

NORTHERN IRELAND POLICING BOARD

**MINUTES OF THE MEETING OF THE NORTHERN IRELAND POLICING BOARD
HELD ON THURSDAY 3 DECEMBER 2020 AT 9.30 AM IN WATERSIDE TOWER,
CLARENDON DOCK AND VIA VIDEO CONFERENCE FACILITY**

PRESENT:

Mr Doug Garrett Chair
Dr Tom Frawley Vice-Chair*
Mr Michael Atkinson
(1) Mr John Blair MLA
(2) Mr Tom Buchanan MLA
Mrs Joanne Bunting MLA*
(3) Mr Trevor Clarke MLA
Dr Janet Gray
Mr Edgar Jardine
(4) Mrs Dolores Kelly MLA*
Mr Gerry Kelly MLA
Ms Liz Kimmins MLA*
Mr Seán Lynch MLA
Mr Colm McKenna*
Mr Frank McManus*
Ms Carmel McKinney*
Mr Mike Nesbitt MLA
Mr Mervyn Storey MLA
Ms Deirdre Toner

**POLICE SERVICE OF
NORTHERN IRELAND IN
ATTENDANCE:**

(5) Mr Simon Byrne, Chief Constable
(5) Mr Mark Hamilton, Deputy Chief Constable
(5) Ms Barbara Gray, Assistant Chief Constable
(5) Mr Mark McEwan, Assistant Chief Constable*
(5) Mr Alan Todd, Assistant Chief Constable*
(5) Superintendent John McCaughan
(5) One PSNI Staff Member

**NATIONAL CRIME AGENCY
IN ATTENDANCE:**

(6) Ms Lynne Owens, Director General
(6) One NCA Staff Member

**NORTHERN IRELAND
POLICING BOARD**

Mrs Amanda Stewart, Chief Executive
Ms Aislinn McGuckin, T/Director of Police
Administration

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**OFFICIALS IN
ATTENDANCE:**

Mr Adrian McNamee, Director of Performance
Ms Jenny Passmore, Director of Resources
Ms Dympna Thornton, Director of Partnership
Three Board Officials

**NORTHERN IRELAND
POLICING BOARD HUMAN
RIGHTS ADVISOR IN
ATTENDANCE:**

Mr John Wadham, Human Rights Advisor*

*Attended meeting by video conference facility

- (1) Part item 5 to end. (Joined meeting at 9.43am)
- (2) Part item 5 to part item 6. Part item 6 to end. (Joined meeting at 9.45am and left at 10.25am. Rejoined meeting at 10.35am)
- (3) Part item 6 to end (Joined meeting at 10.10am)
- (4) Part item 5 to end. (Joined meeting at 9.35am)
- (5) Items 10 and 11.
- (6) Item 11 only.

1. APOLOGIES

No apologies were received.

The Board agreed the Agenda for the meeting.

No one declared any items they wished to raise under 'Any Other Business'.

2. CONFLICTS OF INTEREST

No conflicts of interest were declared.

3. DRAFT MINUTES OF THE MEETING HELD ON 5 NOVEMBER 2020

It was **RESOLVED:-**

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- That the minutes of the Board meeting held on 5 November 2020 be approved.

4 BOARD ACTION LOG

Updates as detailed within the Action Log from the Board meeting held on **5 November 2020** were noted in addition to the following verbal updates provided by the Chief Executive:

Action Point 1

The Chief Executive noted that the Chair had written to the Chief Constable about the Chief Constable and Jon Boutcher's 'deep dive' of Operation Kenova and the Chief Constable would provide further information to the Board following scheduled meetings with Mr Boutcher.

Updates as detailed within the Action Log from the Board meeting held on **4 June 2020** were noted in addition to the following verbal updates provided by the Chief Executive:

Action Point 1

The Chair would provide an update on the Minister of Justice's stocktake of policing accountability arrangements under agenda item 5 'Chair's Business'.

5. CHAIRPERSON'S BUSINESS

The Chair presented a report which advised Members of:

- The Chair's engagements, including meetings held by teleconference and video conference facilities during the period between 5 November 2020 and 3 December 2020.

- A list of correspondence received by the Chair during the period between 2 November 2020 and 1 December 2020.
- A list of correspondence issued by the Chair during the period between 4 November 2020 and 1 December 2020.

The Chair updated Members on his meeting with representatives from other criminal justice partners including the Police Ombudsman and Criminal Justice Inspectorate of Northern Ireland (CJINI) and noted that it had been agreed that a formal Strategic Policing Oversight Group with Terms of Reference would not be established. Representatives from various policing oversight bodies would continue to meet on an informal basis to ensure continued collaboration and communication.

The Chair also noted that correspondence had been received from the Minister of Justice inviting the Board Chair, Vice-Chair and Chief Executive to an initial meeting to discuss the draft Policing Accountability Stocktake Terms of Reference in advance of the Minister meeting with the Board. Members discussed the proposed meeting between the Board Chair, Vice-Chair and Chief Executive with the Minister prior to meeting with the Board and agreed while the Chair and Vice-Chair may meet informally with the Minister of Justice at various times, in order to discuss the proposed Stocktake of Policing Accountability arrangements and the draft Terms of Reference it would be appropriate if the Board, as a collective, agreed a position to inform the meeting with the Minister. It was agreed that the Chief Executive would respond to the Minister's correspondence of 25 November 2020 confirming that a meeting with the Board would be arranged **(AP1)**. The Chair also asked Members to consider the draft Stocktake Terms of Reference as received from the Minister and provide feedback to the Chief Executive by the end of January 2021.

Members also discussed the Chief Constable's correspondence dated 23 November 2020 which stated that the spit and bite guards would be rolled out to approximately 4000 officers from 18 December 2020. The Chair updated Members on his request of the Chief Executive to seek legal advice on the extension of the use of spit and bite guards, and the legal advice was included within Members' papers for consideration. This matter would be discussed later in the meeting under agenda item 6 'Chief Executive's Report'.

The Chair further noted that correspondence had been received from Amnesty International dated 2 December 2020 about PSNI's Operation Yurta. Members noted that the Resources Committee had requested a report from the PSNI about the lessons learned and once it was received it would be considered in detail. It was agreed that the Chief Executive would issue a 'holding response' to Amnesty International noting that the Board was awaiting further information from the PSNI before considering its position **(AP2)**.

6. CHIEF EXECUTIVE'S REPORT

Members noted a report from the Chief Executive to the Board.

The Chief Executive noted that the Business Plan Performance Report for the period 1 April 2020 to 30 June 2020 had been provided to Members for information.

The Chief Executive updated Members on Injury On Duty (IOD) and Ill Health Retirement (IHR) matters noting that the Department of Justice (DoJ) had confirmed that Independent Medical Referee (IMR) appointments were due to recommence and that a meeting of the Board's IOD Working Group would be convened in due course to discuss this and other recent developments to include the progress of the DOJ's Sub and Steering IOD Groups.

The Chief Executive provided an update on Freedom of Information (FOI) and General Data Protection Regulation (GDPR) matters including an overview of the work undertaken by Officials to date to respond to FOI and GDPR requests and ongoing engagement with the Information Commissioner's Office about FOI and GDPR matters. The Chief Executive also provided an update on an ongoing Assisted Removals Case noting that legal representatives had been appointed to progress the matter.

The Chief Executive noted that legal advice had been received and was contained within Members papers about the Chief Constable's decision to extend the rollout of spit and bite guards to 4000 police officers from 18 December 2020. Members discussed the legal advice and agreed that further information was needed to inform the Board's position. It was agreed that clarification on the legal advice would be sought about the Board's role in approving novel and contentious spending **(AP3)**. It was further agreed that the Officials would seek clarification from DOJ on what 'novel and contentious' spending meant **(AP4)** and that the Board Chair would write to the Chief Constable seeking a response to a number of questions as detailed within the legal advice **(AP5)**.

In response to a Member's question about correspondence received from the DoJ dated 4 November 2020 about the new structure of the PSNI Service Executive Team, the Chair noted that the newly created PSNI Director of Transformation was not a permanent position; the PSNI Director of Transformation would be a time limited post for three years with the possibility of two 1 year extensions.

7. COMMITTEE REPORTS

7.1 Performance Committee 12 November 2020

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The Board noted the Performance Committee Chair's Report that provided an overview of matters considered at the meeting on 12 November 2020 including a briefing from Assistant Chief Constable (ACC) Mark McEwan and Chief Superintendent Emma Bond on PSNI's performance against a Policing Plan Measure on repeat victimisation and hate crime and the management of a COVID-19 outbreak at the Police College, Garnerville.

7.2 Resources Committee 18 November 2020

The Board noted the Resources Committee Chair's Report that provided an overview of matters considered at the meeting on 18 November 2020. The Committee Chair updated the Members on the key issues from the meeting including a briefing from Deputy Chief Constable (DCC) Mark Hamilton and PSNI's Head of International Programmes on the provision of international assistance by PSNI.

7.3 Partnership Committee 19 November 2020

The Board noted the Partnership Committee Chair's Report that provided an overview of matters considered at the meeting on 19 November 2020. The Committee Chair provided an overview of matters considered at the meeting including a briefing from ACC Mark McEwan and the PSNI's Head of Performance and Insights on PSNI's performance against a Policing Plan Measure on victim satisfaction.

8. BOARD BUSINESS

8.1 Impartial Assessor's Report – PCSP Reconstitution 2019-20

The Director of Partnership presented a paper which included the report of the Impartial Assessor on the process of appointing Independent Members to the Policing and Community Safety Partnerships (PCSPs) and District PCSPs which made 12 recommendations for consideration in relation to certain stages within the recruitment process. The Partnership Committee had considered the Report and had recommended that the Board approve its publication on the Board's website. It was **RESOLVED** that:

- The Board approve the report of the Impartial Assessor on the Policing and Community Safety Partnerships and District Policing and Community Safety Partnerships 2019-20 Reconstitution Process for publication on the Board's website.

8.2 National Crime Agency Quarter 1 and Quarter 2 Report 2020-21

The Director of Performance presented a paper which summarised the National Crime Agency's performance and activity in Northern Ireland during the periods April to June 2020 and July to September 2020. The Board noted the Report which would be referred to in further detail later in the meeting during the private meeting with the NCA Director General and Chief Constable.

9. KEY ISSUES OF PUBLIC INTEREST

The Board noted a paper which detailed recent issues of public interest which were relevant to the Board's areas of work.

10. PRIVATE SESSION WITH THE CHIEF CONSTABLE INCLUDING CHIEF CONSTABLE'S REPORT

The Chair welcomed the Chief Constable, the DCC and ACC Gray, ACC McEwan and ACC Todd to the meeting.

The Chief Constable provided an update on the decision to extend the use of spit and bite guards to 4000 police officers from 18 December 2020 once the Chief Constable and DCC were satisfied that officers were appropriately trained on their use. The Chief Constable noted that he recognised that the matter was of considerable public interest, and that the decision was based on updated medical, legal and professional advice. An Equality Impact Assessment (EQIA) was ongoing and would be concluded in 2021. The Chief Constable also noted that in relation to the investigation into the murder of Pat Finucane in February 1981, the PSNI's Report, following an internal review of the 2012 De Silva Report, had been published on the PSNI's website.

The Chief Constable also updated Members on the administrative error that which led to 115 people being stopped and searched between 30 July 2020 and 11 August 2020 without the appropriate approval being in place; the Police Ombudsman and the Independent Reviewer of Justice and Security had been informed of the error. The Chief Constable also noted that the Police Scotland Report on Operation Klina had been received and forwarded to the Public Prosecution Service for consideration.

The Chief Constable noted that the PSNI had launched Operation Seasons Greetings which aimed to keep people safe in the run up to Christmas and would involve the deployment of dedicated resources across Northern Ireland to deter and detect criminality and provide visible reassurance to people.

The Chief Constable also noted that a priority for 2021 was to establish a Community Relations Taskforce (CRT) to promote community engagement and improve policing.

The Chief Constable noted that the investigation continued in the alleged breaches of COVID-19 Regulations at the Bobby Storey funeral by Cumbria Police Deputy Chief Constable Mark Webster and that the Public Prosecution Service had stated that there were mechanisms available to extend the investigation beyond the six month time limit.

During the meeting Members discussed various issues with the Chief Constable including:

- The decision to extend the rollout of spit and bite guards and why an EQIA had not been completed before the Chief Constable had decided to extend the use of spit and bite guards. The Chief Constable noted that the PSNI had been engaged with the Equality Commission about the issue who had provided guidance on the completion of EQIAs during the COVID-19 period.
- The updated medical, legal and professional advice that the Chief Constable had relied on when making the decision to extend the rollout of spit and bite guards. The Chief Constable noted that spit and bite guards had initially been rolled for use in custody suites, COVID-19 crews, and within Armed Response Teams but following consideration of evidence about the risks faced by Neighbourhood Policing Teams and Local Policing Teams it was decided to extend the rollout of the spit and bite guards. The Chief Constable noted that the spit and bite guards did not offer protection from COVID-19 but they may offer protection during the course of a violent arrest from other airborne viruses. The Chief Constable further noted that the PSNI had tried to take learning from the Metropolitan Police Service's rollout of spit and bite guards and that consideration was being given to a study of the psychological effects on police officers who were subject to biting and spitting from people under arrest.

- The establishment of a CRT during 2021 and how it may be used to inform the public about the PSNI's roles and responsibilities and improve policing. The Chief Constable noted that he would consider the Board's views before the Terms of Reference were finalised.
- The administrative error that meant that stop and searches were not authorised by an officer of the correct rank between 30 July 2020 and 11 August 2020. The Chief Constable noted that it was a genuine administrative error and that correspondence had been issued to all people that had been impacted apologising for the error.
- In response to a Member's question about whether the *Justice and Security (Northern Ireland) Act (2007)* should be amended to allow officers of a lower rank than Temporary ACC to authorise stop and searches ACC Gray noted that while it would be a matter for the Northern Ireland Office (NIO) the powers under the *Justice and Security (Northern Ireland) Act (2007)* were intrusive on people and so allowing an officer of a lower rank to authorise it may not be suitable.
- The PSNI's engagement with the NIO and Northern Ireland Secretary of State in advance of the statement to the House of Commons on the murder of Pat Finucane. The Chief Constable noted that, as had been outlined in the PSNI's public statement, there were no new lines of inquiry to be investigated but that the case would be subject to a review early in 2021 by the Legacy Investigations Branch.
- PSNI's participation in the ROXANNE project with the Israeli Ministry of Public Security. The DCC noted that the ROXANNE project was a European Union (EU) project involving 11 law enforcement agencies and the PSNI had been involved since 2019. The DCC further noted that while the PSNI had recently received calls to withdraw from the ROXANNE project it had not done so but the matter had been referred to the Ethics Panel for further consideration

- Recent threats by Loyalist Paramilitaries made to journalists and the PSNI's investigation of the threats and other activities by Loyalist Paramilitaries.

A Member agreed that two of the questions that they wished to put to the Chief Constable during the private meeting could be submitted to the Chief Constable in writing for a response **(AP6)**.

11. PRIVATE SESSION WITH THE NATIONAL CRIME AGENCY DIRECTOR GENERAL AND CHIEF CONSTABLE

The Chair welcomed Lynne Owens, Director General of the NCA to the meeting.

The Director General updated Members on the NCA's activities within Northern Ireland highlighting some of the NCA's recent work; and updated on the NCA's response to the impact of COVID-19 on the serious and organised crime threat which has included an increase in fraud, and an increase in child abuse as children being online at home more often. There had also been a 397% increase in the number of migrants found trying to enter the UK in small boats. The Director General also noted following the recent Government Spending Review the NCA's settlement was not yet known but that this may have an impact on NCA activities going forward.

During the meeting Members discussed various issues with the Director General including:

- The NCA's preparations for the UK exit from the EU or whether or not a negotiated agreement was in place. The Director General noted that the NCA continued to work with partners including the Home Office to plan for various scenarios so that in the event of a non-negotiated exit

from the EU the NCA could deal with the challenges that it presented across many areas including information sharing with European law enforcement agencies and arrest powers available in the absence of the European Arrest Warrant.

- The NCA's legislative powers to pursue criminal organisations and people associated with them. The Director General noted that the NCA had a number of civil legislative powers that may be used to disrupt criminal organisations in partnership with the PSNI.
- In response to a Member's question about the implementation of the recommendations detailed within CJINI's report on child exploitation the Director General noted that work continued with partners, including the PSNI, to implement the recommendations.

ACC Gray noted that the NCA was a core part of the Paramilitary Crime Task Force and they enhanced local capabilities in tackling serious and organised crime.

12. QUESTIONS FOR THE CHIEF CONSTABLE

12.1 Issues Arising from Committees

There were no issues arising from recent Committee meetings for the Board's attention.

12.2 Committee Written Questions and Responses

There were no written Committee questions submitted to the Chief Constable during November 2020.

12.3 Individual Members' Written Questions and Responses

Members noted the response received from the PSNI following one Member's written question submitted to the PSNI.

13. COMMUNICATION ISSUES

Members noted the issues that the Chair would be commenting on within the opening statement at the public Board Meeting.

14. 2021 SCHEDULE OF MEETINGS

The proposed schedule of Board and Committee Meetings from January to March 2021 was noted.

15. ANY OTHER BUSINESS

No other business was conducted.

16. DATE OF NEXT MEETING

The next Board meeting would be held on Thursday 4 February 2021 at 9.30am but a short Board Meeting would also be held on the afternoon of Friday 18 December 2020 to consider the recommendation of the PSNI Chief Operating Officer Selection Panel so that the preferred candidate may be recommended to the Minister of Justice for appointment to the role.

The meeting closed at 12.33 pm.

The private meeting closed and the Board moved into public session at 2pm which was held by a video conference facility and livestreamed. A verbatim recording of the Board meeting in public is available on the Board's YouTube page @nipolicingboard

Corporate Services

Date: December 2020

Chair: