



FREEDOM OF INFORMATION REQUEST

FOI Reference number: FOI 04/2014

Date: 13 February 2014

Request:

The Board minutes from September 2013 stated that members considered a paper regarding a review of the criteria on the appointment of the Chief Constable. Who commissioned and compiled this paper and are copies of it available?

Answer:

This paper was prepared by the Chief Executive of the Northern Ireland Policing Board.

A copy of the paper is attached to this response.

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 write to the Board's Chief Executive at the following address:

Northern Ireland Policing Board
Waterside Tower
31 Clarendon Road
Clarendon Dock
Belfast BT1 3BG

Email: foi@nipolicingboard.org.uk

If you are not content with the outcome of your complaint, you may apply directly to the Information Commissioner. Generally, the Information Commissioner's Office cannot investigate or make a decision on a case unless you have exhausted the complaints procedure provided by the Board. The Information Commissioner can be contacted at:-

The Information Commissioner's Office – Northern Ireland
3rd Floor
12 Cromac Place
Gasworks
Ormeau Road
Belfast
BT7 2JB.

Telephone: - 02890 269 380
Email: - ni@ico.org.uk

Please be advised that all Policing Board replies under Freedom of Information will 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 – 5 SEPTEMBER 2013

PROPOSAL TO REVIEW THE CRITERIA FOR APPOINTING A CHIEF CONSTABLE IN THE POLICE SERVICE OF NORTHERN IRELAND

Statement of Purpose

The purpose of this paper is to seek the views of Members on a matter as requested by the Minister DOJ Mr D Ford, on 28 May 2013.

Background/Context

This issue arose back in March 2013 when the Board and the Department were asked questions from the media regarding this specific issue, which has been the subject of changes in England, Wales and Scotland. It is one of many issues which in terms of governance/legislation straddles between the Minister and the Board. Because the Minister has final approval of the appointment of the Chief Constable there is obviously an interest on his part in the appointment process. However, the Board has primary responsibility in the appointment of the Chief Constable and senior officers. It is therefore appropriate that the Minister asked the Board on 28 May 2013 as to the level of support that the Board would give to any change in one of the important regulations regarding the minimum experience and criteria for appointing a Chief Constable, and in particular a requirement that a Chief Constable would have worked for a minimum of 2 years in more than one police service jurisdiction.

DOJ Position

By virtue of Section 35(1) of the Police (Northern Ireland) Act 2000, the Northern Ireland Policing Board is responsible for appointing the Chief Constable, subject only to the Minister's approval of the appointment. However, in light of reforms taking place elsewhere in United Kingdom policing, the Minister thinks it may be appropriate to consider the current criteria for appointing the Chief Constable of the PSNI (letter attached at Appendix A).

Minimum Standards and Criteria

Regulations set out a number of provisions to which the Policing Board must adhere relating to appointing a Chief Constable, the calibre and suitability of a Chief Constable, the time limited basis of the appointment and protections to ensure appropriate notice is given of a vacancy.

In appointing the Chief Constable, legislation currently requires that to be eligible for appointment as Chief Constable of the PSNI, the successful candidate will have served for a minimum of two years at ACC (at least) (or equivalent ranks) in a police force outside Northern Ireland or while engaged on 'relevant service' (as defined in Police Act 1996).

These provisions are in addition to that person meeting the generic qualifications listed in Regulations relating to nationality or UK residence, character references, age, fitness, educational standards and external business interests held by him or his family – all of which should already have been met as a police officer through the ranks.

All criteria must be met and are designed to focus on certain characteristics and relevant experiences, while also ruling out other 'unqualified' persons from consideration for the position. The Policing Board is able to add to these minimum standards in deciding on the qualities they want in the PSNI Chief Constable, but cannot set them aside.

Appointment on a Fixed Term

On appointing the Chief Constable, the Policing Board offers him/her the post for a fixed term of up to five years, on the expiry of which the appointment lapses, though the term can be extended. The Policing Board's offer of a contract for a fixed term includes agreeing the salary, bonuses, allowances and expenses that will be paid, and any other arrangements agreed between the two parties.

Vacancy

Regulations also stipulate certain requirements the Policing Board must meet linked to advertising the vacancy before appointing a Chief Constable.

The position in England and Wales

The legislative position in England and Wales was similar to that in Northern Ireland when our regulations were updated in 2005. Before shortlisting, interviewing and selecting a candidate, police authorities sought the views of the Senior Appointments Panel (SAP). The SAP helped provide consistency in approach and standards across the 43 police forces in England and Wales. The SAP does not operate in Northern Ireland.

Under new arrangements introduced at the end of 2011, responsibility for appointments moved to the Police and Crime Commissioner (PCC). In keeping with the Home Office's general approach to PCCs, they have tried to extend PCC's responsibilities and powers in this area. The Police Advisory Board for England and Wales (PABEW) had been looking at the current process, reporting back to the Home Secretary. As a result, a number of changes have been made.

HMIC Input on Policing Qualifications

As they do with the Policing Board, Her Majesty's Inspectorate of Constabulary provided for the SAP an assessment of suitability on each applicant, and also could sit in an advisory role on a police authority's appointment panel, at their request. The Policing Board can also seek HMIC's advice in their appointment processes.

The Home Secretary's determination in this area now specifies that a person must have completed satisfactorily the Senior Police National Assessment Centre and the Strategic Command Course before being substantively appointed to a rank higher than Chief Superintendent. The (new) College of Policing holds records of officers who have passed these courses.

No such formal qualification requirements exists in Northern Ireland for the PSNI, but as part of their guidance to the Policing Board's appointment panel, HMIC can consider qualifications or equivalent qualifications, for example in An Garda Síochán before advertising and shortlisting.

Police and Crime Panel

As a result of this change, the PCC must notify the (new) Police and Crime Panel (PCP) of a proposed Chief Constable appointment. The PCC must involve an independent member (such as a magistrate, chief executive of a local authority) during assessment, shortlisting and interviewing of candidates for chief constable, designed to ensure the selection and appointment process is conducted fairly and openly, and that the successful candidate is selected on merit. The PCP is required to endorse the PCC's preferred candidate. The College of Policing (in conjunction with PABEW) produced guidance in November 2012 to help maintain a degree of national consistency in relation to standard competences and broad process, and to maintain a joined-up service. Neither the PCC nor this oversight mechanism applies in Northern Ireland.

Appointment of ACCs and DCC

Since 2011, in England and Wales the Chief Constable is now responsible for appointing his/her Deputy Chief Constable and the other senior officers in his/her force. In Northern Ireland, the Policing Board appoints all senior officers in the PSNI, including the DCC.

External Appointments

The Home Secretary is currently considering opening up further those eligible to be appointed Chief Constable in England and Wales, by looking at whether or not particular police officers with service in a chief officer equivalent role overseas could apply for Chief Constable positions in England and Wales. This would lead to the removal of all of the current prerequisites regarding residency and previous service through the lower ranks of the police service in England and Wales as a police officer. Such appointments would be linked to completion of a mandatory course of instruction for those appointed from overseas without previous knowledge of UK policing, and the criminal justice and legal systems.

Scotland

Scotland has embarked on a programme of change as they move from eight police forces to one, and introduce a Scottish Police Authority. Their provisions are similar with regard to having experience outside Scotland, but do not specify a minimum period of service. However, they do require that a senior officer must have completed successfully the Strategic Command Course as organised by the NPIA, or its equivalent. Northern Ireland does not have a provision relating to mandatory qualifications, but the Policing Board is free to (and guided by HMIC during their appointment processes has done so) consider which qualifications are necessary when applying for the PSNI Chief Constable post. Scotland also provides for a minimum fixed term contract period of two years which does not apply in Northern Ireland.

Minimum Experience and 2 year rule on experience in another Police Area

In November 2012, the Home Secretary decided to remove from her Determination references to the minimum experience required before being appointed to a Chief Constable post. Although the PCC may wish to seek it, the Determination no longer specifies that a chief constable must have served for at least two years at ACC or above in some other police force. These provisions still provide part of the legislative basis in Northern Ireland.

Some parties to PAB (EW) expressed their concerns about dropping the "two year" criterion, as they were concerned that removing it could lead to more internal appointments with the risk of

nepotism, and less movement of police officers between forces. Others suggested introducing a power that would allow the requirement to be disregarded in certain exceptional circumstances. Some felt that the removal of this criterion would help to address key equality issues.

The Minister considers it is timely to review of the criteria currently applicable in Northern Ireland and is therefore consulting with the Board. The Minister will write also to the Justice Committee to make them aware of this review and seek Members' views. Any changes the Minister decides to make to the current criteria will require the support of legislation and the regulations will have to be amended in due course.

Issues for Board Consideration

- It can be argued that the compatibility and commonality of policing issues, demands and challenges are such that the Northern Ireland Policing Board should not depart in any significant way from our neighbours so as to make it feasible for staff to compete for positions, either in this jurisdiction or in other similar jurisdictions.
- On the other hand it can be argued that while many of the responsibilities and demands on the Chief Constable in Northern Ireland are similar to those in England, Wales, Scotland and the Republic of Ireland that some of the demands and challenges are unique to Northern Ireland and the Board could determine its own criteria and remain autonomous, both in terms of its regulations and practice in retaining the two year criteria for a Chief Constable appointment process.
- The rule was designed to discourage officers progressing through one organisation to the top without having engaged in a wider area of responsibility or challenges. This would be particularly so in some small police services in England and Wales.
- It is the case however that the Metropolitan Police Service and the PSNI represent two key policing organisations that provide immense challenges to any Chief Constable and someone coming through the ranks in our Service would have the breadth of experience in terms of security, police operations, public order control, criminal investigation, etc., far in excess of contemporaries in England, Wales and Scotland, many of whom have progressed to the level of Chief Constable, but with significantly less experience.
- There has always been an important practical argument in relation to this criteria in that in the context of England, Wales and Scotland, a senior officer wishing to gain experience in another Service, for example a senior officer in Greater Manchester Police Force, could compete for at least two other neighbouring police services and, if

appointed, would be able to take up those positions without disrupting their family or personal lifestyle in that they could easily commute. For senior officers living in Northern Ireland or the Republic of Ireland, the practical issues are very different. The impact on female officers is also considered to be important in terms of this particular equality issue.

- The criteria is dropped in England, Wales and Scotland, (and never applicable in An Garda Síochána), so officers in Northern Ireland who would meet all the other general criteria except in this one, would be very uniquely disadvantaged if the criteria remains in Northern Ireland. If the criteria is removed by the Minister, then all senior police officers *would compete on a level playing field.*

General Considerations

- (i) **Resources** – no resources issues have been identified.
- (ii) **Equality & Human Rights** – impact assessment required.
- (iii) **Publication Status of paper** – this paper is available for publication under Freedom of Information.

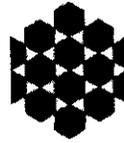
Recommendation

Recognising that there are strong arguments for and against removing this criteria, on balance my advice is that maintaining a compatibility with police services in England and Wales is a *significant issue in terms of fairness. It is important that senior officers progressing through the Police Service of Northern Ireland should be able to compete for the post of Chief Constable alongside others from neighbouring jurisdictions.*

Chief Executive

Date: September 2013

FROM THE OFFICE OF THE JUSTICE MINISTER



Department of

Justice

www.dojni.gov.uk

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Our ref: SUB/716/2013

Mr Sam Pollock
Chief Executive
Northern Ireland Policing Board
Waterside Tower
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28 May 2013

Dear Sam

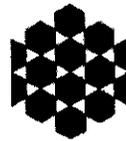
Thank you for your letter to the Department of Justice of 10 of May requesting a review of the criteria on the appointment of a new Chief Constable. You indicated that your new Resources Committee will shortly address a Board priority to review and devise the recruitment processes on Senior Executive posts within PSNI including that of Chief Constable.

Conscious of the recent changes in England and Wales, I think that your review provides a timely opportunity to consider amending the relevant regulations regarding the stipulation on the minimum experience necessary for a new Chief Constable.

I wish to learn what levels of support such a proposal might receive from the Board in the first instance.

Ref No:	
Received:	31 5 2013
Scanned:	
Allocated To:	S Pollock
Action:	cc: D Wilson

FROM THE OFFICE OF THE JUSTICE MINISTER



Department of
Justice
www.dojni.gov.uk

It would also be helpful to know whether there are other criteria affecting the recruitment to the Chief Constable role that the Board may wish to consider at this time that require attendant changes to the regulations.

I intend to bring the matter to the Justice Committee and initiate a formal consultation and would wish to take account of the Board's views on any policy proposals in this area.

*Yours
David*

DAVID FORD MLA
Minister of Justice