

**NORTHERN IRELAND POLICING BOARD**

**MINUTES OF MEETING OF THE PERFORMANCE COMMITTEE HELD ON  
27 JANUARY 2022 AT 09:30**

**PRESENT:**

Mr Trevor Clarke, Chair  
Ms Carmel McKinney, Vice-Chair\*  
Mr Edgar Jardine  
Ms Deirdre Toner  
Mr Gerry Kelly  
Ms Liz Kimmins\*  
Mr Mike Nesbitt  
Mr Maurice Bradley\*  
Ms Joanne Bunting

**EX-OFFICIO MEMBERS  
IN ATTENDANCE**

Mr Tom Frawley\*

**OFFICIALS IN  
ATTENDANCE:**

Ms Sinead Simpson\*, Chief Executive  
Mr Adrian McNamee, Director of Performance  
4 Board Officials

\* Attended via video conferencing

## **1. APOLOGIES**

Dolores Kelly offered Apologies in advance of the meeting.

The Chair advised that unfortunately, due to COVID, it is not possible to proceed with the PSNI's presentation on Professional Standards to all Board Members as noted at Item 3.2 of today's agenda. This presentation will be re-arranged for a future date.

The Committee agreed the agenda for the meeting.

The Chair asked Members to advise of any items they wished to raise at Item 6 under "Any Other Business". No further items were declared at this time.

## **2. CONFLICTS OF INTEREST**

No conflicts of interest were declared.

## **3. ITEMS FOR COMMITTEE BUSINESS**

### **3.1 Spit and Bite Guards**

The Director of Performance presented Members with the Human Rights Advisor's Report "Human Rights Review into the PSNI's Use of Spit and Bite Guards".

The Director of Performance recalled to Members that as part of the response to the COVID 19 pandemic, the Chief Constable introduced the use of Spit and Bite Guards in March 2020. This measure was temporary in nature, however, it has been in place now for almost two years. The Chief Constable has indicated that he wishes to make a decision on the permanent introduction of Spit and Bite Guards in early March 2022.

The Performance Committee has been responsible for monitoring the temporary introduction of Spit and Bite Guards by the PSNI and have discussed this over the last two years. As part of this monitoring the Committee has overseen the production of the Board's "Thematic Review of the Policing Response to COVID 19" with its recommendation to cease use of Spit and Bite Guards by December 2021. The Committee and the Board has also taken into consideration the findings of the Ombudsman's reviews of PSNI's Use of Spit and Bite Guards and Members considered the final Report by the Ombudsman at the 14th October 2021 Performance Committee meeting. The Performance Committee has also reviewed PSNI's recent Evidence Report that has included the findings of the public consultation alongside the Equality Impact Assessment.

The Director of Performance informed Members that the Board's Human Rights Advisor has considered all evidence and has produced this Report which provides a human rights assessment of the application of Spit and Bite Guards. It also reviews all the current evidence, safe guards and protections and makes a number of recommendations in relation to training and guidance that the PSNI should make if Spit and Bite Guards are to be continued to be used.

The Director of Performance also recalled to Members that the PSNI have indicated that they will take a decision on the temporary nature of the use of Spit and Bite Guards at their Strategic Management Board meeting on 2nd March 2022. Therefore, it would be prudent for the Board to take a view on the introduction of Spit and Bite Guards in order to inform the Chief Constable's decision making on this issue.

The Director of Performance advised Members that this paper sets out a number of options identified by officials in relation to potential positions the Board could take on this issue. Officials have carried out some provisional options analysis using the detailed information contained within the Human Rights Advisor's Report. Taking all of the evidence into consideration officials

conclude the paper providing Members with a recommendation in relation to the permanent introduction of Spit and Bite Guards by the PSNI.

The Director of Performance requested that Members consider all the issues and the options for providing the Chief Constable with a Board position prior to his decision on the permanent introduction of Spit and Bite Guards on 2nd March 2022. The options proposed are:-

**Option 1:**

- Do nothing. The Board agrees that this is an operational decision for the Chief Constable to make and expresses no opinion or position on the permanent introduction of Spit and Bite Guards by the PSNI.

**Option 2:**

- Board approves / supports the permanent introduction of Spit and Bite Guards by the Chief Constable.

**Option 3:**

- Board approves / supports the permanent introduction of Spit and Bite Guards by the Chief Constable with additional conditions and recommendations for the PSNI.

**Option 4:**

- Board does not approve / support the permanent introduction of Spit and Bite Guards by the Chief Constable.

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

- Members discussed Option 3 as presented, considered the scope of the additional conditions and whether further evidence or re-wording is required to achieve consensus;
- A Member discussed the balancing of officers' rights subject to spitting and biting behaviour;

- A Member referred to the previous temporary agreement given by the Board for the use of Spit and Bite Guards as a response to Covid-19 and contrasted this to the wording of the options presented;
- A Member referred to the current PSNI training that is provided on Spit and Bite Guards as being vague;
- The use of Spit and Bite Guards on children, vulnerable people and those with mental health issues was highlighted and discussed by Members;
- A Member referred to the Recommendations contained within the Human Rights Advisor's Report and suggested if some further drafting of the wording could be considered;
- A Member referred to evidence of Spit and Bite Guard use that showed that no complaints had been received from those on whom a Spit and Bite Guard had been deployed;
- Members discussed that the decision on Spit and Bite Guards was an operational matter for PSNI generally or whether it only became an operational matter when deployed by the officer;
- A Member drew attention to the terminology "Children under 18" and queried the process of how an officer deploys a Spit and Bite Guard decides the age of the subject;
- A Member queried how officers can identify mental health issues of a individual including those incidents involving alcohol;
- A Member suggested that a governance framework should be drafted which would provide the Board with the methodology to monitor Spit and Bite Guard and would allow for regular feedback and provide an opportunity for an assurance from the Chief Constable to the Board that Spit and Guard deployment conditions are met;
- The issue of post incident reporting of Spit and Bite Guards on those aged under 18 was discussed and the role of PSNI and the Police Ombudsman;

- A Member referred to duty of care towards police officers and the potential dangers of infection to officers if exposed to airborne particles if Spit and Bite Guards are not used;
- Members discussed proportionality in terms of the evidence presented within the Human Rights Advisor's Report. A Member referred to the fluidity of situations that officers face, the process of de-escalation and the fact that officers must make decisions quickly.
- Member's discussed the rewording of Option 3 to contain a reference to an agreed framework that will be reviewed.

Following discussion Mike Nesbitt proposed that that Option 3 should be re-drafted as follows:

- The Board accepts the continued use of Spit and Bite Guards by the Chief Constable subject to an agreed framework that will be reviewed on a regular basis.

The Chairperson invited Members to vote for or against the redrafted wording of Option 3.

Mr Nesbitt's proposal was seconded by Ms Joanne Bunting. Seven Members present indicated their support of Mr Nesbitt's proposal with two Members against.

Following discussion it was:-

**AGREED;**

To **APPROVE** the option that the Board accepts the continued use of Spit and Bite Guards by the Chief Constable subject to an agreed framework that will be reviewed on a regular basis.

To **APPROVE** that the Chair of the Board write to the Chief Constable on this issue outlining the Board's decision, enclosing the Report from the Human Rights Advisor and highlighting the additional conditions and recommendations; and

To **APPROVE** the publication of the Human Rights Advisors Report "Human Rights Review into the PSNI's Use of Spit and Bite Guards."

**5. COMMUNICATION ISSUES**

There were no communication issues arising from the meeting.

**6. ANY OTHER BUSINESS**

A Member indicated that they wished to highlight recent media reports surrounding the work of the PSNI Terrorism Investigation Unit and suggested this required further scrutiny by the Performance Committee.

Following a brief discussion it was:-

**AGREED**

Officials to request that a senior officer of the Terrorism Investigation Unit appear before the Committee to provide an overview and update of their work. **(AP 1)**

**7. DATE OF NEXT MEETING**

It was agreed that the following meeting would take place on **Thursday 10<sup>th</sup> February 2022** at **09.30am**

Meeting closed at 11:05am.

**PERFORMANCE DIRECTORATE**

27 January 2022

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**Chairperson**