicators and identify long term trends to plan and move forward.

PSNI updated Members that while there has continued to be a decrease in incidents of overall crime rates, there has been an increase in the proportion of harmful crimes. The proportion of crime incidents in robbery, burglary, theft and criminal damage have decreased and the proportion of harmful crimes including violence against the person, sexual offences and domestic abuse have notably increased.

ACC Gray believed that COVID-19 may have caused some skewing of figures for the Financial Year to Date against those of the five year average figures. PSNI highlighted the trend for the number of opportunist crimes including theft, robbery and burglary was significantly below the five year average, while Anti-Social Behaviour, harassment, domestic crime and drugs well above this average.

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

- Online Crime and initiatives to prevent such as SCAM and whether legislation was keeping up with this type of crime;
- Crimes against children as organisations including Barnardo and NSPCC are reporting increased calls and how this is recognised and supported without channels such as schools and support workers during COVID-19;
- Availability of drugs in communities including an update on some of the operations that PSNI and PCTF have undertaken to try to tackle this;
- The difficulty in assessing the impact of the OBA report card statistical evidence and how this affects change and what is developed;
- Potential error in figures provided in relation to number of calls to domestic abuse victims;
- Language used in the OBA report card;
- How reported crime figures identify improvements for police performance and strategic analysis for trends, emerging crimes and identifying operational and strategic priorities; and
- Learning and shared practices with other similar police services.

ACC Gray accepted there may be an error in figures provided in respect to calls to domestic abuse victims and that she would share the corrected information with Members. PSNI also offered to work with Members of the Performance Committee to identify improvements to the OBA report card format.

The Chairperson thanked PSNI for their attendance and briefing. PSNI officials then left the meeting.

It was:-

AGREED:-

That Officials would capture the main points in relation to Outcome 1 'We have a Safe Community' and that these would be made considered at the upcoming Policing Plan Review Outcome One Sub-Group meeting on Monday 18 January 2021. **(AP5)**

6.2 STATUS REPORT ON PSNI'S TEMPORARY INTRODUCTION OF SPIT AND BITE GUARDS

The Director of Performance presented the Committee with a status report on spit and bite guards as per Members request under AP2 from the Performance Committee meeting held on 10 December 2020.

This report updated Members with the position to date with information including:-

- A timeline of events to date to provide background information;
- Key issues that had been raised with the Chief Constable; and
- Outstanding information that is expected to be received.

In addition to the status report the Director of Performance provided Members with:-

- Report on the Use of Spit and Bite Guard Incidents Notified to the Office of the Police Ombudsman for Northern Ireland;
- Statistics Use of Spit and Bite Guards by PSNI up to 17 December 2020; and
- The Number of Incidents of Spitting or Biting Reported by Officers from 1 January 2020 to 26 November 2020.

The Chief Executive confirmed to the Committee that the Chief Constable was still unsatisfied with the operational guidance and training material for the expanded roll out of spit and bite guards to 4,000 additional officers with the expectation of a further delay to the proposed revised implementation date of 11 January 2021. Furthermore, the Deputy Chief Constable would be due to attend the Board meeting on February 2021 to deliver PSNI's response to the Board's report on the Thematic Review of the Policing Response to COVID 19.

Members discussed key issues and discussed the information contained in the paper including:-

- Concerns from the statistical breakdown of spit and bite guard uses including those on people where mental health is a factor and when used for a period upward of 60 minutes;

- The occasions when body worn video has not been used;
- Consideration of the rights of the officers as well as the perpetrators;
- Alternatives and are these more forceful;
- What do other blue light services use to combat spit and bite; and
- Good governance.

It was:-

AGREED:-

That Officials would scrutinise the statistical analysis in greater detail especially in respect on uses over 60 minutes and mental health; and pursue information to include the occasions for use of body worn video. **(AP6)**

Also it was:-

AGREED:-

That Officials would examine if spit and bite guards are used in other blue light services settings and provide information to Members at a future Committee meeting. **(AP7)**

6.3 OPONI REPORT – AN INVESTIGATION INTO POLICING POLICY AND PRACTICE IN PROTEST IN NORTHERN IRELAND

The Board's Human Rights Advisor, Mr John Wadham, provided Members with a paper of his analysis of the findings and recommendations within the OPONI Report 'An Investigation into Policing Policy and Practice of Protests in Northern Ireland', highlighting areas of particular interest to the Board. Mr Wadham informed Members that this report was complementary of the Board's own recent report on PSNI's Response to COVID 19 and that they should note the findings and consider information for a draft response to the Ombudsman.

The Human Rights Advisor emphasised that the OPONI report conclusions inferred a lack of consistency exercised by PSNI in their approach to the Black Lives Matter and the Protect Our Monuments protests and that there was a lack of compliance for human rights. This was broadly in line with Chapter One of the Board's report on PSNI's Response to COVID 19.

Mr Wadham informed Members that unlike the Board's report the Ombudsman's had recommended that PSNI consider the PANEL approach to human rights and he engaged in discussion with Members in respect of the theory behind this approach and his viewpoint.

Members further discussed recommendations from both OPONI and the Board specifically in relation to the review of prosecutions. Mr Wadham advised Members that the Public Prosecution Service had no control over Fixed Penalty Notices once they had been issued and that he awaits a response to his proposed future meeting. It may require a successful challenge in court to bring clarity and that he will continue to monitor the situation. **NOTED**

Following discussion it was:-

AGREED:-

That Officials would engage with other UK police forces to determine whether they have adopted the PANEL approach to human rights. **(AP8)**

It was also:-

AGREED:-

To issue a letter of acknowledgement to the Ombudsman in respect of sharing their report. **(AP9)**

6.4 OFFICE OF THE POLICE OMBUDSMAN FOR NORTHERN IRELAND FIVE YEAR LEGISLATIVE REVIEW

At the onset of this agenda item Ms Joanne Bunting declared a conflict of interest in her role as Vice-Chair of the Northern Ireland Assembly's Audit Committee.

A Board Official presented a paper to provide Members with an overview of the OPONI Five Year Legislative Review under Section 61(4) of the Police (Northern Ireland) Act 1998. The paper included a table of operational and strategic recommendations made by the Ombudsman and some associated Board commentary from Officials at Annex A. Members were asked to consider the commentary and recommend an agreed response to the Board for issue to OPONI.

Members discussed a number of issues that they had with the proposed OPONI recommendations and sought further clarity from officials. There was an agreed consensus that any response should not be rushed through the Board without a full and careful consideration.

Following discussion it was:-

AGREED:-

Officials would update the proposed responses to recommendations to the table provided at Annex A and share it with Members via email for the opportunity to amend/add further responses. **(AP10)**

6.5 REPORT OF THE INDEPENDENT REVIEWER OF NATIONAL SECURITY ARRANGEMENTS IN NORTHERN IRELAND 1 JANUARY 2019 TO 31 DECEMBER 2019

A Board Official presented Members with a paper to summarise the report of His Honour Brian Barker QC, the Independent Reviewer of National Security arrangements in

Northern Ireland for 2019. Included in the paper was additional annexes to provide information on correspondence issued to PSNI in respect of Covert Human Intelligence Sources Bill, PSNI Security Situation Statistics 1 December 2019 to 30 November 2020 and the Annual Statistics for 2019/20 from the Northern Ireland Office regarding Northern Ireland Terrorism Legislation.

In summary Members were notified that Mr Barkers report:-

- Confirmed PSNI had compliance with principles (A) – (D) with Annex E of the St Andrews Agreement and under principle (E) concerning the Board’s ability to monitor PSNI’s compliance with the Human Rights Act, the relationship between the Board and the PSNI was good and PSNI’s positive approach to responsibilities under the Act by senior officers was apparent; and
- Overall was positive acknowledging relations with An Garda Siochana continue to strengthen; CHIS procedures and control had been satisfactory; the Board is now able to discharge their range of overseeing constitutional duties after legislation in November 2018 allowed new membership.

Following a brief discussion it was:-

AGREED:-

Officials will seek further information from the PSNI in respect of the additional wording in the Police Recorded Security Situation Statistics bulletin advising *“Figures in this publication include only those arrests that are linked to the security situation in Northern Ireland; persons who have been arrested under Section 41 of the Terrorism Act for other reasons are excluded.”* (AP11)

6.6 HUMAN RIGHTS ADVISOR UPDATE REPORT FOR DECEMBER 2020

Members were provided with a paper to update them of the work that the Board’s Human Rights Advisor, John Wadham had completed during December 2020 that included:-

- Taking forward the recommendations of the COVID report, particularly in relation to Spit and Bite Guards;

- Work on the Human Rights Monitoring Framework;
- Monitoring the Covert Human Intelligence Sources (Criminal Conduct) Bill; and
- Meetings attended.

Mr Wadham informed Members that his future work included:-

- Human Rights Monitoring Framework, the Human Rights Annual Report and COVID-19 Report;
- Attending the Gold Command meetings in relation to the Murder Archive in PSNI's Seapark operation;
- Performance Committee (10 January) and Board Meeting (4 February);
- Monitoring authorisations for stop and search under the Justice and Security Act (more likely in February); and
- Meetings with PSNI lawyers and other officers.

Mr Wadham notified Members that he work may be limited until there was more certainty regarding travel during the current COVID restrictions.

Members sought clarity and additional information on Mr Wadham's work in respect of:-

- The Human Rights Advisor's continued involvement in the review of the PSNI's Code of Ethics;
- Legacy Investigation Branch; and
- PSNI's review of the Notifiable Membership.

Members were content with the information provided by the Board's Human Rights Advisor on the work he has carried out to date and also with the future work programme as identified. **NOTED.**

7. QUESTIONS FOR THE CHIEF CONSTABLE

Members were reminded that there were no questions submitted to the Chief Constable following the Performance Committee meeting on 10 December 2020.

Members **agreed** to ask the Chief Constable to answer the following question:-

The recent HMIC Report – “The PSNI: An Inspection of how well the Service treats its workforce and the people of Northern Ireland” recommended that an area for improvement for the PSNI was its recording of its use of force data. Can the Chief Constable update the Board on the progress that has been made to date in relation to improving the recording system for use of force and improving the quality and accuracy of the data?

8. COMMUNICATION ISSUES

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

9. ANY OTHER BUSINESS

This was dealt with under Agenda Item 1.

10. DATE OF NEXT MEETING

It was agreed that the next meeting would take place on Thursday 11 February 2021 at 9.30am and Officials would contact Members in advance with arrangements.

The meeting closed at 1.20pm

