

PROCEDURE FOR REQUIRING THE CHIEF CONSTABLE TO SUBMIT A REPORT TO THE NORTHERN IRELAND POLICING BOARD UNDER SECTION 59 OF THE POLICE (NORTHERN IRELAND) ACT 2000 (AS AMENDED)

Adopted by the Northern Ireland Policing Board as a procedure on 6 December 2012

INTRODUCTION

1. This document has been adopted by the Northern Ireland Policing Board (the Board) as a procedure of the Board in accordance with paragraph 17 of Schedule 1 to the Police (Northern Ireland) Act 2000 (the 2000 Act). The purpose of the procedure is to govern requirements to submit a report under section 59 of the 2000 Act. Section 59 of the 2000 Act provides that the Chief Constable will, whenever so required by the Board, submit to the Board a report on any such matter connected with the policing of Northern Ireland as may be specified in the requirement.
2. The Board will bear responsibility for regulating this procedure.
3. The Board will exercise its power under section 59 of the 2000 Act in accordance with this procedure.
4. This procedure, and any subsequent versions of it, will be published by the Board.
5. References to the Board in this procedure cannot be substituted by reference to any Committee of the Board.

DETERMINATION OF THE DECISION TO EXERCISE THE POWER TO REQUIRE A REPORT UNDER SECTION 59

6. Before determining to exercise the power under section 59 of the 2000 Act:
 - (i) The Board will be satisfied that the report is required on a matter connected with the policing of Northern Ireland;
 - (ii) The Board will consider:
 - (a) If a request has been made pursuant to section 33A which has not been complied with by the Chief Constable, the reason(s) (if any) given by the Chief Constable for his or her refusal to provide the information or documents;
 - (b) In any event, whether the subject matter of the requirement to report is such that the power under section 59 should be exercised.

7. The Board will determine to exercise its power under section 59 of the 2000 Act by a majority vote of Members present at a meeting (with the Chair having a second or casting vote in the event of an equal division of votes). Such a vote is required in respect of each individual report to be required under section 59 of the Act.

COMMENCING THE SECTION 59 PROCEDURE

8. Any requirement to report made under section 59 will be in writing and will state that it is made pursuant to section 59 of the Police (Northern Ireland) Act 2000, as amended. It will be addressed to the Chief Constable at PSNI Headquarters and will state the date by which a report is required to be submitted and the format for that report. The requirement will be deemed to have been served when it is delivered to Command Secretariat. The Board will ensure that the requirement is delivered and has been received by Command Secretariat. The Chief Constable should acknowledge receipt of the written communication.¹

¹ As per paragraph 26 of the Code of Practice on Report and Inquiries issued by the Secretary of State under section 27 of the Police (Northern Ireland) Act 2000 in July 2004.

9. The Chief Constable must submit the required report to the Board, in the specified format, within one calendar month² from the date on which the written requirement was served upon the Chief Constable. In calculating the expiry of one calendar month it will not include the date of service. Where the month expires on a Saturday, Sunday or public holiday, the deadline will be extended until the next day that is not a Saturday, Sunday or public holiday.

10. If the Chief Constable requires an extension of time within which to submit the report, he or she must, as soon as possible but in any event at least 14 days before the expiry of one calendar month, make a request in writing. That request must be addressed to the Chair of the Board for the attention of the Board. The Board may agree to waive the requirement to submit the report within one calendar month and agree a new date by which the report is to be submitted. In reaching its decision, the Board will consider the reason(s) given by the Chief Constable for requesting an extension of time. The Board will also consider the urgency of the requirement to report.

11. Where the Chief Constable has advised that the request for an extension of time is to avoid significant adverse impact on the operational effectiveness of the police service, the Board may, and should if it is minded to turn down the request, seek the views of Her Majesty's Inspectorate of Constabulary (HMIC). Where such views are sought, the Board will have due regard to HMIC recommendations in reaching its decision on whether to permit an extension of time and, if so, for how long.³

12. An agreement to grant or reject a request for an extension of time may be reached by a majority of Members present and voting on the issue at a meeting of the Board if such a meeting is scheduled (with the Chair having a second or casting vote in the event of an equal division of votes); or by a majority of Members of the Board responding to an email or telephone

² Unless a longer period has been agreed in accordance with paragraph 10.

³ As per paragraph 33 of the Code of Practice on Report and Inquiries issued by the Secretary of State under section 27 of the Police (Northern Ireland) Act 2000 in July 2004.

communication from Board officials seeking Members' agreement to either grant or reject the request for an extension of time.

13. The Board will respond in writing to the Chief Constable's request for an extension of time within 5 working days of the date of receipt of the request. If the Board decides to reject the request for an extension, it will set out its reasons in writing. The written decision will be deemed to have been served when it is delivered to Command Secretariat. A copy may also be sent by email or by facsimile. The Chief Constable should acknowledge receipt of the written decision.

REFERRAL OF A REQUIREMENT TO SUBMIT A REPORT

14. The Chief Constable may refer a section 59 requirement to submit a report to the Justice Minister or the Secretary of State as the case may be⁴ on one or more of the grounds set out in section 76A(1) of the 2000 Act.⁵ When making such a referral to the Justice Minister or the Secretary of State, the Chief Constable should, contemporaneously, notify the Board in writing that he or she has made such a referral and where possible provide a summary of the reasons for that referral.⁶ The Board will acknowledge receipt of the written notification.

15. The time period within which the Chief Constable is required to submit a report is suspended on the date the Chief Constable makes a referral to the Justice Minister or Secretary of State.⁷ The time limit will recommence from the date the Justice Minister or the Secretary of State communicates his or

⁴ As per section 59(3) & (3A) of the 2000 Act

⁵ i.e. if it appears to the Chief Constable that a report in compliance with the Board's section 59(1) request would contain information which ought not to be disclosed on grounds that (i) it is in the interests of national security; (ii) the information is sensitive personnel information; or (iii) the information would, or would be likely to, prejudice proceedings which have been commenced in a court of law.

⁶ As per paragraph 102 of the Code of Practice on Report and Inquiries issued by the Secretary of State under section 27 of the Police (Northern Ireland) Act 2000 in July 2004.

⁷ The date on which the Chief Constable makes a referral is not counted when calculating the time period within which the report must be submitted.

her decision on the referral unless the response is to set aside the requirement to submit a report.⁸

16. The Justice Minister or the Secretary of State as the case may be, in reaching a decision on a referral, will inform the Board, to the extent that he or she deems appropriate, of the Chief Constable's reasons for referring the requirement to submit a report. Before making a decision to set aside or modify the requirement to report, the Justice Minister or the Secretary of State as the case may be will normally invite the Board to comment on the referral.⁹ The Board will respond to an invitation to comment within 7 days¹⁰ unless an alternative time limit is agreed with the Justice Minister or the Secretary of State.

17. The Justice Minister or the Secretary of State as the case may be should reach a decision on the referral within a period of 30 days from the date of the referral unless an alternative time limit has been agreed.¹¹ If the 30 day period expires on a Saturday, Sunday or public holiday, the deadline will be extended until the next day that is not a Saturday, Sunday or public holiday.

18. The decision of the Justice Minister or the Secretary of State may be to:

- (i) Uphold the requirement to report;
- (ii) Set aside the requirement to report or modify the requirement to report on either or both of the following grounds:
 - (a) exempting the Chief Constable from providing information which, in the opinion of the Justice Minister (or Secretary of State) ought not to be disclosed on any of the grounds set out in section 76A(1) of the 2000 Act; or
 - (b) imposing upon the Chief Constable an obligation to supply any such information or report to a Special Purposes Committee of the Board.

⁸ The date on which the Justice Minister (or Secretary of State) makes a decision on the referral is not counted when calculating the remaining time period.

⁹ As per paragraph 108 of the Code of Practice on Report and Inquiries issued by the Secretary of State under section 27 of the Police (Northern Ireland) Act 2000 in July 2004.

¹⁰ The date on which the request for comments is received by the Board is not counted within the 7 day period.

¹¹ The date on which the referral is made is not counted within the 30 day period.

19. The Justice Minister or the Secretary of State as the case may be should, to the greatest extent possible, provide written reasons to the Board and the Chief Constable for his or her decision. In the event that it is not possible to provide reasons within the relevant time period the Justice Minister or the Secretary of State should notify the Board and the Chief Constable of his or her decision within the relevant time period and should as soon as reasonably practicable set out the grounds on which the decision was reached.¹²
20. If the Board is aggrieved by the decision of the Justice Minister or the Secretary of State as the case may be, the Board may consider such further action as it deems appropriate. That further action will be agreed by a majority of Members present and voting on the issue at a meeting of the Board (with the Chair having a second or casting vote in the event of an equal division of votes).

SUBMISSION OF A REPORT TO A SPECIAL PURPOSES COMMITTEE

21. In the event that the Chief Constable decides that he or she will submit the report only to a Special Purposes Committee because it consists of information which, in the Chief Constable's opinion, ought not to be disclosed on a relevant ground contained within the 2000 Act, he or she must as soon as reasonably practicable but in any event at least 10 days before the expiry of one calendar month from the date of the requirement to report, notify the Board's Chair in writing. The Chief Constable must contemporaneously provide written reasons for that decision.
22. On receiving notification from the Justice Minister, the Secretary of State or Chief Constable as the case may be that a report or part only of a report will be submitted to a Special Purposes Committee, the Board will proceed to establish a Special Purposes Committee¹³ unless a Special Purposes Committee has already been established by the Board.¹⁴

¹² As per paragraph 114 of the Code of Practice on Report and Inquiries issued by the Secretary of State under section 27 of the Police (Northern Ireland) Act 2000 in July 2004.

¹³ In accordance with paragraph 24 of Schedule 1 to the 2000 Act.

¹⁴ As per sub-paragraph 24(1C) of Schedule 1 to the 2000 Act.

23. The Chief Constable must, if submitting a report to a Special Purposes Committee, prepare a summary of the report. The Chief Constable shall try to obtain the agreement of the Special Purposes Committee as to the terms of the summary. The Special Purposes Committee will satisfy itself that the contents of the summary contains as much information as is appropriate taking into account the nature of the information contained within the report. If the Special Purposes Committee has agreed the contents of the summary, the summary will be provided to the Board.

PUBLICATION OF A REPORT

24. The Board may arrange, or require the Chief Constable to arrange, for a report provided under section 59 to be published in such manner as appears to the Board to be appropriate. In deciding whether to arrange, or require the Chief Constable to arrange, for a report to be published, the rebuttable presumption will be that a report should be available for public scrutiny. Before publishing a report, the Board will consider whether publication is in the public interest and whether publication is lawful, necessary and proportionate. In so doing the Board may take legal advice. If a summary or redacted report is published, there will be an appropriate explanation within that summary or redacted report to explain the reason for publication in summary or redacted format.

25. A decision to arrange, or require the Chief Constable to arrange, for a report to be published, will be reached by a majority of Members present and voting on the issue at a meeting of the Board with the Chair having a second or casting vote in the event of an equal division of votes.

DISCLOSURE OF INFORMATION CONTAINED WITHIN A REPORT

26. The Chief Constable must inform the Board or a Special Purposes Committee if he or she provides information to it which in the Chief Constable's opinion ought not to be disclosed, on one of the grounds set out in the Act, beyond the Board or the Special Purposes Committee. He or she must also provide written reasons which set out the information which ought not to be disclosed together with an explanation of the relevant ground(s) for non-disclosure. It is

noted that if the Board or a Special Purposes Committee has been provided with information that ought not to be disclosed on a relevant ground and has been informed that the information is information which ought not to be disclosed on a relevant ground it is a criminal offence¹⁵ for anyone who is, or has been, a Board Member or a member of staff to disclose that information beyond the Board (if provided to the Board), or beyond the Special Purposes Committee (if provided to a Special Purposes Committee).¹⁶

¹⁵ As per section 74A(8) of the 2000 Act.

¹⁶ Unless an exemption within section 74A(7) of the 2000 Act applies.