



## FREEDOM OF INFORMATION REQUEST

**FOI Reference number: 33/2021**

**Date: 18 October 2021**

**Request:**

Op Yurta Lessons Learned Report

At the September meeting, the Chair ...referred Members to correspondence received from the PSNI which provided further information on the position with completion of the report....

Can the board send it to me?

**Answer**

Please find attached a copy of this correspondence.

Redactions have been made in the body of the letter to remove information that is deemed to be the personal data of a third party. This personal information is exempt from disclosure to you under section 40(2) by virtue of section 40(3)(a)(i) of the FOIA.

Section 40(2) allows a public authority to withhold information from a response to a request for information under the FOIA when the information requested is personal information relating to someone other than the requester and its disclosure would contravene one of the data protection principles.

The first data protection principle requires personal data to be processed fairly and lawfully. This personal data is exempt from disclosure under section 40(2) of the FOIA as, in our view, it would be unfair to provide it to you, and therefore disclosure would be in contravention of the first principle of the UK General Data Protection Regulation. This is an absolute exemption and there is no requirement to conduct a public interest test.

The telephone number of PSNI's Private Office on the front of the letter has been redacted on the basis of the application of section 31(1) (a) of the FOIA (prejudice to law enforcement functions and prevention of crime). This is because a release under FOI is a release into the public domain and this is not a publicly available/front facing number. PSNI have designated points of contact for the public including emergency 999 and 101 numbers which are resourced accordingly. Releasing alternative contacts of direct dial numbers could have the potential to clog that line, divert calls and resources from more appropriate channels or risk a call from the public not being answered.

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](mailto: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:-

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
SK9 5AF

Telephone: - 0303 1231114

Email: - [ni@ico.org.uk](mailto:ni@ico.org.uk)

Please be advised that Policing Board replies under Freedom of Information may be released into the public domain via our website @ [www.nipolicingboard.org.uk](http://www.nipolicingboard.org.uk).

Personal details in respect of your request have, where applicable, been removed to protect confidentiality.



# Police Service of Northern Ireland

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Our Ref: Com Sec 817-20

Doug Garrett  
Chair  
Northern Ireland Policing Board  
Waterside Tower  
31 Clarendon Road  
Clarendon Dock  
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 August 2021

Dear *Chair*

## Operation Yurta – Progress to date

I am writing to you in relation to the above and the discussions on this subject at the Board meeting on 1 July 2021. The discussions at the Board meeting were particularly focussed on my letter dated 18 June 2021, to which was attached an update from [REDACTED] who is advising the Police Service of Northern Ireland on the legal matters associated with the Review of Operation Yurta.

At the outset, I again express my regret that the delay and content of our previous response did not meet with the expectations of the Northern Ireland Policing Board. I would again reassure the Board I am absolutely committed to moving this important matter forward. To that end and having carefully reflected on the exchanges at the Board meeting, there are a number of matters that I believe may be helpful to share with the Board in order to move this issue forward.

Firstly, one of my particular concerns out of my reflections on the Board meeting and indeed my letter of 18 June 2021, is that in wanting to convey to the Board the complexity and multifaceted nature of the legal issues presented by Operation Yurta, I missed the opportunity to communicate the practical lessons in our approach to investigations of this type that we have already identified.

 [psni.police.uk](https://www.psnipolice.uk)

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we listen  
we act**



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It is my hope that a fuller appreciation of what work has already been undertaken, will reassure the Board that the Police Service shares its concerns in relation to these issues, and that we are actively working towards addressing the issues. To this end I propose to outline below the work that has been undertaken, and the approach that the Chief Constable has agreed will be taken to the commissioning of future external investigations.

## 1. Policy and Procedures for Commissioning Outsourced Independent Investigations

We are seized of the need to have clear accountability for the use of investigators outside of the Police Service of Northern Ireland. Cognisant of the potential for issues to arise or for the perception of potential impropriety in relation to the commissioning of independent assistance from external police services, pursuant to Section 98 of the Police Act 1996; the Police Service intends to introduce a tightly controlled framework to improve the accountability and transparency of such commissions. This framework will comprise a series of formal stages, all of which will be adhered to before any commission is formally concluded. This philosophy has already been applied in respect of recent high profile investigative Reviews of which the Board will be aware.

The framework will be a 'living document' and will be updated when the formal legal advice is received on how to balance the requirement for independence, with the Chief Constable's statutory duties. When this final legal advice is received it will be factored into this process.

### (a) Initial Assessment Stage

This will be a documented assessment that will record:

- the rationale and reasons for the investigation,
- the rationale for requiring an externally sourced and/or led investigation,
- the legal basis for the investigation,
- a risk assessment of the approach being proposed,
- the potential scale and parameters of the investigation, and
- whether the entire investigation should be outsourced or whether assistance should only be sought for a portion or portions of the investigation.

This first step of the process will provide the basis for a document that will record the rationale for the decision to invite an external investigator to undertake an investigation on behalf of the Police Service of Northern Ireland.



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## (b) Identifying a Police Service to Undertake the Investigation

Once the need to 'outsource' an investigation is confirmed, the Chief Constable or an officer designated by him/her will request the National Police Chief's Council to assist in identifying the skills, competencies and expertise required to meet the requirements identified through the analysis conducted at the Initial Assessment Stage.

The National Police Chief's Council will work with the Police Service of Northern Ireland to identify which police services in the United Kingdom may have the capacity and experience to meet the investigative 'brief'. All contact with the police services judged to be a potential 'fit' for the investigation will be through the Police Chief's Council. The Police Service of Northern Ireland will have no direct contact with the potential providers, until a 'preferred provider' is identified by the Police Chief's Council. The assistance of the independent National Police Chief's Council will ensure that the most suitable provider is selected and will negate the possibility that any selection is made on the basis of a previous working relationship with the Police Service of Northern Ireland or any of its officers.

## (c) Governance Arrangements

A model of governance will be specifically developed for each investigation which is 'outsourced', ensuring meaningful accountability, which is proportionate and provides essential assurance and controls. This governance arrangement will strike an appropriate balance between conformance and performance, and will include checks and assurances at agreed intervals across the duration of the investigation to ensure that the commissioned providers adhere closely to their given brief.

## (d) Stakeholder, Engagement and Consultation

While it remains important to maintain the operational independence of the Chief Constable, the Police Service recognises the importance of early engagement and consultation with key stakeholders.

This process will therefore include:

- initial engagement with the Northern Ireland Policing Board and the Department of Justice,
- engagement with affected parties or families depending on the context of the particular investigation.



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It should be acknowledged that there may be specific circumstances that are highly sensitive or confidential, when it may not be appropriate to brief other parties. In such circumstances a further formal step in the process will be required;

- the rationale for the decision not to involve other stakeholders, and the circumstances that informed such a decision, will be recorded and formally signed off by the Chief Constable or in his absence the Deputy Chief Constable.

## (e) Terms of Reference (ToR)

A comprehensive fully documented Terms of Reference (ToR) will be agreed between all relevant parties. The ToR will detail the issue(s) to be investigated, the legal basis for the investigation, the rules of engagement, and a complaints process to be followed in the event that complaints are made about the investigation or any individual directly involved in the investigation.

## (f) Review and Evaluation

A review of each 'outsourced' investigation will always be required in order to:

- ensure all relevant policies and procedures have been complied with,
- identify any learning that has emerged from the investigation or the review, which may warrant an amendment or addendum to this process or other policies and procedures across the Police Service.

If any requirement for change is agreed and implemented, these will be notified to interested parties.

## 2. Learning and Development

In addition to the Commissioning Process detailed above, our ongoing work to address the issues identified in Operation Yurta has resulted in amendments being made to our Initial Crime Investigators Development Programme (ICIDP). These amendments address specifically Article 10 & Schedule 1 Warrants as well as the use of Production Orders. The revised training material will also ensure that an appropriate level of consideration and emphasis is given to media and journalistic materials, commensurate with a journalist's Article 10 rights.

This training input is delivered via a digital module and work has commenced to refresh this digital product. Once this process is completed all new to role Detective Constables will be required to access and become familiar with this material. We will also utilise Webex to provide a more



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interactive training module for established Detectives. This Webex product is continuing to be refreshed and updated and will be available in the coming weeks.

In the Fine Point Films investigation the Senior Investigating Officer directed that a Schedule 1 Warrant as opposed to a Production Order was applied for, with a Detective Sergeant attending Court to make the application. It is therefore particularly important that there is an awareness at Detective Sergeant and Detective Inspector level of the legal implications of such choices and decisions.

As part of a new programme mandated by the College of Policing and currently under development, Detective Sergeants and Detective Inspectors will receive training specific to Article 10 & Schedule 1 Warrants and the use of Production Orders. All new to role Detective Sergeants and Detective Inspectors will be required to undertake this programme as part of their Continuing Professional Development (CPD). Representatives from the Police Service's Legal Services Branch will also be in attendance at these training sessions as Subject Matter Experts (SMEs). They will deliver a presentation on our learning from Operation Yurta and subsequent Review, and will host question and answer sessions with students. The first programme based on this material is scheduled for September 2021.

This area of training will continue to be updated to ensure that it is informed by and is consistent with legal challenges and developing jurisprudence in Northern Ireland, in relation to Warrantry and the application process.

I wish to emphasise that work on this matter is being progressed expeditiously, notwithstanding the fact that it will not be possible to produce a final completed Report of the Review until we have a comprehensive and complete assessment of all the legal implications of Operation Yurta and all that flows from it.

The Chief Constable and I will be facilitating and attending a briefing day for senior investigators on the early lessons learnt and the themes arising from the Review. This will occur on the 15 October to allow Senior Counsel to attend and present [REDACTED] initial finding and observations to attendees. Those in attendance will then collectively examine the early findings and agree how any policy and practice can be amended and improved in advance of receipt of the Final Report.

### 3. The Final Report

Recognising the implications of this case for the reputation of the Police Service of Northern Ireland the Chief Constable and I have agreed that the Final Report will be made available to the Board as



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soon as ever possible. I have also spoken personally with [REDACTED] and have impressed upon [REDACTED] the utmost urgency and importance of the delivery of [REDACTED] Final Report. The Chief Constable and I share the Board's frustration that the issues under consideration are so complex, and that until all of the proper investigations and researches have been concluded, it is the considered opinion of Senior Counsel that it is currently premature to set a firm date for the delivery of the Final Report.

However, we are in the process of agreeing with [REDACTED] that a series of staged progress dates will be settled upon over the coming months, and that the Board will be kept advised of the progress that is made on each discrete topic, insofar as is possible.

In the interim [REDACTED] has also agreed to provide practical guidance to assist in the updated teaching on Article 10 Warrants and the approach to be taken to broader issues of seeking Warrants as opposed to Production Orders for confidential or special procedure material. Senior Counsel has also offered to provide guidance on the Police Service's future approach to investigations and the use of police powers concerning journalists and journalistic material. This will provide our investigators with practical knowledge on the actions now necessary to ensure that the rights under Article 10 of the ECHR are fully and properly protected in police practice and policy, particularly in furtherance of investigations.

When the Final Report is delivered a further meeting will be convened with [REDACTED] at which the Chief Constable and I, with other relevant members of the Police Service, will examine the Final Report for outstanding issues and agree a mechanism by which they can be resolved and signed off.

Finally Chairman, as I proffered during the July Board meeting, if the Board as a whole or individual members would find it helpful to participate in a meeting with [REDACTED] and be briefed by [REDACTED] on the legal implications identified through the Operation Yurta Review, such a meeting can be easily arranged.

The meeting could be a forum within which Senior Counsel could explain the complexity and multifaceted nature of the issues that now require to be addressed to ensure the lessons from the Review are properly and comprehensively identified, and a way forward agreed.

Such a meeting may also allow a discussion of the Terms of Reference established by the Board, which are extremely wide ranging. Although, I acknowledge the Terms of Reference need to be wide, it may be that prioritisation or refinement of what the Board wish addressed, could be beneficial to all parties. This may be best achieved by meeting with [REDACTED]. Indeed, a





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discussion of this nature with Senior Counsel might allow for a separation of different strands of the Review into different timescales and allow for the potential to close off some of the Terms of Reference ahead of the Final Report being submitted to the Board.

I hope this letter offers some reassurance to the Board in demonstrating that progress is being made in identifying learning from the Review of Operation Yurta, and also that the Police Service is moving forward to address that learning.

I will conclude by assuring the Board that the work is progressing and regular updates are being sought. Again I offer my assurance to you and through you to the Board, our determination to finalise all matters that have been identified during the Operation Yurta Review.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Mark Hamilton'.

**MARK HAMILTON**  
Deputy Chief Constable