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Human Rights Thematic Review:
Policing with and for Lesbian, Gay,
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Overview

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Human Rights Thematic Review: Policing with and for Lesbian, Gay, Bisexual and Transgender Individuals Overview

Human Rights and Professional Standards Committee

OVERVIEW OF THE NORTHERN IRELAND POLICING BOARD'S HUMAN RIGHTS THEMATIC REVIEW: POLICING WITH AND FOR LESBIAN, GAY, BISEXUAL AND TRANSGENDER (LGB&T) INDIVIDUALS¹

All human beings are born free and equal in dignity and rights. All human rights are universal, interdependent, indivisible and interrelated. Sexual orientation and gender identity are integral to every person's dignity and humanity and must not be the basis for discrimination or abuse.²

The Human Rights Act 1998 requires the Police Service of Northern Ireland (PSNI), as a public authority, to uphold and protect the fundamental rights and freedoms of individuals that are enshrined in the European Convention on Human Rights (ECHR).

The Northern Ireland Policing Board has a statutory duty, under the Police (Northern Ireland) Act 2000, to monitor the performance of the PSNI in complying with the Human Rights Act 1998.

'Sexual orientation' refers to each person's capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender.

¹ The Human Rights Thematic Review: Policing with and for Lesbian, Gay, Bisexual and Transgender Individuals, was published on 8 March 2012 and is available to download through the Northern Ireland Policing Board's website: www.nipolicingboard.org.uk

² Extract from the introduction to the Yogyakarta Principles.

'Gender identity' refers to each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms.

'Lesbian', 'gay' and 'bisexual' are terms which refer to a person's sexual orientation. 'Transgender' refers to a person's gender identity. A transgender person, just as a non-transgender person, has a sexual orientation which may be heterosexual, lesbian, gay or bisexual.

In recognising that discrimination and abuse based on sexual orientation and gender identity remains prevalent in society today, the Policing Board, through its Human Rights and Professional Standards Committee, undertook a human rights thematic review examining policing with and for people who identify as lesbian, gay, bisexual and transgender (sometimes referred to collectively as LGB&T, although the distinction between the terms 'lesbian', 'gay' and 'bisexual', which refer to a person's sexual orientation, and 'transgender', which refers to a person's gender identity, is crucial and often misunderstood). The review was undertaken on behalf of the Committee by the Policing Board's Human Rights Advisor, Alyson Kilpatrick BL, with the assistance of Gillian Robinson.

The purpose of a thematic review is to enable the Committee to conduct an in-depth and dynamic examination of a specific aspect of policing from a human rights perspective. A key feature of this approach is that the community's experience of policing is an important part of the evidence base against which PSNI policy and practice are evaluated. The Committee agreed the terms of

reference for the LGB&T thematic review in September 2010. Since then, the Committee and the Human Rights Advisor have met with a broad range of individuals, groups, representatives from voluntary organisations and police officers to ensure that evidence for the thematic review was gathered from a wide and inclusive spectrum of persons. The extent to which people, who had previously been isolated from access to services and discriminated against within society, were prepared to discuss personal and sensitive issues, and the sophisticated analysis they applied to those issues, was truly impressive. The Committee and the Human Rights Advisor are very grateful to all those who contributed.

The thematic review considers the way in which PSNI engages with LGB&T individuals across a range of circumstances: as members of the public generally; as victims of crime, including hate crime, domestic abuse and sexual violence; as suspects, including when in custody or when being stopped and searched; and as employees or potential employees. Whilst the review identifies areas in which police practice could be improved and makes a total of 18 recommendations (set out below), it also recognises the efforts made by PSNI over the past number of years to provide an equal service that protects, respects and upholds equally the human rights of all persons in Northern Ireland.

To regard people simply as members of a homogenous group fails to afford them the dignity and respect for their identity to which they are entitled. All persons are unique and no individual can be defined purely by reference to their sexual orientation or gender identity. The Committee was mindful of this throughout the thematic process and therefore does not, through the thematic review, attempt to speak on behalf of all LGB&T people living in Northern Ireland. Rather, the thematic review attempts to identify some common vulnerabilities and policing issues that arise amongst people who identify as lesbian, gay, bisexual and

transgender and it makes recommendations aimed at achieving the shared objective of the Policing Board, the PSNI and the whole community which they serve – to improve policing.

Throughout the thematic review the Committee has been particularly mindful to consider and report upon transgender issues under separate headings and has made recommendations for PSNI accordingly, for example, it is recommended that PSNI produces a protocol for police engagement with transgender people when, for example, searching a transgender person or dealing with documentation (Recommendation 1); it is recommended that PSNI develops a lesbian, gay and bisexual training strand and a separate transgender training strand for police officers and staff as part of its integrated training strategy (Recommendation 11); it is recommended that PSNI incorporates guidance on dealing with transgender victims of domestic abuse when next updating the PSNI domestic abuse policy (Recommendation 14); and it is recommended that PSNI amends its Equal Opportunities Policy and welcoming statement on all future job vacancies to include express reference to ‘gender identity’ (Recommendation 16). For the purposes of monitoring and further review, the Committee will consider transgender issues as a separate and distinct topic from lesbian, gay and bisexual issues.

Publication of the thematic review signals the beginning of a process of monitoring and review. The Committee and the Human Rights Advisor will continue to engage with PSNI on the issues and will monitor the implementation of the 18 recommendations. They will continue to meet with stakeholders to discuss how the review has affected their experience of policing. It is hoped that publication of the thematic review will assist with raising public awareness of the issues, particularly hate crime, and reinforce the message that prejudice, discrimination and intolerance must be rejected wherever it appears: civic and political society must

embrace marginalised groups and collectively tackle the many inequalities faced by them. The police must be assisted in their endeavours but encouraged to improve further the protection and respect afforded to lesbian, gay, bisexual and transgender people within Northern Ireland.

RECOMMENDATIONS

Police custody and conducting searches: transgender people

To ensure that transgender people are treated with the dignity and respect to which they are entitled, for example, whilst in police custody or whilst being searched, police officers would benefit from a protocol which clarifies both the legal requirements and the correct procedures to be followed.

Recommendation 1

The PSNI should, in consultation with its LGB&T Independent Advisory Group, finalise its draft protocol providing guidance and the procedures to be followed for dealing with a transgender person when, for example, conducting a search or dealing with documents. Thereafter, that protocol should be disseminated across the PSNI. The protocol should be shared with the Human Rights and Professional Standards Committee within 3 months of the publication of this thematic review.

Engagement with lesbian, gay, bisexual and transgender people

The Foyle Protocol is an excellent example of partnership working which has tangible benefits. It is a document endorsed by PSNI, Derry District Policing Partnership and Derry Community Safety Partnership. It is designed to tackle the problem of homophobic attacks (hate crime), fear of attack, suicide, self-harm and the incidence of domestic violence between same gender couples in the Derry City Council area and also to develop a greater understanding and acceptance of the gay lesbian and bisexual

community in general. The Human Rights and Professional Standards Committee believes that each policing district should have its own local protocol which contains a locally tailored plan to formalise partnerships, perhaps using the template of the Foyle Protocol.

Recommendation 2

The PSNI should develop a hate crime partnership for each policing district. The PSNI should consider whether the Foyle Protocol should be the starting point for consideration or whether there is a more effective model which can be adopted. The PSNI should report to the Human Rights and Professional Standards Committee within 6 months of the publication of this thematic review on the progress made to establish effective hate crime partnerships.

Hate crime detection rates

The detection rate during 2010/2011 for all types of recorded crime in Northern Ireland was 27.3%, therefore the detection rate of 17.5% for homophobic motivated crime and 12.5% for transphobic motivated crime during the same year is below average. Moreover, between 2006/2007 and 2010/2011 there have been 32 crimes recorded with a transphobic motivation and of those, only 2 have been detected. That means that the average detection rate for transphobic crime over the past 5 years is 6.25%.³ That is considerably below average.

Recommendation 4

The Policing Plan should include a specific target for increasing the detection rate of homophobic and transphobic hate crime.

³ Police Recorded Crime in Northern Ireland 2010/11, PSNI, May 2011 and Trends in Hate Motivated Incidents and Crime Recorded by the Police in Northern Ireland 2004/05 to 2010/11, PSNI, July 2011.

Recording hate crime

PSNI will record any incident or crime as a hate incident or hate crime where it is perceived by the victim or any other person as being motivated by prejudice or hate. As set out in PSNI policy, police officers cannot decide whether or not to record or investigate a hate incident or crime because there appears to be no evidence to support the perception. Police officers must accept the perception-based view of the victim or any other person. A number of contributors to the thematic review reported experiencing difficulty persuading a police officer that they have been the victim of a hate crime. That should not happen. It is not for the victim to persuade the police – the police must accept without challenge the victim’s or any other person’s assessment of the crime.

Recommendation 5

The PSNI should circulate to all officers and staff an unambiguous statement reminding officers and staff of their obligations under PSNI policy to accept without challenge the view of a victim or any other person that the crime was motivated by hate on one of the defined grounds.

Hate crime online reporting

Hate incidents and crimes can be reported online via the PSNI website. Online reporting is a welcome initiative as it enables a victim, or someone on the victim’s behalf, to report from the safety of their own home and to provide details which may be too difficult to provide in a face to face meeting with a police officer. The online reporting mechanism is only effective, however, if it is well managed and adequately resourced to ensure that follow-up is speedy and effective. There has not yet been any post-implementation analysis of the online reporting initiative. Such analysis would provide clear evidence of the effectiveness of online reporting and reveal any inadequacies with the process.

Recommendation 6

PSNI should analyse the effectiveness of the online reporting initiative, using empirical evidence, and report to the Human Rights and Professional Standards Committee within 6 months of the publication of this thematic review. The analysis should involve LGB&T stakeholders to consider whether the reporting mechanism is effective or could be improved.

LGB&T Advocacy service

PSNI has been involved in the development and funding of an LGB&T Advocacy Service in B District (East Belfast and South Belfast). The Service was launched in June 2010 and is facilitated by the Rainbow Project in partnership with the PSNI, the Northern Ireland Housing Executive (NIHE) and the Belfast City Council Good Relations Unit. The Advocacy Service was set up to work with lesbian, gay, bisexual and transgender people in areas such as hate crime, domestic abuse and homelessness.

The Human Rights and Professional Standards Committee is of the view that a very basic and cost effective way to ensure the Advocacy Service is accessed by those who need it is for police officers to provide all victims of hate crime in the Belfast Area with the contact details of the Advocacy Service on a report being made of LGB&T hate crime.

Recommendation 7

The PSNI should ensure that all victims who report any homophobic or transphobic hate crime which has been committed in the Belfast Area are provided with contact details for the LGB&T Advocacy Service.

Feedback from stakeholders in respect of the Advocacy Service has thus far been extremely positive. It is now timely for the PSNI to evaluate formally the effectiveness of the Advocacy Service

and, assuming the evaluation is positive, to make a long-term commitment to continuing the Service. As NIHE and Belfast City Council are funding partners and the Advocacy Service operates through the offices of the Rainbow Project, it is recognised that the evaluation will require input from all involved. The Human Rights and Professional Standards Committee is supportive of the Advocacy Service and wishes to encourage and work with PSNI to develop the Advocacy Service and roll it out across Northern Ireland.

Recommendation 8

PSNI should evaluate the implementation of the LGB&T Advocacy Service according to terms of reference agreed with the Human Rights and Professional Standards Committee. PSNI should report to the Human Rights and Professional Standards Committee on the findings of the evaluation within 6 months of the publication of this thematic review.

Hate Incident Minority Liaison Officers (HIMLOs)

PSNI developed the role of Hate Incident Minority Liaison Officers (HIMLOs) to provide support to victims of hate incidents and crimes and to provide guidance to operational officers investigating hate crime. Until the summer of 2010, HIMLO duties were performed by Sergeants in each of the District Community Safety Teams. However, following a review, HIMLO duties were transferred to Sergeants within Neighbourhood Policing Teams. Sergeants are assisted by Constables appointed as deputies.

PSNI's rationale for the decision was that placing HIMLO duties with neighbourhood officers has made tackling hate crime the responsibility of the whole neighbourhood team. However, evidence to the thematic review suggests that expertise, experience and relationships built through local partnership working are being lost as a result of the decision. A complaint

from many stakeholders, aside from the worry that the role of the HIMLO is not as effective as it used to be, is that PSNI did not consult amongst relevant stakeholders prior to the decision being taken. Furthermore, it is not clear who the HIMLOs within each Neighbourhood Team are and there appears to be confusion amongst stakeholders as to what the duties of HIMLOs are. This needs to be corrected.

Recommendation 9

PSNI should evaluate HIMLO duties, as currently performed by Neighbourhood Officers. The evaluation should be conducted in consultation with relevant stakeholders, including PSNI's Independent Advisory Groups and the Policing Board's LGB&T Reference Group. An evaluation report, which includes an analysis of HIMLO duties, the number of officers assuming the role of HIMLO and the training plan relevant to those officers, should be provided to the Human Rights and Professional Standards Committee within 6 months of the publication of this thematic review.

Recommendation 10

Once the evaluation as per Recommendation 9 has been completed, the PSNI should consider whether the PSNI policy Police Response to Hate Incidents requires amendment.

Most new Sergeants and Constables with HIMLO duties have now received a bespoke three day training programme on hate crime delivered by an external consultant. Feedback on the training raised a number of matters which require further attention.

Recommendation 13

As part of its evaluation of HIMLO duties as per Recommendation 9 of this thematic review, the PSNI should review the post-training analysis of the equality and diversity training delivered to officers who are to assume HIMLO duties. Included within the evaluation report to be provided to the Human Rights and Professional Standards Committee should be details of the steps to be taken to address officers' concerns.

In B District (South Belfast and East Belfast) there are two dedicated Hate Crime Investigators whose role it is to ensure that the investigation of hate crime in the District is progressed to a standard that sustains the confidence and support of the victim and the community, with a particular emphasis on the objective of maximising clearance rates. There has not yet been any review undertaken of the effectiveness of the Hate Crime Investigators and how this compares to the role of the HIMLO.

Recommendation 3

As part of its evaluation of HIMLO duties as per Recommendation 9 of this thematic review, PSNI should consider whether establishing Hate Crime Investigators within each District would provide a more effective way of preventing, identifying and dealing with incidents of hate crime. The findings should be included in the evaluation report that is to be prepared in a format that can be shared amongst stakeholders. If PSNI consider some model other than the establishment of Hate Crime Investigators to be more appropriate, that should be explained in the evaluation report.

Training

A defined training strategy with clear objectives can only be implemented effectively following a thorough training needs analysis. A thorough training needs analysis should be carried out in association with local lesbian, gay bisexual and transgender stakeholders. Training that is delivered by and with members of the lesbian, gay, bisexual and transgender communities will result in the more efficient and effective targeting of training.

Recommendation 11

The PSNI should develop as part of its integrated training strategy, a LGB training strand and a transgender training strand for police officers and staff. In developing those strands PSNI should take advantage of the expertise available from stakeholders. A copy of the proposed training strands should be provided to the Human Rights and Professional Standards Committee within 12 months of the publication of this thematic review. They should be produced in a format that can be circulated amongst stakeholders.

Recommendation 12

The PSNI Police College should develop, consistently with the PSNI Corporate Plan, a LGB&T skills assessment of the organisation. Within that assessment, the training received by officers and members of staff should be reviewed. Each officer and member of staff should maintain an individual skills profile, which is monitored by the Police College. As officers and members of staff assume additional or different duties, their profile should be reviewed to ensure that relevant training has been received or is to be received.

Domestic abuse

Domestic abuse is a serious and endemic problem in Northern Ireland which has a devastating impact upon victims, their children and other family members. There are many misunderstandings and myths about the nature of domestic abuse. Inaccurate stereotypes can make reporting abuse all the more difficult for victims. Research evidences that lesbian, gay and bisexual individuals and transgender individuals frequently experience domestic abuse but rarely report it to the police.

PSNI has a robust policy for responding to domestic abuse, it has a number of domestic abuse officers who are trained specifically to deal with the many and varied aspects of domestic abuse and it works in partnership with other agencies to tackle domestic abuse. The PSNI domestic abuse policy contains specific reference to same sex relationships but provides no specific guidance to issues that may be faced by transgender victims of domestic abuse. The domestic abuse policy is currently due for review.

Recommendation 14

When PSNI Policy Directive PD 09/08 Police Response to Domestic Incidents is next reviewed, included within it should be an overview of issues that may be faced by victims of domestic abuse who are transgender and guidance on how officers should treat transgender victims.

Recruitment to PSNI

In 2011, PSNI published a draft Equality, Diversity and Good Relations Strategy for consultation. The Strategy seeks to ensure that equality, diversity and good relations are mainstreamed into all PSNI practices and procedures.

Recommendation 15

When providing its first progress report to the Policing Board on its Equality, Diversity and Good Relations Strategy, the PSNI should include information on any specific actions taken to encourage applications from lesbian, gay and bisexual people and from transgender people.⁴

PSNI's Equal Opportunities policy states that it welcomes job applications from all suitably qualified candidates irrespective of factors such as sex or sexual orientation. This is an unambiguous statement for which the PSNI should be commended. However, that policy contains no explicit reference to non-discrimination on the basis of 'gender identity'. Whilst sex discrimination in law includes discrimination based on gender reassignment, this does not include discrimination against transgender people who have not, and who do not intend to, undergo gender reassignment under medical supervision. For clarity, it would be helpful if PSNI made clear in all equal opportunities documentation that it does not discriminate on the grounds of gender identity.

Recommendation 16

PSNI should amend its Equal Opportunities Policy, PD 04/06, to include explicit reference to the fact that it will not discriminate against, or treat anyone less favourably, on the ground of gender identity. That Policy should contain a definition of 'gender identity'. PSNI should also consider amending its Equal Opportunities Statement and welcoming statement on all future job vacancies so that where gender is referred to it includes "or gender identity." For example, that

⁴ This recommendation is not intended to require the PSNI to provide the number of officers or staff who identify as lesbian, gay, bisexual or transgender, not least because to require a person to disclose his or her orientation or gender identity would not be appropriate or helpful. Rather, it is about ensuring that no potential applicant is dissuaded from applying to the PSNI.

PSNI welcomes job applications from all suitably qualified persons regardless of their gender or gender identity.

Cultural audit

PSNI carried out a cultural audit during 2011 which is due to be completed in the coming months. In a cultural audit all employees (i.e. all police officers and staff) are asked to complete a questionnaire as a means of understanding issues affecting staff and to chart progress against PSNI's Shared Future Strategy. The Policing Board's LGB&T Reference Group is keen to consider in detail the findings of this audit, particularly those relating to the section on diversity. PSNI has previously provided the Policing Board with information on cultural audits carried out in 2005 and 2008 and has indicated that it will do so again with the 2011 audit.

Recommendation 17

Upon completion of the 2011 cultural audit, PSNI should provide the Policing Board's Human Rights Advisor with a copy of the full report prepared by the consultants tasked with analysing the audit findings. The PSNI should continue to provide to its LGB&T Independent Advisory Group and the Policing Board's LGB&T Reference Group a summary of the report and its findings.

Internal support for lesbian, gay, bisexual and transgender employees

In 2008, a full-time Network Support Officer was appointed to support the development of the Gay Police Association (GPA) within the PSNI. The role was intended to raise and establish the profile of lesbian, gay and bisexual police officers and to provide them with support in the workplace. Similarly, a Network Support Officer was appointed to support female officers within PSNI and a Network Support Officer was appointed to support the Ethnic Minority Police Association. All three posts were internal secondments rather than permanent posts.

In March 2010, the decision was taken to return all three Network Support Officers to 'frontline' duties. The discontinuation of the Network Support role has been a contentious issue. Representations were made during the course of the thematic review both from those who believed that the Network Support role should be reinstated, and from those who agreed with the decision to discontinue the role. What was apparent was that regardless of job title, there ought to be someone available to whom lesbian, gay, bisexual and transgender officers and staff can turn.

There is currently no dedicated support, such as the GPA, for transgender officers or staff. The PSNI should consider how it will ensure that a transgender officer or member of staff will be supported within the organisation.

Recommendation 18

The PSNI should consider what steps it takes or may take to ensure that lesbian, gay, bisexual and transgender officers or staff are supported within the PSNI and report on the results of that consideration to the Human Rights and Professional Standards Committee within 6 months of the publication of this thematic review. Within that report, PSNI should assess whether there has been any impact on the support available to officers and staff following the transfer of functions from Network Support Officers to Supervisors and Line Managers and include reference to whatever protections are in place to ensure equality and diversity is promoted in a practical and effective manner.