



## **Northern Ireland Policing Board: Monitoring the compliance of the Police Service of Northern Ireland with the Human Rights Act 1998.**

### **Human Rights Annual Report 2015 Summary**

#### **1. INTRODUCTION**

The Northern Ireland Policing Board has an obligation, under section 3(3)(b)(ii) of the Police (Northern Ireland) Act 2000, to monitor the performance of the Police Service of Northern Ireland (PSNI) in complying with the Human Rights Act 1998. The Board knows that a commitment to safeguarding human rights, the substantive and visible protection of those rights and the exposure of violations of rights if they do occur are the best means of building public confidence in policing and ensuring an effective and efficient police service which can police with the consent of the community. It is uncontroversial to say that a police service that cannot secure public confidence and maintain its legitimacy cannot function effectively. It is the public who provide the police with their legitimacy – it is their acceptance of the legitimacy of the police that gives the police their authority. That is the fundamental premise upon which the Performance Committee of the Board (the Committee) monitors and reports upon, with the assistance of the Board's independent Human Rights Advisor, the compliance of the Police Service of Northern Ireland (PSNI) with the Human Rights Act 1998. It does so on a continuing basis and reports by Human Rights Annual Reports and thematic review reports.

The Human Rights reports the work of the Committee in the past year and analyses the PSNI's implementation of recommendations made in previous reports and thematic review enables a more in-depth examination of specific areas of policing from a human rights perspective. This process of

examination and engagement has resulted in closer working between the Committee, the local community and the PSNI to improve service delivery.

To date, the Committee has undertaken five human rights thematic reviews, four of which have been published. The first examined the policing of domestic abuse and was published in March 2009. It made 14 recommendations for PSNI to implement. A further report was published which recorded the progress of the PSNI in implementing the 14 recommendations. The second review examined policing with children and young people and was published in January 2011. It made 30 recommendations for PSNI to implement. An update report on PSNI progress in implementing the 30 recommendations has been published. The third thematic review considered the way in which PSNI engages with and responds to lesbian, gay, bisexual and transgender individuals. It was published in March 2012 and made 18 recommendations for PSNI to implement. In that report, a commitment was made to consider transgender individuals separately. Two update reports on PSNI progress in implementing the recommendations have been published. The fourth thematic review, examined the use of police powers to stop, search and question individuals under the Terrorism Act 2000 and the Justice and Security (Northern Ireland) Act 2007. An update report on PSNI progress in implementing the recommendations will be published in due course.

The Human Rights Advisor is currently examining the police response to Race Hate crime. The review will consider the PSNI approach to policing with and for those individuals and in particular its compliance with the Human Rights Act 1998 in, but not limited to: Identifying, recording and encouraging the reporting of race hate crimes, including offences of incitement to racial hatred; Supporting victims of race hate crime; Investigating race hate crimes and arresting and prosecuting the perpetrators; Effectiveness of the police use of statutory powers to prosecute race hate crime; Strategies to combat race hate crime; Supporting police officers and staff from minority ethnic communities

and the engagement with external partners and stakeholders. The thematic will include a review of PSNI policy, operational effectiveness, training, staffing and the quality of service received by victims of race hate crime.

This report announces a thematic review which is considering the policing of child sexual exploitation (CSE) by the PSNI and the National Crime Agency (NCA). The review will focus on the compliance of the PSNI and the NCA with the Human Rights Act 1998 and international treaty obligations such as the United Nations Convention on the Rights of the Child (UNCRC). The review will assess whether the PSNI and the NCA do everything they can do to protect children and young people from sexual exploitation and abuse. The review will assess the extent to which the PSNI and NCA adopt a proactive and child-centred approach, which is sensitive and responsive to the needs of children with particular vulnerabilities; and respect, protect and fulfil the rights of the child. The review will also assess the application of the Memoranda of Understanding between the PSNI, the NCA and the Northern Ireland Policing Board to ensure that the requisite degree of transparency, compliance and accountability is achieved

The current Human Rights report reviews the work of the Committee during 2015 and analyses the PSNI's implementation of recommendations made in previous reports. In 2015, the key areas considered under separate chapter headings are: (1) The PSNI Programme of Action; (2) Training; (3) Policy; (4) Operations; (5) Complaints, Discipline and the Code of Ethics; (6) Public Order; (7) Use of Force; (8) Covert Policing; (9) Victims; (10) Treatment of Suspects; (11) Policing with the Community and Human Rights Awareness in the PSNI; (12) Privacy, Data Protection and Freedom of Information; and (13) Children and Young People.

## **2. TRAINING (Chapter 2)**

The Committee recognises that effective training in human rights principles and practice is fundamental to any organisation committed to compliance with the Human Rights Act 1998. That was recognised in the Patten Report where it was observed, “training will be one of the keys to instilling a human rights-based approach into both new recruits and experienced police personnel”. Throughout the years the PSNI has demonstrated its commitment to delivering human rights training of high quality. Recognising the ever changing environment in which police officers and staff operate, the emerging jurisprudence of the courts and the development of new international treaties and instruments, for example the United Nations Convention on the Rights of Persons with Disabilities, the Committee is concerned to ensure that training is continually reviewed and up-dated.

Human rights are no longer taught solely in a stand-alone lesson (although there is a dedicated introduction to human rights which is important and effective) but are integrated into all training in a meaningful and practical way. It is important to see such training not simply as human rights training but as basic police training. The PSNI accept that human rights run through everything that police officers and staff do, that the protection of human rights is the cornerstone of all police action and should inform all police action. They accept that the most effective way to ensure that is by training which is interactive and delivered within the context of operational scenarios. That approach to training continued throughout 2015. However, understandably, the PSNI has this year attempted to target its limited resources in a cost-effective way. Increasingly, training is delivered by way of ‘e-learning’ packages and while a move towards a stream-lined and cost-effective training programme is encouraged, the Committee seeks assurance that e-learning is used only where it is appropriate and is sufficient to deliver the training outcomes required. The Board’s Human Rights Advisor will review throughout 2016 the use of e-learning.

For a number of years until June 2015, human rights' training was overseen by a dedicated Human Rights Training Advisor within the PSNI with specialist human rights knowledge and experience in delivering training which was applied to reviewing training delivered at the Police College and within police districts. To ensure that the integration of human rights principles into all aspects of training remains a priority within the PSNI the Committee believes a new Human Rights Training Advisor should be recruited as a matter of urgency and made a recommendation to that effect. The Committee also wishes to encourage the PSNI to consider how it might better incorporate the expertise and experience of community based organisations into training. The Committee has previously suggested that the PSNI might for example develop a process for relevant organisations to have an input into training materials and by providing case studies or online video presentations. The Committee also encourages the PSNI to review whether trainers are given sufficient opportunity to develop their own expertise by attending conferences and building relationships with local experts.

The Committee noted the recent report of Northern Ireland's Chief Inspector of Criminal Justice which called for greater collaboration between the PSNI and the Public Prosecution Service for Northern Ireland (PPS), to address significant failings in the preparation of case files and the standards applied around disclosure. The Committee endorses the comments and recommendations in respect of the training aspects of the CJI report and recommending recommended that the PSNI should complete its joint project with the PPS on case file preparation and implement the recommendations and findings contained within the Criminal Justice Inspection Northern Ireland Report.

### **Recommendation 1**

**The PSNI should without delay, recruit a Human Rights Training Advisor with sufficient expertise and experience to ensure that the highest level of human rights training is delivered within the PSNI. Progress in relation to that recruitment should be reported to the Performance Committee within 1 month of the publication of this Human Rights Annual Report.**

### **Recommendation 2**

**The PSNI should complete its Working Together project on case file preparation and implement the recommendations and findings contained within the Criminal Justice Inspection Northern Ireland Report within 9 months of the publication of this Human Rights Annual Report. Thereafter, the PSNI should provide to the Performance Committee a written briefing on the outcomes of the project and on the steps taken or to be taken. That written briefing should be provided within 12 months of the publication of this Human Rights Annual Report.**

## **3. POLICY (Chapter 3)**

PSNI policy governs the conduct of police officers and police staff and sets out the framework within which decisions may be made. It contains guidance on legislation and police powers and duties. It provides the measure by which police practice can be monitored and assessed. Policies must inform how, and dictate that, decision-making and practice comply with the Human Rights Act 1998, interpretation of which is informed by other relevant international treaties and instruments. If policy is itself human rights compliant, it is much more likely that police training, decision-making and practice will be human rights compliant. In other words, good policy is the first (and most basic) step to ensure that human rights standards are applied in practice.



This Human Rights Annual Report considers a number of policy developments which have an impact upon PSNI policy and practice. For example, it considers the proposed change to the mental capacity legislation, domestic violence protection notices and orders, new provisions on services for victims and witnesses, test purchasing of alcohol and the retention and destruction of DNA samples, profiles and fingerprints.

In respect of the publication of PSNI policy, the Committee records its disappointment that despite previous recommendations the PSNI has still not published all of its Policy Documents and Services Procedures on its publicly accessible website. While some progress has been made, the majority of Policy Directives and Service Procedures have not been published. The Committee does not accept that an ongoing review of policy justifies the delay. As noted previously, even if a policy is under review, for so long as it remains in force it represents the policy of the PSNI and should be published save where it contains sensitive information unsuitable for publication. Where that is the case the PSNI should publish a redacted version of the document. The Committee therefore wishes to see all Service procedures and Policy Directives published immediately.

**Outstanding Recommendation from the 2014 Human Rights report**

**PSNI should publish all Policy Directives and Service Procedures that are currently in force on its website (subject to redaction of classified information). If any Policy Directive or Service Procedure is undergoing a review, this should be noted but the document should not be removed from the website until such time as it has been cancelled or an updated version issued. PSNI should provide the Performance Committee with a progress report in relation to the implementation of this recommendation within 3 months of the publication of this Human Rights Annual Report.**



### **Recommendation 3**

**In the likely event that the PSNI will obtain the power to issue Domestic Violence Protection Notices and apply for Domestic Violence Protection Orders within the next 12 months it should provide to the Committee its draft written policy and guidance on the use of the powers and the proposed training plan for officers. In any event, training must be delivered prior to the introduction of the powers.**

#### **4. OPERATIONS (Chapter 4)**

Monitoring the strategy, planning and execution of operations is critical to any overall assessment of the PSNI's compliance with the Human Rights Act 1998. The majority of police operations raise important human rights issues and those are considered within this annual report including counter-terrorism and security operations, the use of police powers to stop, search and question and the use of body worn video. This report also considers the impact on operations of the recent PSNI restructure.

#### **5. COMPLAINTS, DISCIPLINE AND THE CODE OF ETHICS (Chapter 5)**

The Board has a statutory duty to keep informed of complaints and disciplinary proceedings brought in respect of police officers and to monitor any trends and patterns emerging. That work is undertaken by the Committee which is also responsible for monitoring the effectiveness of the Code of Ethics. Those monitoring functions complement the Committee's work in monitoring human rights compliance as a human rights culture is in part demonstrated by the quality of interactions between the police and the public which in turn can be measured to some extent by the response to complaints. The Committee keeps under review the formal police complaints process with a particular focus on what it reveals about routine contacts between the police

and the public. Furthermore, by monitoring PSNI internal disciplinary proceedings and alleged breaches of the Code of Ethics, the Committee can assess the effectiveness of the Code and the extent to which individual officers (and the Police Service as a whole) are respecting the human rights principles that underpin the Code of Ethics.

The Committee meets formally with the Police Ombudsman and/or senior officials from the Office of the Police Ombudsman (OPONI) at least twice a year to discuss a range of issues, including trends and patterns in complaints against police officers and the resolution of those complaints. The Committee considers individual investigation reports produced by OPONI and it considers Regulation 20 reports. The Committee monitors thereafter, the PSNI's implementation of those recommendations. The Committee also assesses whether lessons are learned and that best practice is promoted across the organisation for all officers and members of police staff. The Committee meets formally with officers from PSNI Service Improvement Department at least twice a year to discuss professional standards issues. The Committee welcomes the ongoing work of the PSNI and OPONI to identify trends in policy recommendations.

In 2015, OPONI highlighted the overall reduction in the number of complaints and allegations in particular the significant reduction in the number of allegations of incivility and oppressive behaviour. The PSNI has focused on those allegations and their efforts appear to have effected directly an improvement in practice and a consequent reduction in complaints and allegations. The PSNI referred to the fewer confrontations between police and public during parades and demonstrations as a contributing factor in the reduction of complaints. That is welcomed by the Committee. However, the Committee noted an increase in the number of complaints arising from criminal investigations, the most common complaint being an alleged failure in duty (42.6% of all allegations).

The Committee was concerned, in 2014, at the significant increase in the number of complaints arising from domestic incidents which was followed by an increase in the number of domestic Incident complaints increasing. The Committee records its disappointment at the increase in complaints. To understand those statistics better, the Board's Human Rights Advisor was provided with details in respect of 2014/2015 complaints. It became apparent that the category 'domestic incident' included complaints relating to police conduct at a complainant's property, complaints involving neighbourhood disputes and complaints relating to telephone calls. In other words, 'domestic incident' did not refer solely to cases involving domestic violence or abuse.

The Committee is concerned to understand whether, despite the work undertaken following a thematic review of domestic abuse policing, the improvements in police practice have or have not been reflected in a decreased number of complaints relating to incidents arising from alleged domestic violence or abuse. It is essential that the PSNI understands the nature and extent of complaints arising from the police response to reports of domestic violence and abuse therefore the Committee recommends that the PSNI, in co-operation with OPONI, should identify those complaints which relate specifically to the police response to reports of domestic violence and abuse (within the more general complaint heading of domestic incident) and disaggregate those complaints in the presentation of its analytical reports.

The Committee notes the establishment of a PSNI Culture and Ethics Committee to develop further a positive culture and ethos which, amongst other things, is intended to embrace the principles of policing with the community, promote equality, diversity and good relations within the service and have at its heart the protection and vindication of human rights in all aspects of policing.

The full report also contains an overview of court cases of particular interest to the Committee which consider issues such as the retention of DNA profiles,

fingerprints and photographs, surveillance of a detainee's legal consultation, release in the media of images of children, parades and protests and advance notification, automatic disclosure of criminal convictions and a review of the inquest into the death of Pearse Jordan.

**Recommendation 4**

**The PSNI, in co-operation with OPONI, should identify those complaints which relate specifically to the police response to reports of domestic abuse (within the more general complaint heading of domestic incident) and disaggregate those complaints in the presentation of its six-monthly reports.**

**Recommendation 5**

**The PSNI should include as part of the information provided for the Professional Standards Monitoring Framework trends and patterns identified in complaints and misconduct matters arising in respect of police civilian staff who are not designated officers within the remit of the Office of the Police Ombudsman.**

**Recommendation 6**

**The PSNI should forthwith amend its Youth Diversion Scheme to include clear guidance that a child must always be referred to the possibility of seeking legal advice when an Informed Warning is to be administered. Thereafter the PSNI should confirm in writing to the Performance Committee that the Scheme has been amended and that officers have received appropriate advice on the amendment.**

## **6. PUBLIC ORDER (Chapter 6)**

Public order policing inevitably engages a number of rights enshrined in the European Convention on Human Rights and Fundamental Freedoms (ECHR). In the context of public processions and protest meetings a number of articles of the ECHR are engaged such as the right to freedom of thought, conscience and religion (Article 9 ECHR), the right to freedom of expression (Article 10 ECHR), the right to freedom of peaceful assembly and freedom of association with others (Article 11 ECHR) and the right to respect for private and family life (Article 8 ECHR). Where there is potential for disorder, the right to life (Article 2 ECHR) and the right not to be subjected to torture, or inhuman or degrading treatment or punishment (Article 3) are clearly engaged.

The PSNI's duty to balance those often competing rights calls for careful consideration of a number of complex issues. The PSNI operates within an environment in which it is not responsible solely for the management of parades and protests. For example, parades and associated protest meetings are considered by the Parades Commission which decides whether to issue a determination and/or impose conditions under the Public Processions (Northern Ireland) Act 1998. As a public authority the Parades Commission must take into account the ECHR rights of all involved before reaching a decision. However, it clearly is the sole responsibility of the PSNI to *police* parades, protests and other public assemblies and to deal with any outbreaks of disorder. In doing so, the PSNI must comply with the Human Rights Act 1998. The exercise of police public order powers and the duties to protect life and property, to preserve order, to prevent the commission of offences and, where an offence has been committed, to take measures to bring the offender to justice must be informed by and comply with the Human Rights Act 1998.

The Board's Human Rights Advisor reported to the Committee that PSNI senior command during 2015 afforded her unlimited access to public order planning, strategy, live operations and de-briefs. The Board regularly meets to

consider public order issues that do or may arise. That includes training, policing tactics, the public order strategy, the use of force, the criminal justice strategy (arrests, prosecution etc.), the management of parade notifications, the welfare of officers, mutual aid, engagement between the police and communities and resource implications (financial and personnel). Furthermore, the Board's Human Rights Advisor, in addition to attending some live operations, is briefed regularly by PSNI on its public order strategy, its planning of public order events and the operational decisions that are taken. For example, on 13 July 2015, the Human Rights Advisor attended the Silver Command room throughout the operation. As in previous years, she reported to the Committee her satisfaction with the policing of the operation save in respect of one incident upon which she was unable to comment as it is currently under investigation and will be reported upon once complete.

In June 2015, a report by the Office of the Police Ombudsman criticised the PSNI for failing to protect the Orange Order as it marched through Belfast. While the policing operation occurred in 2013, the report is mentioned in this Annual Report for completeness. The report was considered by the Board and discussed with the Chief Constable. The Chief Constable accepted the findings in the report and apologised for the PSNI's failure to plan for the subsequent disorder and the inability to deploy sufficient resources in time to prevent the disorder. The Police Ombudsman rejected an allegation that the police stood by and did nothing. The Board's Human Rights Advisor reported previously to the Committee that the PSNI had not on that occasion envisaged the disorder that subsequently ensued and the number or locations of officers that needed to be deployed. Immediately after the incident and in subsequent planning meetings however the PSNI clearly demonstrated that the lessons to be learned from the incident had been learned and provision made to better ensure that the problem was unlikely to recur.

## **7. USE OF FORCE (Chapter 7)**

The use of force by police officers engages in a direct and fundamental way the rights protected by the European Convention on Human Rights and Fundamental Freedoms (ECHR) such as Article 2 (the right to life); Article 3 (the right not to be subjected to torture, inhuman or degrading treatment or punishment) and Article 8 (the right to respect for private and family life). Police officers have the authority to use force in order to defend themselves or another person, to effect an arrest, to secure and preserve evidence or to uphold the peace, but any such use must be justified on each and every occasion. Consideration must always be given to whether there is a viable alternative to the use of force. Furthermore, Article 4 of the PSNI Code of Ethics, which draws upon the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, states “Police officers, in carrying out their duties, shall as far as possible apply non-violent methods before resorting to any use of force. Any use of force shall be the minimum appropriate in the circumstances and shall reflect a graduated and flexible response to the threat. Police officers may use force only if other means remain ineffective or have no realistic chance of achieving the intended result”.

During 2015, the Committee monitored the use of all force by the PSNI. The report provides an overview of the legal and practical framework within force may be used and analyses in detail statistics for the use of Firearms Attenuating Energy projectiles (AEPs), Batons, Taser, Water Cannon, CS Spray and Police Dogs. The legal framework and use of water cannon is analysed in detail this year given the understandable concern following a refusal by the Home Secretary to permit police to deploy water cannon in England and Wales. The report also notes the recent introduction of PAVA Irritant Spray to a limited number of officers in Northern Ireland.



## **8. COVERT POLICING (Chapter 8)**

Covert policing raises significant issues in which various rights enshrined in the European Convention on Human Rights and Fundamental Freedoms (ECHR) must be considered. As technology advances and the temptation builds for police to use every means at their disposal to combat crime and keep people safe so does the potential for interference with those rights. Increasingly, officers are required to explain to courts their rationale for the intrusion, to demonstrate how they applied the relevant human rights principles and demonstrate that they followed assiduously the practical steps involved in the application of the principles. If the PSNI do not have robust policies and procedures which guide the practical application of human rights principles the police are likely to fall foul of the courts. The great effort expended in obtaining evidence from the use of covert techniques will be wasted.

This report considers the regulatory regime within which covert powers may be used and analyses the use of powers by the PSNI. The report also considers the oversight of national security arrangements. The use of small unmanned aircraft (commonly referred to as drones) is considered and analysed in detail this year with a recommendation that the PSNI should in respect of its use of SUAs overtly, while awaiting dedicated policy guidance, adopt formally and issue to officers the Surveillance Camera Code of Practice (June 2013) and the Information Commissioner's Code of Practice (May 2015). Furthermore, to enable the Committee to monitor effectively the use of SUAs the PSNI should provide to the Committee every 6 months a report on the nature and extent of Small Unmanned Aircraft use.

### **Recommendation 7**

**The PSNI should in respect of its use of Small Unmanned Aircraft overtly, while awaiting dedicated policy guidance, adopt formally and**

issue to officers the Surveillance Camera Code of Practice (June 2013) and the Information Commissioner's Code of Practice (May 2015).

### **Recommendation 8**

**To enable the Performance Committee of the Policing Board to monitor effectively the use of Small Unmanned Aircraft the PSNI should provide to the Committee every 6 months a report on the nature and extent of Small Unmanned Aircraft use.**

## **9. VICTIMS (Chapter 9)**

Article 1 of the European Convention on Human Rights and Fundamental Freedoms (ECHR) requires every Member State to secure the ECHR rights and freedoms for every individual within the State's jurisdiction. It is unlawful for a public authority (which includes the police) to act in a way which is incompatible with an ECHR right. In certain circumstances, the police may have a positive obligation to intervene to protect an individual's rights. That is most relevant when the police are dealing with victims of criminality. After a criminal offence has been committed, a victim's first contact with the criminal justice system is often with the police. The police response to the report of a criminal offence will therefore have a direct and often decisive impact on a victim's attitude to the criminal justice system. It may impact upon his or her willingness to support a prosecution and to report, and encourage others to report, future criminality. It is critical that the police treat all victims with compassion and respect for their dignity. They must ensure that the victim feels that the offence is being considered properly and is being taken seriously.

The Committee was delighted to note the report, in March 2015, of the Criminal Justice Inspection Northern Ireland (CJINI) which commended the very good progress made by local criminal justice agencies in meeting the needs of victims and witnesses following its review of progress on the

implementation of recommendations from two reviews of the care and treatment of victims and witnesses and the use of special measures. The Committee wishes to see progress maintained and takes the opportunity to commend the Chief Constable for the role he has played in achieving success against the CJINI recommendations.

The PSNI has adopted a number of policy and guidance documents and implemented new measures aimed at improving the service delivered to vulnerable adults. The PSNI is also planning to gather User Satisfaction information for adult safeguarding activity, which is welcomed by the Committee. In respect of the safeguarding of children there was significant concern in 2014 following an announcement from PSNI regarding an investigation into Child Sexual Exploitation (known as Operation Owl). The Health Minister thereafter directed the Safeguarding Board for Northern Ireland (SBNI) to undertake a thematic review of those cases that had triggered the Operation Owl investigation. The Minister also initiated an inquiry into child sexual exploitation in Northern Ireland. Kathleen Marshall conducted the inquiry and published her report in November 2014. The report made one key recommendation and five supporting recommendations for the PSNI. The key recommendation encouraged PSNI to pursue its commitment to strengthening relationships with communities and with young people as a priority in the context of the current climate of austerity. The strengthening of relationships with communities, particularly young people, remained a focus of the Policing Board in 2015. The steps taken by the PSNI to implement the recommendations of the Marshall Report and previous recommendations made by the Committee are detailed in this Human Rights Annual Report. Furthermore, analysed within this Human Rights Annual Report are the internal review conducted by the PSNI and resulting action plan. Highlighted are a number of very positive developments arising from the proactive and comprehensive work carried out by the PSNI.

This annual report also sets out and analyses the police response to domestic violence and abuse. The PSNI now compiles very detailed statistics which include a breakdown of domestic abuse crimes according to gender, age and ethnicity. That enables a very close scrutiny of the nature and extent of domestic abuse offences and informs the targeting of police response and corresponding resources. The PSNI also analyses the statistics according to policing district and area. The statistics are contained within this report and considered against outcome rates. The Committee is disappointed to note the low outcome rates for crimes with a domestic motivation. While recognising that the reasons for a low outcome rate in domestic abuse can be many and varied, the Committee is concerned that the many initiatives undertaken by the PSNI have not been reflected in increased outcome rates. The Committee has paid particularly close attention to domestic abuse for many years and proposes to publish a further update to its thematic review on domestic abuse policing which will consider specifically outcome rates.

### **Recommendation 9**

**The PSNI should forthwith and for a period of 12 months disaggregate further the statistics on outcome rates for domestic motivated crime according to each disposal type including conviction in a form which can be easily accessed and understood. The PSNI should at the end of the 12 months period report to the Performance Committee with the empirical evidence distilled from the statistics.**

A specific issue of concern to the Committee has been the delayed and failed service of ex-parte non-molestation orders and occupation orders. While acknowledging that the delay is often due to difficulties in locating respondents, the Committee believed that more needed to and can be done. The Committee recommended that the PSNI “should provide the Performance Committee, within 6 months of the publication of this Human Rights Annual Report, with an evaluation of its internal review on the service of ex-parte non-molestation orders and occupation orders. Working closely with partner

agencies, the PSNI instituted a number of initiatives which have resulted in marked improvements. While the Committee recognises the significant efforts of both the PSNI and the Northern Ireland Courts and Tribunals Service and the commitment to improving the process further, given the potential risk to victims of domestic abuse from the failure to serve orders the Committee commits to keeping this under review. The Committee however cannot overlook the fact that there remain an unacceptably high number of cases in which orders are not served.

#### **Recommendation 10**

**The PSNI should continue to monitor the service of non-molestation orders and provide the Performance Committee, within 12 months of the publication of this Human Rights Annual Report, with an analysis of the length of time taken to serve orders, an analysis of the checks and balances put in place to oversee the service of orders and the extent to which applicants and their legal representatives are kept informed of the service of orders.**

This report also sets out and analyses the police response to hate crime, cyber-enabled crime and paramilitary style attacks. In respect of the latter, the Committee notes the continuing low outcome rates but recognises efforts made by the PSNI to tackle such offending.

The Committee considered (as noted previously) PSNI's case file preparation and makes a recommendation to ensure that improvements are made and the Committee is briefed fully on progress.

#### **Recommendation 11**

**The PSNI should, within six months of the publication of this Human Rights Annual Report, report to the Performance Committee on progress made against the recommendations contained within the CJINI**

**report, *An Inspection of the Quality and Timeliness of Police Files (Incorporating Disclosure) Submitted to the Public Prosecution Service for Northern Ireland, 26 November 2015.***

Also included this year is a detailed legal analysis of the State's response to dealing with legacy cases and the standards against which the Committee monitors the PSNI's response. The Committee has again dedicated significant time and effort to considering the many and complex issues involved in legacy cases. In particular, it notes the Committee's concern at the continuing delay and lack of progress in the PSNI's completion of the disclosure process for a number of legacy inquests. The Committee has restated the importance of adequate resources being made available to ensure that any further delay is avoided. The Committee will continue to tackle the issues in legacy cases and will, in recognition of the high level of public concern and its impact upon public confidence in policing, report separately in the coming months. The Committee believes a dedicated review and report is required to pay due regard to the myriad of complex factors.

The Criminal Justice Inspection Northern Ireland has now been commissioned to carry out an inspection of the arrangements in place in the PSNI to manage and disclose information in support of the Coronial process in Northern Ireland. The inspection aims to complement the review undertaken by Lord Justice Weir in January 2016 to provide a fuller understanding of the issues involved. While not reviewing individual legacy cases the inspection will review the effectiveness and efficiency of the arrangements by: assessing current PSNI policy, practice and procedures with regard to disclosure of information in support of the Coroner in undertaking legacy inquests; examining the statutory obligations of the PSNI in disclosing information in support of the Coroner; evaluating whether current arrangements for managing and disclosing information are effective and efficient while fulfilling statutory obligations; and, providing comparative analysis with current, relevant best practice models. The Policing Board has been advocating for a

comprehensive review for some time so it welcomes the forthcoming inspection and will consider its findings once complete.

The Committee has expressed its support for the measures relating to dealing with the past which were included in the Stormont House Agreement of December 2014. It recognises that there are still differences among the political parties and British and Irish governments as to how exactly those measures should be implemented, but it urges everyone concerned to work assiduously towards arriving at an agreed approach. For its part the Board will continue to press for measures which, as far as the accountability of the PSNI is concerned, are fully consistent with the standards laid down by the European Court of Human Rights.

## **10. TREATMENT OF SUSPECTS (Chapter 10)**

The treatment of suspects by the police inevitably engages a number of rights under the ECHR. Detainees within police custody are increasingly diverse and many have complex needs such as addictions, mental health issues and suicidal ideation. Custody Officers, who have to make decisions about the level of observation a detainee should be placed under during their time in custody, must assess the risk factors that are presented. It is essential that Custody Officers have the support they need of medical professionals whenever such assessments involve detainees with medical issues (whether physical or mental). The Committee is concerned that there is not adequate provision within custody suites for detainees with mental health issues and addictions, which is being addressed, but needs to be dealt with as a matter of urgency. Furthermore, police custody is still being used, in the opinion of the Committee, too frequently for children i.e. under the age of 18 years.

This report considers and analyses the PSNI's treatment of suspects, including those detained under the Terrorism Act. It notes a number of



positive developments such as the PSNI's review of and development of a new system for the provision of health care to detained persons. The Committee however also raised a number of concerns for which recommendations were made.

**Recommendation 12**

**The PSNI should forthwith provide to the Performance Committee a report on the number of times and the reason(s) for a buzzer in a cell having been switched off between 1 January 2014 and 1 January 2016. The report should include reference to the relevant PSNI policy and the alternative arrangements that were or should be made to ensure the safety of the detainee.**

**Recommendation 13**

**The PSNI should provide to the Performance Committee forthwith a report detailing the period during which exercise facilities were or are unavailable for use by detainees. If exercise facilities are unavailable to detainees held for extended periods, consideration should be given to moving that detainee to an alternative station.**

**Recommendation 14**

**The PSNI should carry out a training needs analysis for all Custody Staff and ensure that all staff receive sufficient training on the identification of and appropriate response to: detainees presenting with physical or mental health issues and/or addictions; and on child protection issues. The PSNI should present its findings to the Performance Committee within 6 months of the publication of this Human Rights Annual Report.**

## **11. POLICING WITH THE COMMUNITY AND HUMAN RIGHTS** **AWARENESS (Chapter 11)**

Police officers and staff are required not only to comply with the Human Rights Act when exercising their powers and discharging their duties, they must also aim to secure the support of the local community and act in co-operation with the local community. Those functions complement each other. A human rights based approach to policing has been shown to enhance public confidence and integrate the police into the community. With the co-operation and knowledge of the community which it serves, the police are better equipped to protect the rights of all members of society, including the most vulnerable. The Chief Constable agrees and takes every opportunity to speak publically to emphasise his commitment to the ethos. The Committee records its support for his leadership in this area. Policing with the community and human rights awareness do not stand alone but should run seamlessly through everything the PSNI does. In recognition of the potential negative impact of diminishing resources, Policing with the Community and Human Rights Awareness in the PSNI will receive closer scrutiny in the coming year and will be considered and reported upon in each chapter of future Human Rights Annual Reports. That will permit any adverse impact of financial constraints to be monitored within the context of different strategic and operational scenarios.

## **12. PRIVACY, DATA PROTECTION AND FREEDOM OF INFORMATION** **(Chapter 12)**

The PSNI holds a vast amount of personal data on individuals. Some of that information will have been provided to the police by the individuals themselves, some will have been obtained from partner organisations, some will have been obtained from other information sources during the course of investigations and some will have been gathered as intelligence through the use of covert policing techniques. All police officers and staff must exercise a

great deal of care when obtaining, recording, using and disclosing any information that relates to a person's private life, regardless of whether it is secret or more routinely available information. In this chapter, the Committee considers the PSNI's compliance with the Data Protection Act and the Freedom of Information Act in particular whether any human rights issues are demonstrated from breaches of that legislation.

### **13. CHILDREN AND YOUNG PEOPLE (Chapter 13)**

While the PSNI undoubtedly has shown leadership in its approach to engaging with children and young people the Committee considers that further work is required to ensure that children and young people are considered, in a practical and effective way, in all use of powers and in the planning of operations affecting children and young people. This is ongoing but the Committee has been very impressed by the willingness of the PSNI to collect and analyse statistics in respect of children and young people and to critically reflect on their decision-making. The efforts of the PSNI have also been recognised and are appreciated by non-governmental organisations.

The full report also considers the operation of youth engagement clinics and the PSNI's review of its children and young people strategy.

Finally, the Human Rights Annual Report 2015 records that 8 recommendations from the 2014 annual report have been implemented and that one recommendation from last year remains outstanding.<sup>1</sup> Fourteen new recommendations are made in the 2015 report.

The Committee, with the assistance of the Board's Human Rights Advisor, will continue to oversee PSNI implementation of the recommendations.

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<sup>1</sup> See page 7. The full list of 2014 recommendations is available in the full Human Rights report available at [http://www.nipolicingboard.org.uk/final\\_pdf\\_-\\_human\\_right\\_annual\\_report\\_2015.pdf](http://www.nipolicingboard.org.uk/final_pdf_-_human_right_annual_report_2015.pdf)

