

MONITORING THE COMPLIANCE OF  
THE POLICE SERVICE OF NORTHERN IRELAND  
WITH THE HUMAN RIGHTS ACT 1998

# HUMAN RIGHTS

ANNUAL REPORT 2006



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# INTRODUCTION

The Human Rights Act 1998 requires all public authorities – including the police – to act in a way which is compatible with the individual rights and freedoms contained in the European Convention on Human Rights. It provides individuals with remedies if a public authority breaches their human rights. However, it does not set up a mechanism for monitoring compliance with human rights. In most cases, if monitoring occurs at all, it is on a voluntary *ad hoc* basis. As far as we are aware, no comprehensive scheme exists to measure human rights compliance anywhere in the UK.

The position for the Police Service of Northern Ireland (PSNI) is different. The Police (Northern Ireland) Act 2000 specifically mandates the Policing Board in Northern Ireland to monitor the performance of the police in complying with the Human Rights Act 1998. As far as we are aware, no similar duty has been placed on any other police oversight body anywhere else in the UK.

We were appointed in February 2003 to advise the Policing Board how to meet this statutory duty and in March 2005 we published our first annual report on the performance of the police in complying with the Human Rights Act 1998. It was a comprehensive report, containing numerous findings and over 60 recommendations.

In December 2005, the PSNI published its Human Rights Programme of Action 2005-2006 setting out in detail how it intends to comply with each of the recommendations we made in our 2005 Annual Report. We welcome the approach that the PSNI has adopted which is in keeping with the very positive dialogue on human rights that now exists between the PSNI and the Policing Board. In its commitment to human rights compliance, the PSNI continues to set the standard that other police services elsewhere in the UK should aspire to.

In this, our second annual report, we plot the PSNI's progress in implementing the recommendations we made in our 2005 Annual Report. To that end we revisit each of the twelve areas of the PSNI's work that we examined last year (chapters 1-12). We also examine two new areas: policing with the community (chapter 13) and privacy and data protection (chapter 14).

In carrying out this work, we have been given unrestricted access to PSNI meetings, documents and officers. No request by us for information has been refused by the PSNI, nor has any limitation been placed on our ability to observe and monitor its work. That has enabled us to discuss even the most sensitive issues with the PSNI. Such an open, transparent approach to policing is welcome and we consider that it underlines the PSNI's commitment to human rights compliance.

We have taken some time this year to work at the district level both with the police and with those that are policed. Earlier this year, we held a series of in-depth meetings with a number of District Command Teams across Northern Ireland to investigate how they sought to comply with the Human Rights Act 1998 in their respective areas. We have also met representatives of all of the District Policing Partnerships (some several times) and numerous interest groups to hear their views on the performance of the PSNI. This process has given us an invaluable insight into the work undertaken at the local level and assisted us in formulating this year's recommendations.

In 2004 and 2005, we published special reports on the policing of the Ardoyne and Whiterock parades. Each contained a number of recommendations and we plot the PSNI's progress in implementing those recommendations in this report. This year we monitored three public order policing operations relating to parades. As these parades were peaceful, we have not prepared a special report on them but have instead included in this report our observations and findings in respect of them.

When each of the 60 recommendations made in our 2005 Annual Report is broken into its constituent parts and the recommendations made in our two special reports on the policing of parades are added, there were 99 recommendations made by us to the PSNI on human rights matters last year. Inevitably they ranged over a

broad area and varied between the very general and the very particular. We are happy to report that 61 of our recommendations have been fully implemented and a further 17 partially implemented. That means that positive action has been taken in relation to 78 of 99 recommendations. In some areas, for example in the areas of complaints and discipline, public order and covert policing, there has been 100% compliance with our recommendations. That is a considerable achievement of which the PSNI should be rightly proud.

On a less positive note, 21 recommendations remain outstanding. In some areas, for example in the areas of training and policy, the number of outstanding recommendations is high. We have discussed this with the PSNI and we are satisfied that this does not reflect an unwillingness to comply with our recommendations. Most if not all are in the process of being implemented and the Training, Education and Development department is taking its commitments seriously. It has not only engaged Consultants to advise it how to implement our recommendations but also has appointed a Head of Human Rights Compliance and is in the process of appointing its own Human Rights Adviser.

The failure to implement all of the recommendations in our 2005 Annual Report largely reflects difficulties in the scale and timetabling of the necessary tasks. To some extent that is understandable and we have adjusted the recommendations where it is clear that work has already started. But it is clear that in some areas more could certainly have been done. We have highlighted these in the report in the hope that similar problems will not occur again in the future. That reinforces the need for clear responsibility in the PSNI for human rights compliance and proper resources to oversee and implement all of our recommendations. The PSNI has assigned overall responsibility for human rights compliance to the Human Rights Champion, ACC Criminal Justice, but ultimate responsibility rests with the PSNI as a whole. Where difficulties or delays occur in implementing our recommendations, there needs to be a system in place for resolving matters in a timely and efficient way.

This year we have made fewer recommendations, 45 in total. To some extent that reflects our satisfaction that the positive dialogue that we have sought to engender between the PSNI and the Policing Board on human rights matters is working well. Most of the new recommendations relate to issues that have arisen during the course of our work this year but some relate to outstanding matters from last year. We will return to each of them in next year's annual report when we assess the PSNI's work in implementing them.

**Keir Starmer QC**

**Jane Gordon**

# CHAPTER 1: THE PSNI PROGRAMME OF ACTION

## CHAPTER 1: THE PSNI PROGRAMME OF ACTION

In the Report of the Independent Commission on Policing for Northern Ireland,<sup>1</sup> Patten recommended that the PSNI adopt a comprehensive Programme of Action to focus policing in Northern Ireland on a human rights based approach.

In our 2005 Annual Report, we took the view that many aspects of the Programme of Action envisaged by Patten Recommendation 1 had already been achieved because the component parts of the framework, in particular a new Oath, the Code of Ethics, training, appraisal and a specific human rights legal adviser, had been put in place. We therefore made a number of recommendations designed to ensure the effectiveness of this Programme of Action.<sup>2</sup> In particular, we recommended that the PSNI should draw up a specific programme of action on an annual basis to respond to the Policing Board's recommendations in respect of the PSNI's duty to comply with the Human Rights Act 1998. We saw this as a vital part of the dialogue we hope to achieve between the PSNI and the Policing Board on human rights matters.

We are pleased to record in this, our second human rights annual report, that the PSNI has agreed with our recommendation and, in December 2005, published its Human Rights Programme of Action 2005-2006 setting out in detail how it intended to comply with each of the 60 recommendations in our 2005 Annual Report. The approach that the PSNI has taken is set out in the foreword by the Chief Constable, Sir Hugh Orde, in the following terms:

*"The Board's Human Rights Legal Advisers undoubtedly provide a challenge to the Police Service, but a challenge with which we are happy to engage. As I said at the launch of the Board's report, the Police are prepared to accept new ideas and innovations that improve our service to the benefit of the whole community. We do seek to set the standard for other police services to follow, and just as the European Convention on Human Rights is a living instrument, we recognise that the Police Service must continue to develop and change".<sup>3</sup>*

We welcome this approach, which we are convinced is the best way of recognising and addressing human rights problems as they arise. We particularly endorse the PSNI's stated view that the programme of action should not be seen as a one off 'quick fix',<sup>4</sup> but as an ongoing commitment to implement and maintain the highest possible human rights standards. In light of the PSNI's stated intention to provide a specific programme of action on an annual basis in response to the Policing Board's human rights annual reports, it is unnecessary for us to make any further recommendation in this report to achieve that end. Instead, we simply recommend that the PSNI should aim to publish its annual Human Rights Programme of Action within three months of the publication of the Policing Board's human rights annual reports. That will allow us nine months to follow up on implementation.

**Recommendation 1: The PSNI should aim to publish its annual Human Rights Programme of Action within three months of this Human Rights Annual Report.**

In its Human Rights Programme of Action 2005-2006, the PSNI has, where appropriate, set timelines for complying with our recommendations. Although in our view a few timelines are too generous,<sup>5</sup> the challenge for the PSNI now is to meet the commitments it has made in its Human Rights Programme of Action. In this report, we assess how far the PSNI has progressed to date and make further findings and recommendations. Although

### NOTES

- 1 Report of the Independent Commission for Northern Ireland. A New Beginning: Policing in Northern Ireland, September 1999 (the Patten Report).
- 2 See 2005 Annual Report, Recommendations 1 and 2, p.168.
- 3 PSNI's Human Rights Programme of Action 2005-2006, p.3.
- 4 PSNI's Human Rights Programme of Action 2005-2006, p.9.
- 5 See for example chapter 3 at p.18

responsibility for the Human Rights Programme of Action has been assigned to the PSNI Human Rights Champion, ACC Criminal Justice,<sup>6</sup> ultimate responsibility rests with the PSNI as a whole. It is therefore important for the effective implementation of the PSNI's Human Rights Programme of Action that adequate resources and support are given to ACC Criminal Justice.

The steps taken by the PSNI to ensure continued compliance with the other Patten Recommendations, in particular Recommendations 2-7, are examined elsewhere in this report.<sup>7</sup> However, Patten Recommendation 6 - that a lawyer with specific expertise in the field of human rights should be appointed to the staff of the PSNI Legal Services - warrants attention here. The first PSNI human rights legal adviser was appointed in October 2001. Although recourse to the human rights legal adviser was slow initially, in the last two years the situation changed considerably. When we held a series of in-depth meetings with District Command Teams as part of our monitoring work in March and April this year,<sup>8</sup> it became clear that ever increasing use is made of the PSNI human rights legal adviser. We have also seen for ourselves the extensive recourse now made to the PSNI human rights legal adviser in the planning and preparation for policing parades, both in Belfast and elsewhere. Several District Command Teams stated openly that this had led to enhanced confidence in their decision making. The PSNI human rights legal adviser has also been involved in several training and policy initiatives. That in our view goes a long way towards realising the aspirations underpinning Patten Recommendation 6.

Following the appointment of the successor to the first PSNI human rights legal adviser,<sup>9</sup> we remind the PSNI of the importance of not only maintaining this level of recourse to this vital resource, but also of developing and enhancing it.

Against that background, we are satisfied that the PSNI has fully implemented Recommendations 1 and 2 of our 2005 Annual Report.

#### NOTES

6 PSNI's Human Rights Programme of Action 2005-2006, p.10.

7 At chapters 2, 5 and 12.

8 Discussed further in chapter 13 below.

9 In March 2006.

# CHAPTER 2: TRAINING

## CHAPTER 2: TRAINING

As we observed in our 2005 Annual Report, effective training on human rights principles and practice is fundamental to any organisation committed to compliance with the Human Rights Act 1998. The PSNI recognises this and has sought to give effect to it by devising and delivering a short human rights course for all police officers and 'front line' support staff in 2002/2003<sup>1</sup> and, since then, by seeking to integrate human rights principles into all training on an on-going basis.

In our 2005 Annual Report, we reviewed the *Course for All* and examined how well the process of integration had been achieved in a number of specific training courses.<sup>2</sup> Against that background, we made a number of recommendations, some of which were general, others very specific.<sup>3</sup>

In its Human Rights Programme of Action 2005-2006, the PSNI indicated that it accepted all of our recommendations on training and in the autumn of 2005 it appointed Human Rights Consultants.<sup>4</sup> The Consultants were requested to assist the PSNI to implement the recommendations on training in our 2005 Annual Report. We received a progress report from the Consultants in January 2006 and an interim report in March 2006. A fuller consultancy report was produced in April 2006. It outlines the methodology used during the consultancy and charts the implementation of our recommendations. It also includes recommendations for further action. An action plan was produced by the Consultants in May 2006<sup>5</sup> and timelines for completion were submitted in June 2006.<sup>6</sup>

We welcome the commitment that the PSNI has demonstrated by the appointment of Consultants to assist in the implementation of our recommendations and the unrestricted access that the PSNI has provided to all relevant material.

### PSNI audit of training materials

One of the key issues we identified in our 2005 Annual Report was the question of how well human rights principles had actually been integrated into all PSNI training material. Having reviewed some of the material in question, one of the concerns we highlighted was that while some of the PSNI's training material had integrated human rights principles very well, other training material fell far short of what was required. Therefore, we recommended that the PSNI should closely monitor and evaluate how well human rights has been integrated into every level of its training to ensure consistency in standards and approach.<sup>7</sup> We also recommended that the PSNI conduct a thorough audit of all PSNI training materials within six months of our 2005 Annual Report (i.e. by September 2005) and thereafter on a bi-annual basis to ensure that human rights principles are effectively integrated and developments in human rights law and practice incorporated.<sup>8</sup>

In their April 2006 report, the Consultants appointed by the PSNI indicated that they had carried out "a very extensive mapping exercise", the purpose of which was to identify and collate in one comprehensive databank all training material. The PSNI placed a priority on this task and invested considerable resources in achieving it. The Consultants described the databank as "now virtually complete" and as including not only lesson plans, but also trainer and trainee materials, including power point slides, handouts, trainee workbooks etc. The Appendix to their report lists this material.

#### NOTES

- 1 PSNI Course for All delivered between November 2002 and April 2003.
- 2 2005 Annual Report, pp.29-31.
- 3 2005 Annual Report, Recommendations 3-7, p.168.
- 4 Human Rights Consultants in association with the Centre for Criminal Justice at Glasgow Caledonian University. The team of consultants comprised: Mark Kelly L.L.B. (Hons), M.Sc, M.Phil. (Criminology), Director of Human Rights Consultants; James McManus L.L.B. (Hons), Ph.D, Professor of Criminal Justice and Louise Larkin L.L.B. (Hons), L.L.M (Human Rights), Research Assistant.
- 5 Human Rights Consultants, *Human Rights consultancy to assist the PSNI to implement the recommendations relating to training set out in the Northern Ireland Policing Board's Human Rights Annual Report for 2005: Action Plan*, May 2006.
- 6 June 2006 Consultancy Report, *Timelines for completion of outstanding recommendations*.
- 7 2005 Annual Report, Recommendation 3, p.168.
- 8 2005 Annual Report, Recommendation 4, p.168.

The Consultants reported that compiling the databank has been a “painstaking and time-consuming task”. They stated that although efforts have been made by the PSNI in the past to collate course outlines and lesson plans, no attempt has ever been made systematically to gather all relevant training materials in one accessible, centralised location or to standardise all training materials.<sup>9</sup>

The Consultants explained that although certain sectors had organised their training materials in a systematic manner, in other sectors there was a “plethora of different lesson plans and related training material ostensibly covering the same topics”. Trainers had developed their own materials, most of which had never been subject to any evaluation or review. One of the more significant training sectors in which this was the case was the Foundation Programme. Training carried out by District Command Units (DCUs) appeared to be subject to little oversight and was not quality assured. Moreover, where external input into training was concerned, the PSNI held virtually none of the lesson plans or other teaching materials used by external lecturers.<sup>10</sup>

The audit of this material that we recommended has not been carried out. The Consultants reported that it was not their task to conduct such an audit, but rather to advise and assist the PSNI on the design and implementation of a “meaningful and sustainable human rights auditing process, which, in the long term, will fully meet the requirements of the Northern Ireland Policing Board”.<sup>11</sup> The Consultants concluded that, at the date of their report, the PSNI “lacked the capacity fully to implement” our recommendation. In their view, no one within Training, Education and Development (TED) had the human rights knowledge necessary to assess the databank of auditable material that they had assembled.<sup>12</sup>

The Consultants recommended that the PSNI recruit a person with specialised human rights knowledge (referred to as the Human Rights Adviser to TED) and that a senior officer, at the rank of Superintendent or Chief Superintendent, be given responsibility for compliance (referred to as the Head of Human Rights Compliance).<sup>13</sup> In July 2006, the PSNI appointed a Superintendent as the Human Rights Compliance Officer.

The Consultants suggested that the ‘thorough audit’ we recommended should involve: (a) an assessment of the quality of lesson plans and other supporting documentation by a person with specialist human rights knowledge; and (b) on-the-spot monitoring of whether or not the written content of audited material is actually being delivered in practice.

The compilation of an ‘auditable’ databank of training materials is obviously essential to the thorough audit we had in mind when making our recommendation last year. It is somewhat surprising that this databank did not exist before. The fact that it took 12 months from the publication of our 2005 Annual Report (in March 2005) to collect and collate these materials has significantly delayed any effective implementation of our recommendation that the PSNI conduct a thorough audit of training materials to ensure that human rights principles are effectively integrated and developments in law and practice incorporated. Whilst we welcome the recommendation by the Consultants that a Human Rights Adviser to TED be recruited, this will inevitably cause further delay in the implementation of our recommendation. The fact that the thorough audit of training materials, that we recommended should be completed by September 2005, had not been commenced by April 2006 is a cause of considerable concern. Although work has begun on this, we consider that Recommendations 4 and 7 of our 2005 Annual Report remain outstanding.

We discussed this concern with the PSNI Head of TED, the Chief of Staff of the Police College and the Consultants in May 2006. They explained to us why the task of compiling the databank took so long, and why they were reluctant to begin an audit before all the training materials were in a standardised form. We recognise the comprehensive nature of the exercise the PSNI and the Consultants have undertaken and the difficulties caused by the *ad hoc* compilation of training materials in the past. One collateral benefit of the exercise that has been

#### NOTES

- 9 April 2006, Consultancy Report, para. 31.  
 10 April 2006, Consultancy Report, para. 31.  
 11 April 2006, Consultancy Report, para. 33.  
 12 April 2006, Consultancy Report, para. 34.  
 13 April 2006, Consultancy Report, para. 35.

carried out is that the general quality assurance of PSNI training material can now be more rigorous. Nonetheless, we are disappointed in the delay that this has caused to the implementation of one of the fundamental recommendations on training and the knock-on effect that this has had on implementing other recommendations in our 2005 Annual Report. That said, the PSNI Head of TED, the Chief of Staff of the Police College and the Consultants informed us in May 2006 that the thorough audit envisaged in Recommendations 4 and 7 of our 2005 Annual Report was about to commence.

In the circumstances, we have no option but to alter the timeline for completion of the thorough audit. We therefore reiterate our recommendation that the PSNI should conduct a thorough audit of all PSNI training materials within six months of this Human Rights Annual Report and thereafter on a bi-annual basis to ensure that human rights principles are effectively integrated and developments in human rights law and practice incorporated. We further recommend that the Human Rights Adviser to TED should be recruited as a matter of urgency.

**Recommendation 2: The PSNI should conduct a thorough audit of all PSNI training materials within six months of this Human Rights Annual Report and thereafter on a bi-annual basis to ensure that human rights principles are effectively integrated and developments in human rights law and practice incorporated.**

**Recommendation 3: The PSNI should recruit a Human Rights Adviser to Training, Education and Development without delay.**

#### Training on positional asphyxia

When we reviewed the Student Officer training material last year,<sup>14</sup> we noted the observation of the Human Rights Commission that only passing reference is made to positional asphyxia in the Conflict Resolution Course.<sup>15</sup> We therefore recommended that the PSNI should revise Student Officer training programme materials to include proper training on positional asphyxia.<sup>16</sup>

The Conflict Resolution Skills course was replaced by the Personal Safety Programme, which the Consultants appointed by the PSNI describe as a “vast improvement over its predecessor”.<sup>17</sup> Having reviewed the training materials, we consider that Recommendation 3(a) of our 2005 Annual Report has been implemented. Nonetheless, as the Consultants observed, the training materials on positional asphyxia could be improved further if student officers were provided with a detailed handout on the subject. This suggestion has been discussed with, and accepted by, the trainers who deliver the Student Officer Personal Safety Programme.<sup>18</sup> We have reviewed the handout that has now been prepared. In our view it is clearly unsatisfactory. In particular, it does not deal adequately with risk factors. We recommend that this handout should be re-drafted as a matter of urgency.

**Recommendation 4: The PSNI should revise its handout on positional asphyxia as a matter of urgency.**

#### Tutor Constables Scheme

Since 2000, the Human Rights Commission has produced a series of reports on PSNI training. Its fifth report, *Human Rights in Police Training: Report Five Tutor Constables Scheme*, was published in April 2006.<sup>19</sup> The report focuses on Stage Two of the Probationer Training Programme, the Tutor Constable Scheme.

#### NOTES

- 14 2005 Annual Report, p.34.  
 15 In its report *Human Rights in Police Training, Report Three, Probationer Constables and Student Officers*, March 2004, Chapter III, para. 36, p. 25.  
 16 2005 Annual Report, Recommendation 3(a), p.168.  
 17 April 2006, Consultancy Report, para. 15.  
 18 April 2006, Consultancy Report, para. 15.  
 19 This is the fifth of a series of evaluation reports. The previous reports include an *Evaluation of Human Rights Training for Student Police Officers in the Police Service of Northern Ireland (November 2002)*, *Human Rights in Police Training, Report Three: Probationer Constables and Student Officers (March 2004)*, *Report on the RUC's Training on the Human Rights Act 1998 (2000)*, and *Human Rights in Police Training, Report Four: Course for All (2004)*.

The Human Rights Commission evaluated the materials completed by probationer constables during their tutorship, observed specific learning events at tutor units in DCUs and on patrol and interviewed probationer constables and their tutors. The Human Rights Commission focused its evaluation on three core themes: police training and the rule of law, openness and transparency, quality assurance and quality enhancement.

The review indicated that probationers gained a very different experience of tutorship depending on whether they were situated in Urban or Rural Region. The report suggested that the Urban Region tutor unit scheme was more successful and more tailored to probationers' needs. In light of that finding, the report recommended that this model be extended to the Rural Region.

The report noted that probationer experience also varied according to the ratio of probationers to tutors in the Region.<sup>20</sup> The report found that the quality of the probationers' experience was greatly improved where a lower ratio applied and recommended that the PSNI make efforts to ensure that the ratio of probationers to tutors does not exceed 2:1.<sup>21</sup>

The report's evaluation of the tutor units operating in the Urban Region, together with the facilities available to probationers at Ballymena DCU and Newry and Mourne DCU, highlighted a number of inadequacies in the accommodation provided. Recommendations were made, in particular, in relation to the facilities available at Donegall Pass Tutor Unit and Ballymena DCU.<sup>22</sup>

The Human Rights Commission reviewed the training on the conduct of arrests, the conduct of custody reception procedures and station duties.<sup>23</sup> The report found that the literature accompanying the probationers' training in the conduct of arrests did not sufficiently emphasise the test for the use of force. The report recommended that probationers be reminded that no more force than is reasonably necessary should be used when carrying out an arrest. It further recommended that training on custody reception procedures should require probationers to identify which human rights are engaged when a person is detained in custody.<sup>24</sup>

The report suggested that openness and transparency in the training of probationer constables could be improved by including provision for external input into training.<sup>25</sup>

Finally, the Human Rights Commission report noted that the Tutor Constable Scheme was not the subject of any quality assurance assessment.<sup>26</sup> The report identified a number of issues requiring future monitoring, including the adequacy of the tutor constable/probationer ratio, the need to develop a central means by which to assess both the quality of note-taking by probationers and the quality of tutors' reviews and the need to establish a method to monitor the delivery of training.<sup>27</sup>

We endorse the findings of the Human Rights Commission and will monitor the response of the PSNI to the recommendations in its report.

## Use of force and firearms

When we examined the course material on training in the use of force and firearms in our 2005 Annual Report, we noted that the integration of human rights principles required more work and that it was clear from the questionnaire sent to all PSNI officers that a number of officers still have difficulty understanding the requirements of Article 2 of the European Convention on Human Rights.<sup>28</sup> We therefore recommended that the PSNI should

### NOTES

- 20 Northern Ireland Human Rights Commission, *Human Rights in Police Training: Report Five – Tutor Constables Scheme*, April 2006, p.11.  
 21 *Ibid.* at p.11.  
 22 *Ibid.* at p.71.  
 23 *Ibid.* at p.12.  
 24 *Ibid.* at p.13.  
 25 *Ibid.* at p.14.  
 26 *Ibid.* at p.15.  
 27 *Ibid.* at p.15.  
 28 2005 Annual Report, p.35.

review and revise the course material on training in the use of force and firearms as a matter of urgency.<sup>29</sup> We also recommended that the PSNI should audit PSNI training on the use of force to remedy the failings identified in questions 3 and 8 of the questionnaire sent to all officers last year.<sup>30</sup>

In the period since publication of our 2005 Annual Report, the PSNI has received the report of a detailed review by HM Inspectorate of Constabulary (HMIC) of its compliance with the Association of Chief Police Officers (ACPO) Manual of Guidance on the Police Use of Firearms.<sup>31</sup> The HMIC report recorded that its "review team regularly encountered officers at all levels expressing concerns over the level and frequency of training and accreditation within PSNI".<sup>32</sup> It recorded that the "greatest level of concern in relation to patrol officers was the limited amount of refresher training provided in the use of weapons and almost non-existent tactics and judgment training".<sup>33</sup> The HMIC report made 26 recommendations designed to bring PSNI practice more closely into compliance with ACPO standards, 15 of which relate to training in the use of firearms.<sup>34</sup>

In their April 2006 report, the Consultants appointed by the PSNI explained that the PSNI is adopting an holistic approach to the implementation of our firearms training recommendation and those of HMIC. On that basis, implementation of our recommendation was delayed. We recognise that it is sensible to co-ordinate the review of training material on the use of firearms which we recommended with the adoption of the HMIC recommendations. However, we are concerned that this review had not even begun over 15 months after we recommended that it be conducted "as a matter of urgency". This concern is reinforced by the Consultants' finding, having 'dip-sampled' a number of training courses on the use of force and firearms, that "a number of trainers clearly remained confused about the applicable test for the use of lethal force".<sup>35</sup>

A firearms review implementation team has now been established by the PSNI to revise all aspects of training material on the use of force in accordance with Recommendation 3(b) of our 2005 Annual Report and the 26 recommendations of HMIC.<sup>36</sup> This is welcome. The PSNI has designed a new eight hour firearms refresher course, which comprises four hours of judgmental training (with a human rights element) and four hours of practical training. A pilot of the course took place in June 2006.<sup>37</sup> We consider that this implements Recommendation 3(b) of our 2005 Annual Report in part but it needs to be implemented in full as a matter of urgency. We therefore reiterate our recommendation that the PSNI should revise the course material on training in the use of force and the use of firearms, with an indication that it should be implemented forthwith.

### Recommendation 5: The PSNI should revise the course material on training in the use of force and the use of firearms, forthwith.

In our 2005 Annual Report, we recommended that the PSNI introduce a strict monitoring system to ensure that all officers attend and satisfactorily complete firearms refresher training at appropriate intervals.<sup>38</sup> From September 2005 to February 2006, the take-up rate amongst officers for firearms refresher training was 73%.<sup>39</sup> Our consultation with District Command Teams in March and April this year indicated that regular attendance at firearms refresher training remained problematic. We raised our concerns with ACC Urban and ACC Rural. They informed us that PSNI Combined Operational Training (COT) now monitors individual DCU officers' attendance rates at firearms refresher training. In addition, the level of attendance at firearms refresher training

### NOTES

- 29 2005 Annual Report, Recommendation 3(b), p.168.  
 30 2005 Annual Report, Recommendation 55(c), p.10.  
 31 HMIC *Review of PSNI Compliance and its Statement of Intent on the Police Use of Firearms and Less Lethal Weapons*, 2006.  
 32 *Ibid.* at para. 1.9.  
 33 *Ibid.* at para. 5.69.  
 34 April 2006, Consultancy Report, para. 16.  
 35 April 2006, Consultancy Report, para. 22.  
 36 Letter from ACC Urban and ACC Rural to NIPB's human rights advisors dated 12th April 2006.  
 37 June 2006 Consultancy Report, *Timelines for completion of outstanding recommendations*, p.2.  
 38 2005 Annual Report, Recommendation 3(d), p.168.  
 39 Letter from ACC Urban and ACC Rural to NIPB's human rights advisors dated 12th April 2006.



has become a standard item on the agenda of DCU Accountability Meetings. We have also been informed that the PSNI firearms review implementation team has recently approved a scheme under which an officer attending firearms refresher training will be issued with a card on completion of that training. The card contains a record indicating the weapons in which the officer is classified and when the officer should next attend refresher training. This scheme was introduced in May 2006.<sup>40</sup>

Against that background, we consider that Recommendation 3(d) of our 2005 Annual Report has been implemented. However, the effectiveness of the mechanisms put in place by the PSNI to ensure that all officers attend and satisfactorily complete firearms refresher training at appropriate levels remains to be seen. We intend to follow this up and will return to it in next year's annual report.

### Assessments in the use of force and firearms training

In our 2005 Annual Report, we recommended that the PSNI conclude its training in the use of force and the use of firearms with individual assessments of participating officers' knowledge of the Code of Ethics and relevant human rights provisions, in particular, the relevant legal tests for the use of force and the application of Article 2 of the European Convention on Human Rights.<sup>41</sup>

The PSNI has responded by gradually introducing individual assessments of the human rights knowledge of officers participating in training on the use of force and the use of firearms. Individual assessments are now an established feature of Foundation firearms courses and of the Student Officer Personal Safety Programme.<sup>42</sup> This is welcome, as is the observation of the Consultants that "amongst the more successful final assessments observed was that for student officers who have completed the Personal Safety Programme. These were impressive role play sessions in the course of which student officers were confronted by genuinely challenging situations".<sup>43</sup>

Less positive are the comments of the Consultants that in respect of certain of the training sessions they observed, "it was apparent that trainers had not yet acquired the knowledge necessary to conduct such assessments in a meaningful way".<sup>44</sup> Of equal concern is their comment that, even for the more successful assessments, the forms being used were insufficiently detailed to allow assessors to record whether the conduct of student officers was fully consistent with relevant human rights provisions (e.g. whether the force used was, or was not, proportionate in the circumstances).<sup>45</sup> We have been informed that as a result of these observations, TED worked with the Consultants to devise a more appropriate assessment for the Student Officer Personal Safety Programme which has now been piloted and modified following further advice from the Consultants.<sup>46</sup>

Against that background, we consider Recommendation 3(c) of our 2005 Annual Report to be implemented in part. We therefore recommend that the PSNI should complete the introduction of individual assessments of human rights knowledge of officers participating in training on the use of force and use of firearms, adapting the amendments suggested by the PSNI's Consultants.

**Recommendation 6: The PSNI should complete the introduction of individual assessments of human rights knowledge of officers participating in training on the use of force and use of firearms, adapting the amendments suggested by the PSNI's Consultants.**

#### NOTES

- 40 Ibid.  
 41 2005 Annual Report, Recommendation 3(c), p.168.  
 42 April 2006, Consultancy Report, para. 21, p.10.  
 43 April 2006, Consultancy Report, para. 23, p.10.  
 44 April 2006, Consultancy Report, para. 22.  
 45 April 2006, Consultancy Report, para. 23, p.11.  
 46 Letter from Head of PSNI Police College to NIPB's human rights advisors dated 11th July 2006.

In addition, the report of the Consultants does not address our recommendation that the individual assessments should test officers' knowledge of the Code of Ethics, nor does it indicate how the results of the individual assessments are going to be used in the development of basic and refresher training courses in the use of force and the use of firearms. We recommend that these matters should be addressed at the same time as the completion of the introduction of individual assessments.

**Recommendation 7: The PSNI should include reference to the Code of Ethics in the individual assessments of officers participating in training on the use of force and the use of firearms and indicate how these assessments will inform the development of basic and refresher training courses in the use of force and the use of firearms.**

### Human rights specific refresher training

Having reviewed the *Course for All*, we recommended in our 2005 Annual Report that the PSNI should consider whether there remains a need for some form of human rights refresher training.<sup>47</sup>

In their April 2006 report, the Consultants recorded that, "we have encountered ample evidence that there is a need for some form of human rights refresher training".<sup>48</sup> They suggested that the PSNI should introduce a programme of human rights specific refresher training, which should be offered in a strategic and targeted way. We consider that this implements Recommendation 3(e) of our 2005 Annual Report in full. We endorse the Consultants' suggestion and recommend that this programme be introduced within the next 12 months. We also agree with the Consultants that "refresher training should be designed around a common core of policing-specific human rights knowledge, and include 'bespoke' scenarios tailored to the specific operational specialisms of trainees".<sup>49</sup> This ties in directly with implementation of Recommendation 56 of our 2005 Annual Report,<sup>50</sup> which we consider to be implemented only in part and Recommendation 55(e) of our 2005 Annual Report, which we consider remains outstanding.

**Recommendation 8: The PSNI should introduce within the next 12 months a programme of human rights specific refresher training, which should be offered in a strategic and targeted way and include 'bespoke' scenarios tailored to the operational roles of officers.**

We discussed the issue of specific human rights refresher training at each of our in-depth meetings with District Command Teams in March and April this year. It is clear that no such training is being delivered at the district level. Most districts questioned the utility of a formalistic classroom-based human rights refresher course, but agreed that some form of updating was necessary. We agree that what is needed is a practical and effective way of refreshing police officers' knowledge of human rights and keeping them up to date. This ties in with Recommendation 55(g) of our 2005 Annual Report, that the PSNI should disseminate human rights information to officers using specified channels and that officers should be kept up to date on human rights developments and provided with updates on changes in legislation,<sup>51</sup> which we consider remains outstanding.

During our meetings in March and April, a number of District Command Teams gave examples of how they thought human rights refresher training and updating could be achieved at the district level to meet local needs, e.g. including human rights principles at all levels of operational briefings where this is not already the case, human rights refresher cards, short electronic briefings including a short section on human rights in other district training courses, incorporating the four TED core themes<sup>52</sup> in district level training. It seems to us that

#### NOTES

- 47 2005 Annual Report, Recommendation 3(e), p.168.  
 48 April 2006, Consultancy Report, para. 27.  
 49 April 2006, Consultancy Report, para. 28, p.12.  
 50 Discussed further in chapter 12 below, at p.128.  
 51 2005 Annual Report, Recommendation 55(g), p.173.  
 52 Human rights, diversity, policing with the community, health and safety.

any or all of these (or indeed other) approaches could achieve the desired result. Rather than be prescriptive, we recommend that each district devise its own approach to district level human rights refresher training. We will report on the various approaches adopted in next year's annual report.

**Recommendation 9: Each PSNI District Command Team should devise its own approach to district level human rights refresher training.**

## Human rights training for trainers

When the Human Rights Commission reported on human rights training, it recommended that human rights training for trainers should be given a much higher priority.<sup>53</sup> The PSNI agreed to this recommendation and we noted in our 2005 Annual Report the steps it had taken to this end.<sup>54</sup> We recommended that the PSNI should closely monitor and evaluate the quality and effectiveness of its training for trainers.<sup>55</sup>

In its Human Rights Programme of Action 2005-2006, the PSNI agreed to this recommendation in principle, with the indication that the recommendation awaited input from its newly appointed Consultants.<sup>56</sup> Their April 2006 report recorded that, "means have yet to be put in place to closely monitor and evaluate the PSNI's human rights training for trainers. Nevertheless, our observations in the course of this consultancy suggest that, at present, the quality and effectiveness of that training leave something to be desired".<sup>57</sup> No explanation is offered as to why there has been no progress on implementation of our recommendation. The Consultants simply recommended that the Human Rights Adviser to TED should be closely involved in the design and delivery of any future training for trainers.

We agree that the Human Rights Adviser to TED, when appointed, should be closely involved in the design and delivery of training for trainers. However, this should not be allowed to obscure the fact that nothing has been done to implement the recommendation that we made over a year ago. We consider that Recommendation 5 of our 2005 Annual Report remains outstanding. We therefore have no option but to reiterate our recommendation that the PSNI should closely monitor and evaluate the quality and effectiveness of its human rights training for trainers.<sup>58</sup>

**Recommendation 10: The PSNI should closely monitor and evaluate the quality and effectiveness of its human rights training for trainers.**

## Evaluation of human rights training and delivery

In our 2005 Annual Report, we noted that a Human Rights Audit and Observation Project Team had been established to observe and assess, through random spot checks, training delivery and identify good and bad teaching practices, to begin in spring 2005. We recommended that the PSNI should set timelines for the conduct of this comprehensive evaluation of human rights training and delivery.<sup>59</sup>

The PSNI Audit and Observation Project Team reported to the Policing Board on its observation of training courses to the end of June 2005.<sup>60</sup> Of the ten training courses observed between 11th April 2005 and 27th

### NOTES

53 Northern Ireland Human Rights Commission, *Human Rights in Police Training, Report Three, Probationer Constables and Student Officers*, March 2004.

54 2005 Annual Report, p.31.

55 2005 Annual Report, Recommendation 5, p.168.

56 PSNI's Human Rights Programme of Action 2005-2006, p.13.

57 April 2006, Consultancy Report, p.18, para. 38.

58 2005 Annual Report, Recommendation 5, p.168.

59 2005 Annual Report, Recommendation 6, p.168.

60 PSNI Human Rights Audit: Observation Sessions completed as of 27th June 2005.

June 2005,<sup>61</sup> the Audit Team found the PSNI trainers and the human rights content of lessons to be very good or reasonable in all cases.<sup>62</sup> The Policing Board received a detailed assessment of a number of the individual courses observed.<sup>63</sup> For those courses, the assessment was positive, with a clear indication that trainers were incorporating human rights into courses in a comprehensive and often imaginative way. The information received by the Policing Board highlights the important role the Audit Team adopted in internally evaluating and monitoring the quality of training delivery.

In their April 2006 report, the Consultants appointed by the PSNI recorded that "following the departure of the previous Human Rights Legal Adviser to the PSNI, the work of the Human Rights Audit and Observation Project Team was suspended, pending a review of its work in the context of this consultancy exercise".<sup>64</sup> The Consultants expressed the view that it would not be worthwhile for the Audit and Observation Project Team to be reinstated on the basis that "a more fruitful course of action would be to properly resource the above-mentioned human rights auditing and quality assurance process".<sup>65</sup> In our view, neither the departure of the previous PSNI human rights legal adviser nor the consultancy exercise warranted the suspension of the work of the PSNI Human Rights Audit and Observation Project Team. We consider that Recommendation 6 of our 2005 Annual Report has been implemented only in part.

We do not agree with the Consultants that the proposed human rights auditing and quality assurance process can substitute for internal monitoring of training delivery. Auditing and quality assuring material on the one hand and evaluating the actual delivery of human rights training on the other are two different things and no system for internal evaluation of the delivery of human rights training currently exists in the PSNI. In our view, there must be some internal vehicle for the evaluation of human rights training and it is imperative that the PSNI devise an effective means for this evaluation as soon as possible.

**Recommendation 11: The PSNI should devise an effective system for the internal evaluation of the delivery of human rights training as soon as possible.**

## External evaluation of training

In our 2005 Annual Report, we noted the continuing need for external evaluation of the delivery of training. We therefore recommended that the PSNI should put in place a scheme for the expert and comprehensive external evaluation of the delivery of PSNI training on human rights.<sup>66</sup> While the Consultants have drawn up an indicative outline for an external evaluation scheme, no such scheme is yet in place.

In their April 2006 report, the Consultants suggested that it would be advisable "for the first six-month cycle of internal human rights auditing and quality assurance to be completed before external evaluation of the delivery of PSNI training is introduced".<sup>67</sup> We have already recorded our concern at the delay of the internal human rights auditing and quality assurance process.<sup>68</sup> While we accept that it is always sensible to co-ordinate changes in the delivery of training, we do not think that the delay in implementing the recommendation on the auditing of training materials can justify the delay in implementing our recommendation on the external

### NOTES

61 Initial management of serious crime; personal safety programme: introduction to conflict management model; foundation firearms (judgemental training); tactical training and observation skills training (legal standing) (at Enniskillen and Magilligan); crime training aides course (child abuse and rape enquiry); public order training (baton gun initial); tactical training (probationary officer search – person search); and, crime training (PEACE 2 – introduction to course) (at Gough and Garnerville).

62 However, the Audit Team indicated that they found it difficult to assess the human rights content of a course from observing one short lesson and that some lessons may not be appropriate for observation in terms of content and timescale.

63 Crime training aides – child abuse and rape enquiry; public order training (baton gun initial), tactical training (probationary officer search – person search), tactical training and observation skills training (legal standing) and crime training (PEACE 2 – introduction to course).

64 April 2006, Consultancy Report, p.18, para. 39.

65 April 2006, Consultancy Report, p.18, para. 39.

66 2005 Annual Report, Recommendation 7, p.168.

67 April 2006, Consultancy Report, p.19, para. 40.

68 At p.7 above.

evaluation of the actual delivery of training. In the circumstances, we consider that Recommendation 7 of our 2005 Annual Report remains outstanding. We therefore have no option but to reiterate our recommendation that the PSNI should put in place a scheme for the expert and comprehensive evaluation of the delivery of PSNI training on human rights, with an indication that it should be implemented by December 2006.

**Recommendation 12: The PSNI should put in place a scheme for the expert and comprehensive evaluation of the delivery of PSNI training on human rights by December 2006.**

# CHAPTER 3: POLICY

## CHAPTER 3: POLICY

As we noted in our 2005 Annual Report, it is fundamental that all of the PSNI's policies should set a framework for police decision-making and conduct that requires, and seeks to ensure, human rights compatibility in all areas of police work. The PSNI has chosen to achieve this end by adopting a General Order on Policy, Procedure and Guidance<sup>1</sup> which is intended not only to ensure uniformity in PSNI policies, but also to ensure that each policy complies with the requirements of the Human Rights Act 1998. As we noted in our 2005 Annual Report, this is an excellent initiative. If all PSNI policies are human rights compliant, decision-making and action taken according to those policies ought itself to be human rights compliant and training on the policies should complement and reinforce other human rights training.<sup>2</sup>

Against that background, we recommended that the PSNI should classify all existing PSNI 'policies'<sup>3</sup> and review them for compliance with the General Order on Policy, Procedure and Guidance.<sup>4</sup> We gave a timeline of twelve months from the publication of our 2005 Annual Report for the completion of this exercise (i.e. by the end of March 2006). This has not been achieved.

In its Human Rights Programme of Action 2005-2006, the PSNI only committed to complete the classification and review of existing 'policies' by 31st December 2007.<sup>5</sup> In January 2006, we wrote to ACC Operational Support expressing our concern about this significantly extended timeline and seeking an explanation for it. In April 2006, ACC Operational Support wrote to us explaining that the Policy Co-ordinator considered our twelve-month timeline to be unachievable because of the enormity and interdependency of the tasks involved and that no provision had been made for extra resources.<sup>6</sup> The same letter indicated that a PSNI Review of Service Instructions Board was established in November 2005, chaired by the Head of Corporate Development, with members drawn from the departments responsible for policy and publication branches. In addition, because of gaps in essential policy development and writing skills amongst PSNI staff, the Policy Co-ordinator has had to provide consistent informal training on PSNI policy, procedure and guidance and has arranged formal training for 40 PSNI personnel.<sup>7</sup>

As we understand the position, the review of policies that we recommended has not even started. The PSNI is still verifying each of its 700 General Orders and 600 sections of the Service Code to ensure that they remain current. So far, 108 General Orders and sections of the Service Code have been cancelled and 56 General Orders and sections of the Service Code have been reviewed. This verification exercise is welcome, but the high number of cancellations to date suggests that it was long overdue. It is important that this part of the exercise should be completed forthwith. We consider that Recommendation 8 of our 2005 Annual Report remains outstanding and re-iterate that the exercise of reviewing all material constituting policy must be completed, forthwith.

**Recommendation 13: The PSNI should complete the exercise of verifying all existing policies, forthwith.**

Of greater concern is the fact that the substantive review of all existing PSNI policies for compliance with the General Order on Policy, Procedure and Guidance has barely progressed at all. We readily acknowledge the difficulties of this exercise identified by the PSNI. However, the twelve-month timeline set out in our 2005 Annual Report was arrived at after discussion with the PSNI. Obviously, that does not mean that an inflexible approach to it now has to be adopted and we are well aware that the difficulties now being encountered may not have been foreseen at the time. However, it is simply unacceptable that, over five years since the Human

### NOTES

- 1 Adopted in June 2004.
- 2 2005 Annual Report, p.44.
- 3 2005 Annual Report, Recommendation 8, p.168.
- 4 2005 Annual Report, Recommendation 9, p.168.
- 5 PSNI's Human Rights Programme of Action 2005-2006, p.20.
- 6 Letter from ACC Operational Support to NIPB's human rights advisors dated 6th April 2006.
- 7 Ibid.

Rights Act 1998 came into force, there may still be policies in existence that need amendment to comply with its requirements. The vulnerabilities of any decision and action taken pursuant to such policies are obvious. In our view, the substantive review of all existing PSNI policies for compliance with the General Order on Policy, Procedure and Guidance must be prioritised. Against that background, we consider that Recommendation 9 of our 2005 Annual Report remains outstanding. We therefore reiterate this recommendation and make the additional recommendation that this exercise should be completed by March 2007 at the latest. That is a twelve-month extension of our previous timetable.

**Recommendation 14: The PSNI should complete its substantive review of all existing PSNI policies for compliance with the General Order on Policy, Procedure and Guidance by March 2007.**

It should be noted that the PSNI's delay in implementing our recommendation about the substantive review of all existing PSNI policies is precluding the Policing Board from complying with the separate recommendation – Recommendation 14 of our 2005 Annual Report - that it should conduct a further audit of PSNI policies for compliance with the General Order on Policy, Procedure and Guidance.<sup>8</sup> Recommendation 14 therefore remains outstanding.

In our 2005 Annual Report, we made two other general recommendations about PSNI policies. First, that all policies (save for sensitive policies) should be available and updated effectively on the PSNI intranet.<sup>9</sup> Second, that the PSNI should consider whether some or most of its policies can be made available to the public, either on the PSNI website or by some other means.<sup>10</sup>

In its Human Rights Programme of Action 2005-2006, the PSNI states that all policies are now placed on the intranet and that where amendments are necessary, they are effectively updated on the intranet.<sup>11</sup> We have subsequently been informed by the PSNI that there is no formal timeline for the uploading onto the PSNI intranet of revised and new policies following approval of these policies by the Chief Constable's Forum. The timing of the uploading of these policies and their availability on the intranet depends on the workload and resources of the PSNI publications branch. That means that there is often a two to three week gap between approval of policies and their availability to officers on the PSNI intranet. Should that gap increase, we would have cause for concern. We intend to keep the situation under review during the coming year and will report further in next year's annual report. In the meantime, we consider that this part of Recommendation 10 of our 2005 Annual Report has been fully implemented.

As for publication, in April 2006, ACC Operational Support informed us by letter that progress on policies, procedures and guidance designated 'sensitive' had been affected by the major reorganisation of PSNI Crime Operations department. The review of these policies for possible publication on the intranet had begun, but it was unlikely that any would be suitable for such publication. We accept the limitations on publishing sensitive material, even on the PSNI intranet, and do not require such publication. We have been informed by the PSNI that at present there are only a very small number of sensitive policies. As there are so few, these policies are currently distributed to relevant PSNI personnel in hard copy format. However, the PSNI is considering other methods of distributing and updating these policies. We therefore consider that this part of Recommendation 10 remains outstanding and recommend that the PSNI should complete the process of reviewing how sensitive policies are to be indexed, updated and kept, forthwith.

**NOTES**

<sup>8</sup> 2005 Annual Report, Recommendation 14, p.169.

<sup>9</sup> 2005 Annual Report, Recommendation 10, p.169.

<sup>10</sup> 2005 Annual Report, Recommendation 11, p.169.

<sup>11</sup> PSNI's Human Rights Programme of Action 2005-2006, p.20.

**Recommendation 15: The PSNI should complete its review of how policies considered too sensitive to be generally available on the PSNI intranet site are to be indexed, updated and kept, forthwith.**

Following our recommendation that the PSNI should consider making available some or most of its policies to the public,<sup>12</sup> the PSNI has now posted 37 of its policies on the PSNI website. The following table lists the policies now available to the public.

**Policy Title**

Dealing with Victims and Witnesses  
 Equal Opportunities Policy  
 Post Incident Procedure Deployment of Post Incident Managers – Discharge of Firearms  
 Code of Ethics  
 Gender Action Plan  
 Neutral Working Environment  
 Policing with the Community  
 Transparency Policy  
 Working in Partnership Policy  
 Role of Defence Lawyers Policy  
 Policy on Human Rights and Police Use of Force  
 Electronic Security Systems Policy  
 Wearing of Name Badges on Uniform Policy  
 Policy on Use of CS Spray  
 PSNI Policy on Procedure and Guidance  
 Freedom of Information Policy  
 Payment of Funeral Expenses by PSNI  
 Risk Management Policy  
 Records Management Policy  
 Managed Vehicle Recovery and Storage Scheme  
 Procurement within the PSNI  
 Bullying and Harassment Policy  
 Grievance Policy  
 Volume Crime  
 The Acceptance of Gifts, Gratuities and Hospitality  
 Family Liaison Officers – Road Death Investigation  
 Child Protection Policy  
 PSNI Managing Critical Incidents Policy  
 The Northern Ireland Driver Improvement Scheme  
 National Intelligence Model (NIM) Implementation in PSNI  
 Police Searches  
 Tinted Vehicle Glass – Enforcement  
 Service Guidance in Relation to the Issue, Deployment and Use of Attenuating Energy Projectiles in Situations of Serious Disorder  
 Police Response to Hate Incidents  
 Reassurance Policy  
 Disability Discrimination Act – Management of Police Officers  
 Protective Equipment

**NOTES**

<sup>12</sup> 2005 Annual Report, Recommendation 11, p.169.

This initiative is welcome, as is the indication that all new policies will be placed on the PSNI website subject only to their sensitivity or other strong public interest grounds.<sup>13</sup> However, the number of policies made available to the public is small and does not compare favourably with some police forces, for example Greater Manchester Police.<sup>14</sup> Moreover, the delayed process of substantive review is affecting the full implementation of our recommendation about the publication of PSNI policies.

Against that background, we consider Recommendation 11 of our 2005 Annual Report to be implemented only in part and recommend that the PSNI should speed up the process of making more of its policies available to the public. In our view, there can be no justification for not posting on the PSNI website any policy that would have to be disclosed under the Freedom of Information Act 2000.

**Recommendation 16: The PSNI should speed up the process of making more of its policies available to the public.**

### The policy writers' course

As we noted in our 2005 Annual Report, having a course specifically on human rights for policy writers is an important initiative. Having identified a number of respects in which the course could be improved,<sup>15</sup> we made one straightforward recommendation, in two parts. First, that the course should be redesigned based on the policy template in the General Order on Policy, Procedure and Guidance. Second, that the policy-writers' human rights training course should be compulsory for all PSNI policy writers.<sup>16</sup> Although in its Human Rights Programme of Action 2005-2006, the PSNI stated that this recommendation has been agreed in principle,<sup>17</sup> neither parts of the recommendation have been implemented. Given that one of the reasons provided by ACC Operational Support for the slow progress in the substantive review of existing PSNI policies for compliance with the General Order on Policy, Procedure and Guidance is that there are "gaps in the essential policy development and writing skills among PSNI staff",<sup>18</sup> the failure to implement Recommendation 12 of our 2005 Annual Report cannot be justified. We therefore re-iterate both parts of this recommendation, with an indication that they should be implemented forthwith.

**Recommendation 17: The PSNI should redesign the policy writers' human rights training course based on the policy template in the General Order on Policy, Procedure and Guidance, forthwith.**

**Recommendation 18: The PSNI should make the policy writers' human rights training course compulsory for all PSNI policy writers, forthwith.**

### Policy on relations with the military

In our 2005 Annual Report, we noted the absence of a generic policy on the PSNI's relationship with the military and the liaison procedures in place for joint operations between the PSNI and military. We referred to a number of documents, including the Principles of Police Operations for Contentious Parades<sup>19</sup> and the Urban

Region Generic Gold Strategy for Parades,<sup>20</sup> which we considered could provide useful models for such a policy. We therefore recommended that the PSNI review existing policies and protocols and formulate, in collaboration with the military, a policy setting out (i) its relationship with the military and (ii) the agreed liaison procedures in place for joint operations between the PSNI and the military.<sup>21</sup>

In its Human Rights Programme of Action 2005-2006, the PSNI indicated that it agreed with our recommendation.<sup>22</sup> Both PSNI Urban and Rural Regions have developed protocols for the conduct of operations between the PSNI and the military. We comment on these protocols in more detail in chapter 7.<sup>23</sup> Both protocols set the strategic framework for the conduct of joint PSNI/military operations. A new protocol was agreed between the PSNI Urban Region and the military regarding joint public order operations in early 2005, following concerns which we highlighted in our Ardoyne Report 2004. This is welcome and appears to have met the concerns we expressed in that report.<sup>24</sup>

We have also reviewed the PSNI General Order on Duties of Police Officers in Joint Military Patrols.<sup>25</sup> The policy makes clear that the police must lead on all occasions when members of the public are questioned and that soldiers should stop members of the public only when a police officer is otherwise engaged.

Against this background, we consider both parts of Recommendation 13 of our 2005 Annual Report to be implemented in full.

#### NOTES

- 13 PSNI's Human Rights Programme of Action 2005-2006, p.22.
- 14 [www.gmp.police.uk/mainsite/pages/foipolicies.htm](http://www.gmp.police.uk/mainsite/pages/foipolicies.htm).
- 15 2005 Annual Report, p.46.
- 16 2005 Annual Report, Recommendation 12, p.169.
- 17 PSNI's Human Rights Programme of Action 2005-2006, p.13.
- 18 At p.18 above.
- 19 Issued annually by PSNI Operational Support.

#### NOTES

- 20 Issued annually by ACC Urban.
- 21 2005 Annual Report, Recommendation 13, p.169.
- 22 PSNI's Human Rights Programme of Action 2005-2006, p.22.
- 23 See p.61 below.
- 24 Northern Ireland Policing Board: *A Report on the Policing of the Ardoyne Parades 12th July 2004*, at p.218.
- 25 General Order 24/2005.

# CHAPTER 4: OPERATIONS

## CHAPTER 4: OPERATIONS

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 will raise human rights issues. At the most extreme end, where live operations require the use of force, there is the potential for the engagement of the absolute rights in Articles 2 and 3 of the European Convention on Human Rights.

### Monitoring of live operations

In our 2005 Annual Report, we reported on four live operations - three planned public order operations and a covert operation involving the surveillance of a small team of counterfeiters. We were given after-the-event presentations on four other covert operations. Overall, we were satisfied that human rights considerations were taken into account at the relevant stages of the planning and control of these operations. However, we recommended that the Policing Board and the PSNI should make arrangements for more effective monitoring of the PSNI's performance in complying with the Human Rights Act 1998 in relation to the planning and execution of policing operations.<sup>1</sup>

In light of this recommendation, and the comments made in our 2005 Annual Report that after-the-event presentations are no substitute for the unannounced observation of live operations, we chose to focus this year on monitoring a more extensive range of live operations. The monitoring of live operations has the clear advantage of allowing us to investigate more thoroughly the integration of core human rights principles into the strategic and planning processes of operations and to monitor the quality of operational briefings. We agreed with the PSNI at an early stage of our monitoring work for 2005/2006 that we would monitor a wider range of live operations. We therefore consider Recommendation 17 of our 2005 Annual Report to be implemented in full. Since our last report, we have monitored six public order operations, two covert operations and two other live operations requiring the involvement and/or deployment of a significant number of PSNI officers across Rural Region. We discuss the public order operations in chapter 7 and the covert operations in chapter 9. The other two operations are dealt with below, but obvious constraints require that they be dealt with only in summary. However, we are able to indicate here the level of access that we were given to documentation and decision-making and to conduct a limited assessment of the operations.

### Counterfeiting Operation

The first of the operations we monitored was a large scale operation in Newry & Mourne DCU targeting illegal counterfeiting at Jonesborough Market. The decision to conduct the operation was taken by ACC Rural.<sup>2</sup> The aims of the operation were to disrupt and deter the manufacturing, storage, distribution and sale of contraband, stolen and counterfeit goods in and around Jonesborough Market, to seize and forfeit any proceeds of crime attributable to the identified illegal activities and to prosecute persons found to be directly or indirectly engaged in such illegal activity. The environment in which the policing operation was conducted impacted upon the nature and planning for the operation.

As part of the monitoring exercise, we attended planning meetings and briefings for the operation at Gold and Silver levels. We also examined all the relevant documents, including the Gold Strategy document (and subsequent revisions), minutes of Gold and Silver meetings, intelligence reports, community impact assessments and control strategies, risk assessments, tactical and legal advice, criminal justice and media strategies, Gold and Silver decision logs and the policy log of the Senior Investigating Officer. On the day of the operation itself, we observed the policing operation on the ground.

#### NOTES

<sup>1</sup> 2005 Annual Report, Recommendation 17, p.169.

<sup>2</sup> It had been a number of years since the PSNI had conducted an operation at the Jonesborough market site. The previous operation had been successful in removing a large quantity of contraband goods but had required a heavy security force operation. The impact of the operation had been less significant as the sale of counterfeit goods had resumed within a short time.

From our review of the operational documentation and our observance of the execution of the operation, we are satisfied that, overall, human rights considerations were taken into account at the relevant stages of the planning and execution of the operation. However, as a general comment, we suggest that, as a matter of good practice, PSNI operational command teams should consider referring to the PSNI human rights legal adviser at the initial stages of operations of this nature, size and sensitivity when strategic objectives are being set, and thereafter, following any subsequent review or revision of the operation's strategic objectives or tactical implementation plans.

### Burglary Operation

The second of the operations we monitored was a large scale operation across Rural Region to combat domestic burglary. This operation developed out of an identified increase in the number of domestic burglaries, including aggravated burglaries against vulnerable victims, across Northern Ireland as a whole and Rural Region in particular.

Again, as part of the monitoring exercise, we attended planning meetings and briefings for the operation at Gold and Silver levels. We examined relevant documents, including background briefing papers, the initial Gold Strategy and associated documents, minutes of Gold meetings, intelligence reports, tactical assessments and decision logs.

We are not in a position to comment on the human rights compliance of the completion of the operation, which is on-going. We are satisfied, however, in terms of our review of the operational documentation and our observance of the initial stages of the operation, that human rights considerations are being taken into account in the planning of this operation. The general comment we made above regarding reference to the PSNI human rights legal adviser applies equally to this operation.

### Use of legal advice in planning and implementation of operations

In our 2005 Annual Report, we reported on the working relationship between PSNI District Commanders and operational officers and PSNI Legal Services department, in particular, the human rights legal adviser, during the planning and control of operations. We found that there was no system whereby human rights issues that arise during the planning and control of operations are automatically referred to Legal Services and we noted that there was no formal on-call system. We therefore recommended that relevant PSNI operational policies, particularly those relating to public order, should give clearer advice to PSNI officers about when they should refer matters to the PSNI Legal Services department<sup>3</sup> and that the PSNI should establish a formal 'on-call' system within the PSNI Legal Services and ensure that all officers who require legal advice in the run up to, and during, operations are aware of this system.<sup>4</sup>

In its Human Rights Programme of Action 2005-2006, the PSNI agreed that it agrees with our recommendations. PSNI Belfast Regional Control now holds a list of all home telephone numbers of PSNI legal advisers. It also holds the mobile telephone number of the PSNI human rights legal adviser. In addition, the Urban and Rural Gold Strategy documents include contact details of all PSNI legal advisers, which have been circulated for inclusion in operational planning documents. The PSNI is satisfied that the existing system of contact through Belfast Regional Control meets the current need for legal advice out of office hours in all other situations.<sup>5</sup> We therefore consider Recommendations 15 and 16 of our 2005 Annual Report to be to be implemented in full. However, we reiterate the general comment made above that as a matter of good practice, PSNI operational command teams should consider referring to the PSNI human rights legal adviser at the initial stages of significant operations when strategic objectives are being set, and thereafter, following any subsequent review or revision of the operation's strategic objectives or tactical implementation plans.

#### NOTES

- <sup>3</sup> 2005 Annual Report, Recommendation 15, p.169.  
<sup>4</sup> 2005 Annual Report, Recommendation 16, p.169.  
<sup>5</sup> PSNI's Human Rights Programme of Action 2005-2006, p.29.

### PSNI stop and search powers

In our 2005 Annual Report, we reported on the PSNI policy on stops and searches and other action taken under emergency powers. A comprehensive reporting procedure in relation to these powers is critical to protect both the human rights of individuals stopped and searched and those of the officers involved. In our 2005 Annual Report, we recommended that the PSNI supply to the Policing Board, on a six-monthly basis, data collated by PSNI Central Statistics department on stops and searches under both the Police and Criminal Evidence (Northern Ireland) Order 1989 (PACE) and terrorism legislation.<sup>6</sup> In its Human Rights Programme of Action 2005-2006, the PSNI accepted this recommendation and confirmed that statistics on stops and searches would be provided to the Policing Board on a quarterly basis.<sup>7</sup> The statistics have been provided to the Policing Board since 31st August 2005. We therefore consider that Recommendation 18 has been implemented in full. However, we remind the PSNI of the continuing nature of this recommendation and we will evaluate the information provided on an on-going basis in our subsequent human rights annual reports.

Table 1 below shows the number of people stopped and searched under PACE and sections 84<sup>8</sup> and 89<sup>9</sup> of the Terrorism Act 2000 for the period 1st April 2005 to 31st March 2006. The numbers of stops and searches under PACE has remained fairly static at around 4,000 in each quarter of the period. The numbers of stops and searches under the Terrorism Act 2000 however indicates a marked increase for the quarter July to September 2005.

**Table 1: Persons stopped and searched under PACE and the Terrorism Act 2000, 1st April 2005 – 31st March 2006**

Yearly Quarter 2005/2006	Stops and searches under PACE	Stops and searches under Terrorism Act, s. 84	Stops and searches under Terrorism Act, s. 89
Apr-Jun	4,104	663	438
Jul-Sep	3,763	1,218	597
Oct-Dec	4,009	797	464
Jan-Mar	4,160	621	407
<b>Total</b>	<b>16,036</b>	<b>3,299</b>	<b>1,906</b>

Table 2 overleaf shows the number of persons stopped and searched in Northern Ireland and the number subsequently arrested by the PSNI in the period 1st April 2005 to 31st March 2006. Overall, 7.5% of stops and searches resulted in arrests. Just under 50% of the stops and searches made under PACE in each quarter of the period related to drugs and of these, 5% resulted in arrests. Around 16% of the stops and searches conducted in each quarter related to the offence of going equipped, with approximately 4% resulting in arrests.

#### NOTES

- <sup>6</sup> 2005 Annual Report, Recommendation 18, p.169. We indicated that the data should identify any District Command Unit where there had been a significant increase in stops and searches and provide details of action taken by the PSNI to investigate the reasons for any such increases.  
<sup>7</sup> PSNI Human Rights Programme of Action 2005-2006, p.22.  
<sup>8</sup> Terrorism Act 2000, s.84 Munitions and transmitters: search and seizure.  
<sup>9</sup> Terrorism Act 2000, s.89 Power to stop and question.



**Table 2: Number of arrests following stops and searches under PACE in Northern Ireland, 1st April 2005 – 31st March 2006**

Reason	2005/2006											
	1 Apr - 30 Jun			1 Jul - 30 Sep			1 Oct - 31 Dec			1 Jan - 31 Mar		
	Searches	Arrests	%	Searches	Arrests	%	Searches	Arrests	%	Searches	Arrests	%
Stolen property	512	56	11	393	40	10	503	82	16	597	79	13
Drugs	1,983	90	5	1,726	77	4	1,753	100	6	1,734	78	4
Firearms etc.	53	8	15	76	8	11	44	2	5	86	11	13
Offensive weapon	239	29	12	256	33	13	291	21	7	268	30	11
Going equipped	710	31	4	610	27	4	651	28	4	695	32	5
Others	848	140	17	933	105	11	1,008	117	12	1,079	99	9
<b>Total Persons*</b>	<b>4,104</b>	<b>328</b>	<b>8</b>	<b>3,763</b>	<b>271</b>	<b>7</b>	<b>4,009</b>	<b>305</b>	<b>8</b>	<b>4,160</b>	<b>290</b>	<b>7</b>

\*As a person can be stopped/searched or arrested for more than one reason, the number of stops/searches or arrests by reason does not sum to the total number of persons stopped/searched or arrested.

**Table 3: Number of arrests following stops and searches under PACE in England and Wales, 2004-2005<sup>10</sup>**

Reason for search	Number of Searches	Number of arrests resulting from searches	% of searches resulting in arrest
Stolen property	239,200	26,400	11%
Drugs	345,300	29,600	9%
Firearms	12,800	1,400	11%
Offensive Weapons	75,200	9,500	13%
Going Equipped	107,400	7,100	7%
Criminal Damage	12,500	1,300	10%
Other	58,700	19,200	33%
<b>Total</b>	<b>851,200</b>	<b>94,600</b>	<b>11%</b>

As Table 3 demonstrates, according to Home Office figures for England and Wales in 2004/2005, 11% of stops and searches resulted in arrests. 41% of stops and searches related to drugs and of those, 9% resulted in arrest. 28% of stops and searches related to stolen property, of which 11% resulted in arrest. The comparable statistics for Northern Ireland for the period 2005/2006 indicated a slight variation in the percentages of stops and searches resulting in arrests, but no major disparities. For example, 9% of stops and searches relating to drugs resulted in arrest in England and Wales in 2004/2005, whilst only 5% of such stops and searches resulted in arrest in Northern Ireland in 2005/2006. However, the percentage of stops and searches relating to firearms resulting in arrest was identical (albeit for different periods), whilst the percentage of stops and searches relating to stolen property resulting in arrest was slightly higher in Northern Ireland for the 2005/2006 period.<sup>11</sup>

The percentage of PSNI PACE stops and searches of white persons that led to arrest has fluctuated from 15.9% in 2001/2002 to 7.7% in 2002/2003 to 9.5% in 2003/2004. The average in England and Wales is 12.5%.<sup>12</sup> The percentage of PSNI PACE stops and searches of minority ethnic persons that led to arrest has reduced from 25% in 2001/2002 to 19.6% in 2002/2003 and 11.2% in 2003/2004. The average in England

**NOTES**

<sup>10</sup> Home Office Statistical Bulletin: *Arrests for Recorded Crime (Notifiable Offences) and the Operation of Certain Police Powers under PACE, England and Wales, 2004/2005*. Figures for 2005/2006 were not available at the date of publication.

<sup>11</sup> 12.5% in Northern Ireland as compared to 11% in England and Wales.

<sup>12</sup> Her Majesty's Inspectorate of Constabulary, *Baseline Assessment Police Service of Northern Ireland*, October 2005.

and Wales is 12.2%.<sup>13</sup> These figures do not show a major disparity between the percentage of PSNI PACE stops and searches resulting in arrests and the average in England and Wales. However, the percentage of PSNI stops and searches of minority ethnic persons leading to arrest has significantly reduced over the last three years, whilst the number of PACE stops and searches per 1,000 of the minority ethnic population has significantly increased year on year, from 6.7 in 2001/2002 to 16.31 in 2003/2004 (a 118.8% increase). In its baseline assessment of the PSNI, HMIC indicated that this increase may reflect some disproportionality in the PSNI's use of stop and search powers.<sup>14</sup> We therefore recommend that the PSNI should examine and evaluate its use of stop and search powers to ensure that these powers are not being exercised disproportionately.

**Recommendation 19: The PSNI should examine and evaluate its use of stop and search powers to ensure that these powers are not being exercised disproportionately.**

**Integrity testing**

In our 2005 Annual Report, we reported that the PSNI had no general integrity policy or standard system of integrity testing. We therefore recommended that the PSNI develop its policy on integrity testing as a matter of priority and track the effectiveness of its integrity testing procedures through the collation of data on the number, frequency, type and results of its integrity tests. We further recommended that the PSNI supply the Policing Board with aggregated data regarding its integrity testing procedures on a six-monthly basis.<sup>15</sup>

In its Human Rights Programme of Action 2005-2006, the PSNI referred to a Weekly Order published in December 2002,<sup>16</sup> stipulating that integrity testing cannot be random because of the requirement for properly evidenced intelligence under the Regulation of Investigatory Powers Act 2000.<sup>17</sup> The Office of the Oversight Commissioner corroborates this practice. Further, the Superintendents' Association, the Police Federation for Northern Ireland and the Policing Board have endorsed this approach.

The Internal Investigation Branch houses the PSNI Integrity Unit which was established in October 2002. The Unit has four members and by July 2005, it had implemented 13 intelligence led integrity tests. Four of these tests resulted in prosecution or sanctions and three in further inquiries. The Integrity Unit follows strict guidelines which are laid down by the Association of Chief Police Officers (ACPO) and are made available through the ACPO Counter Corruption Advisory Group.<sup>18</sup>

In its Human Rights Programme of Action 2005-2006, the PSNI agreed to our recommendation that the PSNI should provide aggregated data regarding its integrity testing procedures on a six-monthly basis to the Policing Board.<sup>19</sup> This information has been supplied since October 2005.

In the period 1st April 2005 to 30th September 2005, there were two integrity tests, both with a positive finding. In Case 1, a file was submitted to the Public Prosecution Service for a decision regarding prosecution. In Case 2, the investigation is on-going and the details remain *sub judice*. In the period 1st October 2005 to 31st March 2006, there were no integrity tests.<sup>20</sup>

We are satisfied with this method of integrity testing. We therefore consider Recommendation 19 of our 2005 Annual Report to be implemented in full. However, we remind the PSNI of the continuing nature of this recommendation. We will monitor and report on the work of PSNI's Integrity Unit in our subsequent human rights annual reports.

**NOTES**

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> 2005 Annual Report, Recommendation 19, p.169.

<sup>16</sup> No.48/02.

<sup>17</sup> PSNI's Human Rights Programme of Action 2005-2006, p.30.

<sup>18</sup> Internal Investigation Branch, 5th July 2005.

<sup>19</sup> PSNI's Human Rights Programme of Action 2005-2006, p.30.

<sup>20</sup> Internal Investigation Branch Activity Report, 1st April 2005 to 31st March 2006.

## CHAPTER 5: THE CODE OF ETHICS

A Code of Ethics for the PSNI was brought into force on 14th March 2003. It sets out the principles that are intended to govern the conduct of all police officers. It includes international human rights standards drawn from the European Convention on Human Rights and other relevant international human rights instruments. Any breach of the principles set out in the Code of Ethics can give rise to a disciplinary investigation. The PSNI Code of Ethics was appended to our 2005 Annual Report.<sup>1</sup>

Under the Police (Northern Ireland) Act 2000, the Policing Board is under a duty to assess the effectiveness of the Code of Ethics and has power to revise it from time to time.<sup>2</sup> In February 2006, the Policing Board decided to review the contents of the Code of Ethics and, to that end, plans to commence a consultation exercise in September 2006 seeking views on how the Code of Ethics could be improved.

Since the PSNI Code of Ethics was introduced, the Home Office has drafted a not dissimilar, but less detailed, Code of Professional Standards for police forces in England and Wales. A consultation process in respect of this draft Code of Ethics concluded in May 2006. The outcome of this consultation process will be taken into account in the review of the PSNI Code of Ethics by the Policing Board.

### Enforcing the Code of Ethics

The Code of Ethics is a valuable tool in ensuring that the PSNI complies with its duties under the Human Rights Act 1998. However, if it fails in its stated intention of laying down standards of conduct and practice and making police officers aware of the rights and obligations under the European Convention on Human Rights, it will be ineffective.

The Police (Northern Ireland) Act 2000 sets out a number of steps that must be taken to ensure the effectiveness of the Code. They are:

- (a) a duty on the Policing Board to assess the effectiveness of the Code of Ethics;<sup>3</sup>
- (b) a duty on the Chief Constable to take such steps as he considers necessary to ensure that all police officers have read and understood the Code of Ethics as currently in force;<sup>4</sup> and
- (c) a duty on the Policing Board to review the steps taken by the Chief Constable under (b) above.<sup>5</sup>

In our 2005 Annual Report, we highlighted that in the focus groups that we set up to gauge human rights awareness in the PSNI, most officers were vague about the contents and requirements of the Code of Ethics. Against that background, we recommended that the Policing Board should require the PSNI to provide evidence of the effectiveness of the Code of Ethics and then assess that evidence. In particular, we recommended that the Policing Board should require the Chief Constable to set out what further steps he intended to take to ensure that all officers have read and understood the Code of Ethics.<sup>6</sup> In addition, we recommended that the PSNI should consider including an assessment of individual officers' knowledge of the Code of Ethics as a specific component of the Annual Performance Review.<sup>7</sup>

As we noted in our 2005 Annual Report, virtually all active officers have signed a declaration acknowledging that they have read and understood the Code of Ethics. While this is an important achievement, we do not consider that, alone, it is enough to ensure the effectiveness of the Code. It is important that police officers' knowledge and understanding of the Code of Ethics is reinforced on an on-going basis.

#### NOTES

- 1 And is available at [http://www.nipolicingboard.org.uk/word\\_docs/PDFs/NIPB%20Ethics.pdf](http://www.nipolicingboard.org.uk/word_docs/PDFs/NIPB%20Ethics.pdf).
- 2 Police (Northern Ireland) Act 2000, s. 3(3)(d)(iv) and s. 52.
- 3 Police (Northern Ireland) Act 2000, s. 3(3)(d)(iv).
- 4 Police (Northern Ireland) Act 2000, s. 52(8).
- 5 Police (Northern Ireland) Act 2000, s. 52(9).
- 6 2005 Annual Report, Recommendation 20, p.169.
- 7 2005 Annual Report, Recommendation 21, p.169.

# CHAPTER 5: CODE OF ETHICS

Enforcing the Code of Ethics in disciplinary proceedings is one aspect of ensuring its effectiveness. In chapter 6 of this report we identify the various Articles within the Code of Ethics found to have been breached in formal disciplinary proceedings and when Superintendents' Written Warnings were issued for the period 1st April 2005 to 31st March 2006.<sup>8</sup> It is clear from that analysis that the Articles in the Code of Ethics most frequently breached were Articles 1.5 (the duty to obey all lawful orders) and Articles 2.2 (the duty to conduct investigations in an objective, fair and thorough manner). However, on occasion, many other Articles within the Code of Ethics were also found to have been breached.

One of the ways in which the PSNI has chosen to ensure the effectiveness of the Code of Ethics as a disciplinary tool is by including reference to the Code of Ethics in the summaries of disciplinary cases that are disseminated within the Service. It is intended that this should give all police officers an indication of the type of conduct which would breach the Code of Ethics.

More generally, the PSNI has considered whether to include an assessment of individual officers' knowledge of the Code of Ethics as a specific component of the Annual Performance Review in compliance with Recommendation 21 of our 2005 Annual Report. In its Human Rights Programme of Action 2005-2006, the PSNI indicated that research would be conducted to determine if it was appropriate to include an assessment of the Code of Ethics in the Annual Performance Review and, if so, how best to incorporate the Code of Ethics within a fuller review of the Annual Performance Review, with a projected completion date of April 2006.

This fuller review is not yet complete, but the PSNI envisages that an express requirement to evidence adherence to the Code of Ethics will be included in the appraisal model finally adopted (probably in April 2007). In the meantime, the PSNI takes the view that an assessment of individual officer's knowledge of the Code of Ethics is implicit in the Annual Performance Review. We consider that this implements Recommendation 21 of our 2005 Annual Report. However, we intend to monitor the effectiveness of the PSNI's new appraisal model following its introduction in 2007 and will report further in next year's human rights annual report

In the course of our in-depth meetings with District Command Teams in March and April 2006,<sup>9</sup> we discussed the extent to which the Code of Ethics is used in the routine supervision of officers. The response was mixed. Some officers in some districts said that they might refer to the Code of Ethics during supervision, but many did not and no consistent pattern could be identified. In addition, none of the District Command Teams that we met had conducted any district level training specifically on the Code of Ethics.

Having reviewed this evidence of the effectiveness of the Code of Ethics, we are satisfied that as a formal disciplinary tool, it appears to be working. We welcome Internal Investigation Branch categorisation of formal disciplinary proceedings and Superintendents' Written Warnings. We also welcome Internal Investigation Branch initiatives in disseminating summaries of disciplinary outcomes with reference to the Code of Ethics. In chapter 6 of this report, we track breaches of the Code of Ethics and identify discernable trends.<sup>10</sup> We consider that this fully implements Recommendation 26 of our 2005 Annual Report but we remind PSNI of the on-going nature of this recommendation.

The high number of breaches of Articles 1.5 and 2.2 of the Code of Ethics has already been noted. Whether this correlates to the need for action, such as training, is hard to determine given the breadth of conduct that is capable of falling within these Articles. We therefore recommend that the PSNI should review the types of behaviour causing breaches of the Code of Ethics in all disciplinary cases on a six-monthly basis and consider whether any particular response, e.g. training, might be appropriate.

#### NOTES

- 8 At p.40.  
9 Discussed in more detail in chapter 13.  
10 At pp.51-53 below.

#### **Recommendation 20: The PSNI should review the types of behaviour causing breaches of the Code of Ethics in all disciplinary cases on a six-monthly basis and consider whether any particular response might be appropriate.**

The other evidence produced by the PSNI to satisfy Recommendation 20 of our 2005 Annual Report is less satisfactory. The only evidence produced is the possible inclusion of an express reference to the Code of Ethics in the fuller review of the Annual Performance Review (as set out above). Against that background, we consider Recommendation 20 to be only partially implemented. In our view, further evidence is needed of the effectiveness of the Code of Ethics. Examples might include references to the Code of Ethics in all new and revised General Orders as a matter of systematic practice, integration of the Code of Ethics (as appropriate) into all training, including training at the district level, greater use in the supervision and informal discipline of officers and requiring police officers to evidence that they have read and understood the Code of Ethics as part of the Annual Performance Review.

#### **Recommendation 21: The PSNI should provide further evidence of the effectiveness of the Code of Ethics that can be assessed by the Policing Board.**

In our 2005 Annual Report, we noted that the results of the questionnaire that we sent to PSNI officers disclosed a misunderstanding about the prohibition of discrimination under Article 14 of the European Convention on Human Rights, referred to in the PSNI Code of Ethics.<sup>11</sup> We therefore recommended that the results of the human rights questionnaire dealing with discrimination should be carefully studied by the PSNI and consideration given to revision or clarification of this Article of the Code of Ethics.<sup>12</sup> We consider that the review of the Code of Ethics by the Policing Board provides the opportunity to address this issue, such as to meet Recommendations 22 and 55(b) of our 2005 Annual Report, which remain outstanding. We will report further on this review in next year's human rights annual report.

#### NOTES

- 11 2005 Annual Report, p.63.  
12 2005 Annual Report, Recommendation 22, p.169.

# CHAPTER 6: COMPLAINTS, DISCIPLINE AND CIVIL ACTIONS

## CHAPTER 6: COMPLAINTS, DISCIPLINE AND CIVIL ACTIONS

Complaints, discipline and civil actions against the police provide an important means of monitoring the performance of the PSNI in complying with the Human Rights Act 1998. That is because they each subject the behaviour of individual police officers to scrutiny, either external or internal. The PSNI Code of Ethics provides the disciplinary framework to which the PSNI now works.<sup>1</sup>

As was the case last year, particular attention has been paid to the thousands of complaints of one sort or another that are made against the PSNI every year and are investigated by the appropriate body – very often the Police Ombudsman. Save for complaints made against PSNI senior officers of the rank of Assistant Chief Constable or above,<sup>2</sup> the Policing Board has no jurisdiction to investigate (individual) complaints against PSNI officers and, in keeping with its duty to co-ordinate its activities with those of other public bodies,<sup>3</sup> in preparing this report we have not replicated the work of those bodies that are charged with investigating complaints. Instead, we have reviewed the outcomes of all complaints, disciplinary action and civil actions against the police and considered how they affect the overall pattern of compliance by the PSNI with the Human Rights Act 1998. Particular attention has been paid to the way in which the PSNI has responded to adverse findings and/or recommendations.

The complaint and disciplinary framework for the PSNI is complicated. We set it out in some detail in our 2005 Annual Report<sup>4</sup> and do not repeat that detail here.

### Number and pattern of complaints

In the period 2005-2006, 3,108 complaints were made against the police.<sup>5</sup> This represents an 8% increase on the period 2004-2005 when 2,885 complaints were made. This marks the end of a downward trend that has been displayed for the last three years.<sup>6</sup>

The number of allegations<sup>7</sup> increased substantially in 2005-2006, to 5,381, from 4,206 in 2004-2005.<sup>8</sup> There was also an increase in the number of allegations per officer. In 2003-2004, there were, on average, 61 allegations per 100 officers. In 2004-2005, there was a slight increase to 64 allegations per 100 officers.<sup>9</sup> In 2005-2006, there was an increase to 87 allegations per 100 officers.<sup>10</sup>

However, there is a downward trend in the seriousness of the type of allegations. Four years ago, 51% of allegations were in relation to oppressive behaviour, covering allegations such as assault, intimidation or harassment. In 2005-2006, this type of complaint fell to 36%, a slight increase from 35% in 2004-2005, but a decrease from 37% in 2003-2004<sup>11</sup> recorded in our 2005 Annual Report.

Allegations relating to failure of duty rose from 38% in 2004-2005 to 42% in 2005-2006. This reflects an upward trend in such allegations from 26% in 2002-2003 and 31% in 2003-2004. The year 2004-2005 recorded the first fall in three years in the number and percentage of complaints relating to incivility: 13% compared with 16% in 2002-2003 and 15.3% in 2003-2004.<sup>12</sup> This decrease has continued in 2005-2006 with a fall to 12%.<sup>13</sup>

The allegations made in the period April 2004 to March 2006 were classified by the Police Ombudsman<sup>14</sup> as set out in Table 1.

### NOTES

- 1 Which includes human rights standards drawn from the European Convention on Human Rights and other relevant international human rights instruments.
- 2 Such complaints are referred to the Policing Board under the conduct of Senior Officer Regulations 2000 discussed further at p.54 below.
- 3 Police (Northern Ireland) Act 2000, s. 3(4)(d).
- 4 At pp.68-69.
- 5 Police Ombudsman's Report to the Community & Human Rights Committee of the Policing Board, May 2006.
- 6 From 2,976 complaints in 2003-2004 and 3,340 complaints in 2002-2003.
- 7 Complaints may include more than one allegation of misconduct.
- 8 Police Ombudsman's Annual Report, April 2004 to March 2005, p.16.
- 9 Ibid. at p.18.
- 10 Police Ombudsman's Annual Report for the year ended 31st March 2006, p.18.
- 11 Ibid. at p.20.
- 12 Ibid. at p.20.
- 13 Police Ombudsman's Report to the Community & Human Rights Committee of the Policing Board, May 2006.
- 14 Police Ombudsman's Annual Report for the year ended 31st March 2006, p.20.

**Table 1: Allegations against the PSNI, 2004 - 2006**

Allegation type	Allegation sub-type	2004/2005		2005/2006	
		Total	%	Total	%
Failure in Duty	Detention, treatment and questioning	75	1.8	103	1.9
	Failures in duty	1,357	32.3	1,846	34.3
	Identification procedures	6	0.1	1	0.0
	Other irregularity in procedure	54	1.3	153	2.8
	Searching of premises and seizure of property	107	2.5	136	2.5
	Stop and Search	21	0.5	25	0.5
	Tape recording	1	0.0	0	0.0
	Multiple or unspecific breaches which cannot be allocated	18	0.4	3	0.1
	Unknown	7	0.2	3	0.1
	<b>Sub-total</b>	<b>1,646</b>	<b>39.1</b>	<b>2,270</b>	<b>42.2</b>
Incivility	Incivility	538	12.8	641	11.9
	Sectarian Abuse	14	0.3	19	0.4
	<b>Sub-total</b>	<b>552</b>	<b>13.1</b>	<b>660</b>	<b>12.3</b>
Malpractice	Corrupt Practice	26	0.6	31	0.6
	Irregularity in relation to evidence/perjury	41	0.1	54	1.0
	Mishandling of Property	35	0.8	32	0.6
	<b>Sub-total</b>	<b>102</b>	<b>2.4</b>	<b>117</b>	<b>2.2</b>
Oppressive Behaviour	Serious non-sexual assault	9	0.2	11	0.2
	Sexual assault	12	0.3	16	0.3
	Other assault	854	20.3	1,095	20.3
	Oppressive conduct or harassment	516	12.3	602	11.2
	Unlawful/unnecessary arrest or detention	116	2.8	184	3.4
	Unknown	2	0.0	7	0.1
	<b>Sub-total</b>	<b>1,509</b>	<b>35.9</b>	<b>1,915</b>	<b>35.6</b>
Racial Discrimination	Racial discriminatory behaviour	11	0.3	8	0.1
Traffic	Traffic irregularity	30	0.7	65	1.2
Other		356	8.5	309	5.8
S.55 Referral				28	0.5
No allegation				9	0.2
<b>Total</b>		<b>4,206</b>	<b>100</b>	<b>5,381</b>	<b>100</b>

In 2004-2005, of those complaints where the factor underlying the complaint was immediately classifiable, 34% of complaints related to arrest, 31% related to the investigation of a crime, 15% related to traffic incidents and the conduct of officers in those situations, and 7% related to searches conducted by officers. Most of the complaints related to incidents occurring in a police station (34%) or in the street (32%).<sup>15</sup>

In 2005-2006, 24% of complaints related to arrest, 26% related to the investigation of a crime, 11% related to traffic incidents, and 7% related to searches. Again, most of the complaints related to incidents occurring in a police station (33%) or in a street or road (36%).<sup>16</sup>

**NOTES**

<sup>15</sup> Ibid. at p.20.

<sup>16</sup> Police Ombudsman's Report to the Community & Human Rights Committee of the Policing Board, May 2006.

**Formal disciplinary action**

All allegations that police officers may have committed criminal offences are referred to the Police Ombudsman. At the conclusion of any investigations resulting from these allegations, a file is sent to the Public Prosecution Service, which includes recommendations as to whether or not police officers should face criminal charges. Table 2 sets out the number of files submitted by the Police Ombudsman to the Public Prosecution Service and recommendations for formal disciplinary action between 2003 and 2006.

**Table 2: Formal disciplinary action 2003-2006**

Outcomes	2003 – 2004	2004 – 2005	2005 – 2006
Files submitted to PPS	174	149	169
PONI recommendation to prosecute	10	7	5
Number of charges	8	19 <sup>17</sup>	9 <sup>18</sup>
PONI recommendation of PSNI formal disciplinary action	11 <sup>19</sup>	11 <sup>20</sup>	14

**Informal disciplinary action**

Table 3 sets out recommendations made by the Police Ombudsman for informal disciplinary action between 2003 and 2006.

**Table 3: Informal disciplinary action 2003-2006**

Outcomes	2003 – 2004	2004 – 2005	2005 – 2006
PONI recommendation for advice and guidance	39 <sup>21</sup>	35 <sup>22</sup>	41 <sup>23</sup>
PONI recommendation for Superintendent's Written Warning	8 <sup>24</sup>	12 <sup>25</sup>	11 <sup>26</sup>
Informal Resolution	400	343	353

**NOTES**

<sup>17</sup> Involving 11 officers.

<sup>18</sup> Involving 9 officers.

<sup>19</sup> Involving 12 officers and 15 allegations.

<sup>20</sup> Involving 11 officers.

<sup>21</sup> Involving 58 officers.

<sup>22</sup> Involving 42 officers.

<sup>23</sup> Involving 50 officers.

<sup>24</sup> Involving 10 officers.

<sup>25</sup> Involving 16 officers.

<sup>26</sup> Involving 12 officers.

## Other disposals

Table 4 sets out all other disposals of complaints for the period 2003-2006.

**Table 4: Other disposals 2003-2006**

Disposal	2003 – 2004	2004 – 2005	2005 – 2006
Not Substantiated	360	607	532
Ill-founded	269	302	381
Vexatious/Abuse of Process/ Repetitive etc.	66	n/a	n/a
Failure to Co-Operate / Withdrawal	1,398	1,105	1,020
Incapable of Investigation	21	n/a	n/a
Outside Remit	278	329	388

## Extracting information about human rights compliance

In our 2005 Annual Report, we identified a number of difficulties in extracting meaningful information about human rights compliance from the statistics relating to complaints.<sup>27</sup> In light of those difficulties, we recommended that the Policing Board should request that the Police Ombudsman supply summary details of those cases in which a recommendation for prosecution is made;<sup>28</sup> that the PSNI should supply the Policing Board with summary details of all cases that resulted in formal disciplinary hearings on a six-monthly basis;<sup>29</sup> that the PSNI should supply the Policing Board with details of all conduct leading to a Superintendent's Written Warning on a six-monthly basis;<sup>30</sup> and that the Policing Board should review how best to collate details of the conduct leading to advice and guidance in twelve months when the PSNI's new case management system was due to be up and running.<sup>31</sup>

In September 2005, we met with the Police Ombudsman to discuss the first of these recommendations. She raised a number of concerns about the confidentiality of her communications with the Public Prosecution Service, which we accept. In the circumstances, the only details of cases in which a recommendation for prosecution is made are those already published in the Police Ombudsman's Annual Reports. Against that background, we withdraw Recommendation 23 of our 2005 Annual Report.

## Annual Report 2005 Recommendation 27(a)

In its Human Rights Programme of Action 2005-2006, the PSNI agreed to provide us with summary details of all cases that resulted in formal disciplinary hearings on a six-monthly basis in accordance with this recommendation.<sup>32</sup> We have been sent all the requested information for the period 1st April 2005 to 31st March 2006. We consider that this fully implements Recommendation 27(a) of our 2005 Annual Report, but remind the PSNI of the continuing nature of this recommendation. We analyse this information in tabular form below.

### NOTES

<sup>27</sup> 2005 Annual Report, pp.73-74.

<sup>28</sup> 2005 Annual Report, Recommendation 23, p.169.

<sup>29</sup> 2005 Annual Report, Recommendation 27(a), p.170.

<sup>30</sup> 2005 Annual Report, Recommendation 27(b), p.170.

<sup>31</sup> 2005 Annual Report, Recommendation 28, p.170.

<sup>32</sup> PSNI's Human Rights Programme of Action 2005-2006, p.32.

**Table 5: All cases resulting in formal disciplinary proceedings, April 2005 - March 2006**

Date	Type of Allegation	Detail	Outcome
01/04/05	Professional duty	Failure to carry out an objective and thorough investigation.	Fined £250
05/04/05	Integrity	Conviction for being in charge of motor vehicle with excess alcohol.	Fined £300
05/04/05	Integrity	Wrote witness statements and appended signatures purporting to be those of witnesses.	Dismissal from Service
14/04/05	Professional duty	Behaviour off duty – tried to interfere with investigation of burglary.	Fined £250
29/04/05	Criminal offences	Conviction for driving a motor vehicle with excess alcohol.	Fined £300
11/05/05	Equality	Inappropriate comment towards student officer.	Fined £500
13/05/05	Neglect of duty/ disobedience to orders	Failure to investigate an assault/failure to produce notebook for inspection.	Fined £250 (x2)
20/05/05	Professional duty	Inappropriate behaviour towards school pupils while on holiday.	Reduction in pay
20/05/05	Professional duty	Inappropriate behaviour towards school pupils while on holiday/failure to co-operate with police called to the scene.	Reduction in pay/fined £200
31/05/05	Integrity	Conviction for driving with excess alcohol.	Fined £700
09/06/05	General conduct	Malicious telephone calls to member of the public.	Required to resign
01/07/05	Disobedience to orders/ criminal conduct/ discreditable conduct (x3)	Failure to notify Chief Constable of being subject to legal proceedings/conviction of failing to supply information under Road Traffic Order/misappropriation of police funds (x3).	Fined £50/fined £50/ required to resign (x3)
05/07/05	Lawful orders/police investigations/ professional duty	Failure to complete and submit an investigation file regarding a road traffic collision and failure to maintain notebook.	Fined £250 for each charge
29/07/05	Professional duty/fitness for duty	Disobedience of lawful orders and inappropriate remarks. Consumption of alcohol on duty and failure to attend work promptly.	Reduction in pay/ reprimand
09/08/05	Integrity	Caution for common assault.	Fined £150
17/08/05	Integrity	Conviction for driving with excess alcohol.	Reduction in pay
18/08/05	Integrity/professional duty	Caution for using threatening, abusive or insulting words and behaviour/use of inappropriate language and threat of assault while off duty.	Reduction in pay/ fined £500
23/08/05	Integrity	Conviction for breach of Occupation Order, common assault and possession of article with a blade.	Fined £500
24/08/05	Integrity/equality/ Professional duty (x2)	Conviction for breach of Data Protection Act/inappropriate remarks made by officer to two colleagues/consumption of alcohol in station/allowing entry of member of public to restricted parts of the station.	Reprimand/ dismissal from Service/required to resign/reprimand
25/08/05	Professional duty	Inappropriate remark whilst off duty.	Reprimand
02/09/05	Integrity	Conviction for common assault.	Required to resign
22/09/05	Duty of supervisors	Failure to challenge inappropriate remarks made by an officer to a colleague.	Reduction of rank
06/10/05	Professional duty (x2)	Failure to return to work.	Fined £400 and £100
21/10/05	Property	Failure to deal with property in line with Service instruction and failure to ensure firearm and ammunition secure.	Fined £200

**Table 5: All cases resulting in formal disciplinary proceedings, April 2005 - March 2006 (Continued)**

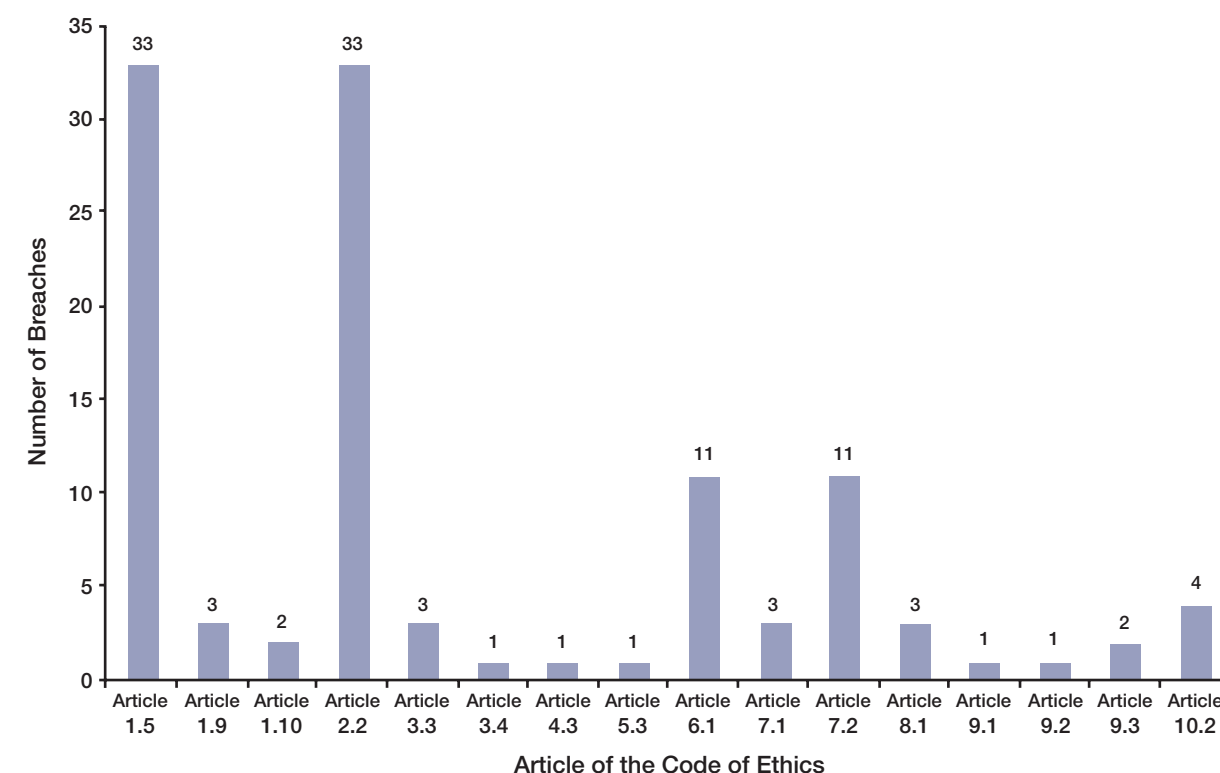
Date	Type of Allegation	Detail	Outcome
29/10/05	Neglect of duty	Failure to record and report the alleged inappropriate actions of another officer.	Caution
01/11/05	Integrity	Conviction for common assault.	Dismissal from Service
01/11/05	Integrity	Conviction for driving whilst unfit.	Reduction in pay for 12 months
02/11/05	Duty of supervisors	Failure to take action on learning that an officer had assaulted a prisoner.	Caution
23/11/05	Integrity	Conviction for driving with excess alcohol and careless driving.	Fined £1000
29/11/05	Privacy and Confidentiality	Performance whilst engaged in covert surveillance - alerted the subject of surveillance.	Reduction in pay for 12 months
19/12/05	Professional duty/equality	Refusal to pay taxi fare and making inappropriate comments.	Reprimand and fined £500
23/12/05	Professional duty/Integrity (x3)	Behaviour off duty – posing with firearms in front of a flag. Breach of conditions of firearms certificate.	Required to resign
12/01/06	Integrity	Conviction for driving with excess alcohol.	Reduction in pay for 12 months
19/01/06	Performance of duties/lawful orders (Code of Conduct)	Failure to deal properly with complaint of harassment and make records in notebook.	Reduction in pay for 12 months
23/01/06	Police Investigations	Failure to conduct a thorough investigation into a road traffic collision.	Fined £500
24/01/06	General conduct (Code of Conduct)	Allegations that officer used an elderly lady to obtain goods, including a mobility car.	Case Dismissed
07/02/06	Performance of Duties (Code of Conduct)	Failure to properly investigate an armed robbery and submit the proper paper work.	Reprimand
10/02/06	Professional Duty (x2)	Accessing computer records other than for official police business and interference with criminal investigation.	Reduction in pay and Required to resign
24/02/06	General Conduct (x3) (Code of Conduct)/ professional duty/ integrity	Use of an elderly lady to obtain goods, including a mobility car. Threatening elderly lady and acting dishonestly in interview.	Fined £750/charge proven/dismissal from Service/charge not proven/dismissal from Service
27/02/06	Integrity	Conviction for driving with excess alcohol.	Resigned prior to sanction being imposed
09/03/06	Criminal Offence (Code of Conduct)	Conviction for common assault.	Fined £100
09/03/06	Police Investigations	Failure to update the victim of an assault. Failure to conduct an objective and thorough investigation.	Fined £400 and £200
23/03/06	Use of force and abuse of authority (Code of Conduct)	Assault	Case dismissed

**Annual Report 2005 Recommendation 27(b)**

In its Human Rights Programme of Action 2005-2006, the PSNI agreed to provide us with summary details of all Superintendents’ Written Warnings in accordance with our recommendation.<sup>33</sup> This information was anonymised and the PSNI helpfully identified the Article of the Code of Ethics breached in each case. We consider that this fully implements Recommendation 27(b) of our 2005 Annual Report, but remind the PSNI of the on-going nature of this recommendation.

In the period 1st April 2005 to 31st March 2006, 113 Superintendents’ Written Warnings were issued. Figure 1 shows the number of Superintendents’ Written Warnings according to the relevant Article of the PSNI Code of Ethics breached.

**Figure 1: Superintendents’ Written Warnings, April 2005 – March 2006**



The figure demonstrates that the two Articles of the Code of Ethics most often breached were Article 1.5 (the duty to obey all lawful orders and refrain from carrying out unlawful orders), with 33 breaches over the period, and Article 2.2 (the duty to conduct investigations in an objective, fair and thorough manner), also with 33 breaches over the period.

**Annual Report 2005 Recommendation 28**

This recommendation required the Policing Board to review how best to collate details of the conduct leading to advice and guidance when the PSNI’s new case management system was up and running. We have discussed this recommendation with PSNI’s Internal Investigation Branch. The recommendation cannot be fully implemented because no central records of advice and guidance are maintained. The only central records held are those relating to advice and guidance given as a result of a recommendation by the Police Ombudsman or Internal Investigation Branch. As Table 12 below sets out, in the period 1st April 2005 to 31st March 2006, advice and guidance was issued to officers in 72 such cases. Of those 72 cases, the majority related to breaches of Article 1,<sup>34</sup> Article 2<sup>35</sup> and Article 7<sup>36</sup> of the Code of Ethics. In the circumstances, we are prepared to adjust

**NOTES**

- 33 PSNI’s Human Rights Programme of Action 2005-2006, p.32.
- 34 There were 23 breaches of Professional Duty.
- 35 There were 16 breaches of Police Investigations.
- 36 There were 20 breaches of Integrity.

Recommendation 28 and consider it to be fully implemented. However, we remind the PSNI of the continuing nature of this recommendation.

### Informal resolution and non-cooperation

In our 2005 Annual Report, we recommended that the Policing Board should review whether any data on human rights compliance can be obtained from cases which are informally resolved or closed as a result of complainant non-cooperation and, if so, how best to collate that data. We further recommended that the Policing Board should review the category of 'Substantiated Other' in twelve months.<sup>37</sup>

We discussed these issues with the Police Ombudsman when we met with her in September 2005. It appears that no meaningful data on human rights compliance can be obtained from cases that are informally resolved or closed as a result of non-cooperation. It also appears that the category of 'Substantiated Other' cannot be altered. In the circumstances, we withdraw Recommendation 29 of our 2005 Annual Report.

### Trending and tracking of complaints

Patten Recommendation 79 requires the PSNI to adopt an automated trend identification system for complaints and Patten Recommendation 80 requires the PSNI to track this information and use it for management purposes. To comply with these recommendations, the PSNI adopted a policy on trending and tracking complaints.<sup>38</sup> Under that policy, District Commanders receive statistical data about complaints that have been made against officers in their district.<sup>39</sup> The District Commander is then required to consider whether any action should be taken, having regard to welfare or related issues that may be relevant. Any officer with three complaints in a rolling twelve-month period must be reviewed.<sup>40</sup> Any action taken must be reported to the PSNI Internal Investigation Branch. The individual complaint should not be discussed.

The Policing Board is supplied with information from the Police Ombudsman each month showing the number of officers in each district who have three or more complaints made against them in any given twelve-month period. We consider that this implements Recommendation 27(c) of our 2005 Annual Report, but remind the PSNI of the on-going nature of this recommendation. We analyse this information in tabular form below.

**Table 6: Officers with three or more complaints, 1st April 2005 – 31st March 2006**

Name of DCU	Number of Complaints					Total No. of Complaints for each DCU
	Number of Officers					
	3	4 – 7	8 – 11	12 – 15	16 – 20	
Antrim	12	6	1			71
Ards	2	1	1			20
Armagh	2	2		1		30
Ballymena	4	1				17
Banbridge	4	2				22
Belfast East	5	1				20
Belfast North	7	7	3		1	100
Belfast South	8	2				35
Belfast West	6	7				50
Carrickfergus	2	3				21
Castlereagh	1					3
Coleraine	2	6		1		47
Cookstown	1	1				8

#### NOTES

<sup>37</sup> 2005 Annual Report, Recommendation 29, p.170.

<sup>38</sup> General Order 38/2004 Trending and Tracking of Complaints against Police, issued on 28th June 2004.

<sup>39</sup> Provided by the Police Ombudsman via the PSNI Internal Investigation Branch.

<sup>40</sup> This figure was agreed after consultation with the Police Ombudsman.

**Table 6: Officers with three or more complaints, 1st April 2005 – 31st March 2006 (Continued)**

Name of DCU	Number of Complaints					Total No. of Complaints for each DCU
	Number of Officers					
	3	4 – 7	8 – 11	12 – 15	16 – 20	
Craigavon	6	5				43
Down	2	3				19
Dungannon	3	2	1			26
Fermanagh	1					3
Foyle	1					3
Larne	3	1				14
Lisburn	3	2				17
Moyle	1	1				7
Newry & Mourne		1				4
Newtownabbey	2	1				10
North Down	4	4				32
Omagh	4					12
Strabane	1					3
<b>Total</b>	<b>87</b>	<b>59</b>	<b>6</b>	<b>2</b>	<b>1</b>	<b>637</b>

As we have already noted, in March and April this year, we held a number of in-depth meetings with District Command Teams in 12 DCUs. One of the issues we explored was the trending and tracking of complaints. Most districts highlighted the difficulties of taking effective action based on complaints that, at that stage, have not been investigated and which may turn out to be unsubstantiated. The need to avoid prejudicing ongoing investigations was also highlighted and, again, somewhat limits any action that can be taken at district level.

None of the District Command Teams considered that any particular pattern of complaints could be discerned in their district and although some acknowledged that trending and tracking could identify possible training needs, in fact, none of the districts had responded to complaints by arranging further training. However, all districts took the view that the trending and tracking of complaints is a useful managerial tool. In the first instance, it gives the District Commander an important overview. Perhaps more significantly, it provides information which District Commanders can, and it seems do, use in their day-to-day management of their officers. In most districts, the officer who is the subject of three or more complaints attends a meeting with his or her supervisor and although the substance of the complaints is not explored, the fact and basic nature of the complaints are discussed. Some District Command Teams considered that it would be useful to have more information from the Police Ombudsman at the trending and tracking stage, but few followed up with requests for further information.

As a result of concerns we raised with Internal Investigation Branch, in early 2006 it also consulted a number of District Commanders about the operation of the trending and tracking policy. The responses are set out in Table 7.



**Table 7: Internal Investigation Branch consultation on trending and tracking policy**

Concerns or difficulties	Number of DCU's experiencing concern/difficulty
Information supplied not up-to-date	1
Only those cases where some form of investigation is conducted should be included	1
Only substantiated complaints should be included	1
All intelligence held by Internal Investigation Branch should be included	1
Over-recording by Police Ombudsman	1
No remedial training opportunities provided by PSNI	1
Interview with officer is meaningless	1
Arbitrary number '3' selected	1
Demotivating policy	1
General Order should be updated to include contact details of a single point of contact at the Police Ombudsman's office	1
Details should be entered on SAPS <sup>41</sup>	1
No concerns/difficulties	2
Lack of meaningful information supplied by Police Ombudsman	7

As a result of this consultation and follow up meetings, Internal Investigation Branch drafted a new trending and tracking policy. The new draft PSNI General Order on trending and tracking of complaints against the police sets out the responsibilities placed upon District Commanders for monitoring and dealing with complaints against officers within their geographical area. The policy defines the processes of trending and tracking. The policy indicates that District Commanders should decide how best to use the trending information. However, the policy highlights that all supervising officers have a responsibility in relation to the tracking of complaints and refers specifically to Article 10 of the Code of Ethics (the duty of supervising officers to supervise their staff).

The policy states that District Commanders are responsible for deciding the appropriate action to take in relation to officers who are the subject of complaints. District Commanders are required to take into account the policing environment and the nature of the duties in which the officer in question is engaged.<sup>42</sup> The policy indicates that District Commanders may instruct an appropriate officer, usually an Inspector, to engage in a management interview with the officer concerned. This interview will not be disciplinary in nature. Rather, the number of complaints will be drawn to the officer's attention and the officer will be invited to comment.<sup>43</sup> The District Commander should then consider what action is appropriate. This may include a welfare referral, monitoring by supervisors, advice and guidance, training or no further action. The District Commander must inform both the officer concerned and the Internal Investigation Branch of the action taken.

The new policy deals to some extent with District Commanders' concerns regarding timeliness and the brevity of the information they receive in relation to complaints against officers. The policy encourages District Commanders to contact the Senior Complaints Officer at the Police Ombudsman's Office if more information is required. In addition, the policy requires the Internal Investigation Branch to check the records of all officers who are the subject of three or more complaints to ensure that all relevant information is provided and passed to District Commanders in a timely manner.

Against that background, we consider Recommendation 27(h) of our 2005 Annual Report to be implemented in full but remind the PSNI of the on-going nature of this recommendation.

**NOTES**

41 Software system used by the PSNI human resources department.

42 The District Commander is also required to consider sickness absence, work performance, stop and search figures, road traffic collisions whilst on duty, written warnings and civil actions pending.

43 The policy emphasises that individual complaints should not be discussed with the officer in detail at this stage due to the need to protect the officer's rights during the investigation of the complaint.

**Referrals to the Police Ombudsman: the Regulation 20 procedure**

The Police Ombudsman has a duty to investigate certain matters referred to her by the Policing Board or the Public Prosecution Service<sup>44</sup> or the Chief Constable,<sup>45</sup> including cases where it appears that someone may have died as a result of the conduct of a police officer (e.g. deaths in custody or fatal road accidents)<sup>46</sup> and any cases involving the discharge of firearms, the firing of baton rounds or the use of CS incapacitant spray. In addition, the Police Ombudsman also has the power to investigate certain matters, even where there has been no complaint from a member of the public.<sup>47</sup> At the end of the investigation into these matters, a Regulation 20 report is sent to the Secretary of State, the Policing Board and the Chief Constable.

**Regulation 20 reports 2004-2005**

In 2004-2005, the Police Ombudsman forwarded 20 Regulation 20 reports to the Chief Constable and the Policing Board. Those reports contained 47 recommendations.<sup>48</sup>

In the three reports into fatal road traffic collisions, the Police Ombudsman concluded that there was no police misconduct. However, in one case, the officer who received a telephone call providing information on the incident, which may have prevented the accident, could not be identified by the Police Ombudsman's investigation. Recommendations were made in relation to police pursuit of suspect vehicles and how the PSNI could improve its call systems.

In a case involving the tragic death of a young person crushed by the closing gates of a police station, the Police Ombudsman did not find any individual misconduct, but highlighted corporate failure by the PSNI and made a number of recommendations.

On the use of firearms, of the eight reports, four related to officers firing at vehicles. In her Annual Report for 2004-2005, the Police Ombudsman highlighted the dangers resulting from firing at vehicles and the fact that alternative action is normally appropriate. Recommendations were made in relation to training deficiencies and disciplinary action. Of the remaining cases, three related to the discharge of warning shots and one related to the use of a firearm against a person perceived to be a threat but who, it later transpired, was carrying an imitation firearm. In all those cases, the Police Ombudsman was satisfied that the use of firearms was justified and proportionate.

In 2004-2005, the Chief Constable referred 58 incidents of CS spray use to the Police Ombudsman. These are dealt with in detail in chapter 8. In the same period, the Police Ombudsman also initiated a number of serious investigations. These included investigations into allegations of very serious assaults, allegations of partial policing in respect of the Lurgan Parade on 13th July 2004 and the Ardoyne Parade on 12th July 2004, issues regarding searches relating to the Northern Bank robbery, issues regarding the search of a politician's house and an investigation into a police investigation into serious terrorist activity which failed at the court hearing and resulted in serious criticism of the police by the trial judge.<sup>49</sup>

**Analysis of Regulation 20 reports, 2004-2006**

We have analysed the Police Ombudsman's Regulation 20 reports issued between November 2004 and May 2006 (41 reports). Table 8 sets out the types and locations of incidents resulting in Regulation 20 reports for the period. It is important to appreciate that there is a time lapse and that these reports cover events between 2001 and 2005.

**NOTES**

44 Police (Northern Ireland) Act 1998, s. 55(1).

45 Police (Northern Ireland) Act 1998, s. 55(4).

46 Police (Northern Ireland) Act 1998, s. 55(2).

47 Police (Northern Ireland) Act 1998, s. 55(6).

48 Police Ombudsman's Annual Report, April 2004 to March 2005, p.24.

49 Police Ombudsman's Annual Report, April 2004 to March 2005, p.27.

**Table 8: Types and locations of incidents and number of referrals resulting in a Regulation 20 report, November 2004 - May 2006**

Incident	Referral	Location
Death post release from custody	1	Londonderry
Sudden death of man outside police station	1	Strabane
Processing of prosecutions resulting from the Whiterock Parade 2003	1	Belfast
Fatal road traffic collision	1	Ballycastle
Discharge of firearm	8	Belfast (2), Newtownabbey (2), Armagh (1), Londonderry (1), Newry (1), Carrickfergus (1).
Use of force	1	Carrickfergus
Discharge of baton rounds	1	Belfast
Discharge of CS spray	27	Londonderry (1), Bessbrook (1), Portadown (1), Enniskillen (4), Ballycastle (1), Strabane (1), South Belfast (1), West Belfast (1), Lurgan (1), Coleraine (2), Newry (1), Portrush (2), North Belfast (2), Crumlin (1), Ballymena (2), Limavady (2), Ballynahinch (1), Killyclogher (1), Antrim (1).

27 of the 41 Regulation 20 reports issued in the period related to CS spray, one related to the use of force, eight related to the discharge of firearms, one related to the discharge of baton round, one related to the death of a man after release from custody, one related to the sudden death of a man outside a police station, one related to computer enquiries emerging from the Whiterock Parade and one report related to a fatal road traffic collision.

In five of the eight Regulation 20 reports on the discharge of firearms, the Police Ombudsman held that the discharge was lawful, proportionate and compatible with the requirements of the Human Rights Act 1998. However, the Police Ombudsman raised concerns relating to the use of certain firearms. In particular, the Police Ombudsman found that the safety mechanism on the Koch and Heckler weapons is prone to slippage, which could potentially lead to more shots than intended being fired.

In the remaining three reports on the discharge of firearms, the Police Ombudsman found that the training of the officer who discharged the weapon was not up to date. This was an issue identified in our 2005 Annual Report and in respect of which we made a specific recommendation.<sup>50</sup> We deal with the PSNI's response to this recommendation in chapter 2.

In one report on the discharge of a firearm, the Police Ombudsman found that although the actual use of force was necessary and proportionate in the circumstances, the officers could and should have avoided the situation that led to the discharge of their firearms. The one occasion on which the Police Ombudsman found

that the discharge of firearms was not necessary or proportionate related to the firing of shots at the wheel of an oil tanker which was being pursued under suspicion of fuel smuggling. The Police Ombudsman considered that the risk of fire in discharging the shot, and the risk of the driver losing control of the vehicle, outweighed

the limited risk to officers and pedestrians and other road users on what was a quiet country road. She therefore recommended that two charges should be laid, one against the officer who discharged the firearm, the other against the supervising officer.<sup>51</sup>

The Police Ombudsman's Regulation 20 report into the discharge of baton rounds at Short Strand, Belfast in August 2002 concerned the discharge of five baton rounds by officers in response to sustained rioting in the area. The report stated that each discharge of baton rounds was necessary and proportionate and in compliance with PSNI policy. In addition, the Police Ombudsman emphasised the restraint shown by officers in light of the violence of the rioters and stated that "it is remarkable that no lives were lost". However, a number of recommendations were made in relation to the failure to accurately record the issue and return of baton rounds, the use of warnings and the failure of one officer to complete refresher training on the use of baton guns.

The Police Ombudsman's Regulation 20 report on processing of prosecutions resulting from the Whiterock Parade 2003 prompted a number of recommendations. On this occasion, due to human error and computer difficulties, a number of prosecutions for public order offences became statute barred.<sup>52</sup>

The Police Ombudsman's Regulation 20 report into the use of force involved the use of a pillowcase over a child's head to prevent him from spitting at officers. The Police Ombudsman found that this was inappropriate and disproportionate in the circumstances and recommended that the officer concerned should receive advice and guidance on the issue. The Police Ombudsman recommended that there should be research into the use and effectiveness of anti-spit devices with a view to introduction of such a device amongst PSNI officers.<sup>53</sup>

In general, the Police Ombudsman's Regulation 20 reports into the discharge of CS spray were positive and the use of the spray was found to be necessary and proportionate in the circumstances and compliant with PSNI policy. However, individual cases raised a number of concerns and prompted several recommendations. On one occasion, CS spray was deployed in a situation of public order and unanticipated street disorder. The Police Ombudsman highlighted that the use of CS spray in these circumstances was inappropriate because it was not always effective and could affect innocent bystanders. Another Regulation 20 Report indicated that CS spray was discharged against a person who was restrained by three police officers at a distance of less than one metre. PSNI policy on CS spray states that it should not be discharged 'at a distance of less than one metre' or against a 'subject who is restrained or handcuffed'. The Police Ombudsman made a number of recommendations.<sup>54</sup> In another report on the discharge of CS spray, the Police Ombudsman made a series of recommendations about the aftercare of those detained in custody following a discharge of CS spray. A further recommendation was made in relation to the station's CS spray storage policy.<sup>55</sup> Several of the Regulation 20 reports identified failings in the procedure for recording the use of CS spray.<sup>56</sup> We report on the PSNI's response to the Police Ombudsman's recommendations regarding the use of CS spray in chapter 8.

The Police Ombudsman's Regulation 20 report into the sudden death of a man outside Strabane Police Station and a fatal road collision in Ballycastle exonerated the officers involved. However, the Police Ombudsman made several recommendations in relation to communication between the PSNI and subcontractors, training, the layout of stations<sup>57</sup> and the PSNI's Pursuits Policy.<sup>58</sup> The Regulation 20 report on the death of a person after release from custody concluded no negative findings against the PSNI.<sup>59</sup>

**NOTES**

<sup>50</sup> 2005 Annual Report, Recommendation 3(d), p.168.

**NOTES**

<sup>51</sup> Report into the discharge of a firearm at Markethill Road, Armagh on 11th March 2001, paragraph 7.2 and 7.3.

<sup>52</sup> Report into computer enquiries emanating from the 2003 Annual Whiterock Parade, paragraphs 5.0-5.7.

<sup>53</sup> Report into the use of force at Carrickfergus, 24th October 2004, paragraph 9.1-9.3.

<sup>54</sup> Report into the discharge of CS spray at Wellington Place, Belfast on 22nd September 2004, paragraphs 8.1-8.3.

<sup>55</sup> Report into the discharge of CS spray at Magherabuoy Hotel, Portrush on 14th November 2004, paragraphs 8.1-8.4.

<sup>56</sup> Report into the discharge of CS spray at Newry on 22nd October 2004, paragraph 8.6, Report into the discharge of CS spray at Limavady on 4th December 2004, paragraph 3.9 and Report into the discharge of CS spray at Killyclogher on 23rd December 2004 paragraph 8.1.

<sup>57</sup> Report into the sudden death of a man outside Strabane Police Station on 17th March 2003, paragraphs 9.4-9.11, 10.1-10.7 and 11.0-11.6

<sup>58</sup> Report into a fatal road traffic collision on Glenshesk Road, Ballycastle on 30th September 2003, paragraph 6.1.

<sup>59</sup> Report into the death of Stephen John McLaughlin at Chamberlain Street/William Street, Londonderry on 23rd April 2005.

Having analysed these reports, we consider Recommendation 24 of our 2005 Annual Report to be implemented in full but note the continuing nature of this recommendation.

### PSNI responses to Regulation 20 reports

In our 2005 Annual Report, we recommended the PSNI provide a schedule of its responses to the Police Ombudsman's Regulation 20 reports to the Policing Board on a quarterly basis.<sup>60</sup> The PSNI accepted this recommendation and has provided the information required, albeit on an agreed six-monthly basis. We consider that this fully implements Recommendation 25 of our 2005 Annual Report, but we remind the PSNI of the on-going nature of this recommendation.

We have analysed the information supplied to us about the PSNI's response to the Police Ombudsman's Regulation 20 reports for the period November 2004 to March 2006. Again as we have already noted, there is, of course, a time lapse and it is important to appreciate that these reports cover events between 2001 and 2005. Table 9 sets out the Police Ombudsman's recommendation together with the PSNI's response.

**Table 9: PSNI's response to Police Ombudsman's Regulation 20 report recommendations, November 2004 - March 2006**

Issue (no. of instances)	Recommendations	Action
Fatal Road Traffic Collision (1)	PSNI to review Urban Region instruction and provide for supervision by the Control Room.	The Pursuit Driving Policy is awaiting approval by the Chief Constable's Forum. Officers have now been notified of the outcome of the investigation.
Discharge of a firearm (8)	<ul style="list-style-type: none"> <li>PSNI to urgently review the use of the automatic on the Heckler and Koch MP5.</li> <li>PSNI audit of refresher firearms training to ensure refresher training takes place.</li> <li>PSNI to inform all officers of basic forensic considerations with regards to correct packaging of exhibits.</li> <li>PSNI to review use of less lethal alternatives to resolve situations and to put in place an appropriate policy.</li> <li>PSNI to comply with ACPO policy guidelines.</li> </ul>	<ul style="list-style-type: none"> <li>PSNI Operations Department is examining the possibility of a replacement weapon.</li> <li>The roles of Silver Commander and Tactical Advisor have now been separated.</li> <li>The need to give warnings will be fully addressed in firearms training.</li> </ul>
Fatal accident (1)	Procedural recommendations regarding use of the Auto Crime Team Hotline at Dunmurry police station.	Information email to staff at Dunmurry regarding procedural recommendations. Transfer of the facility to Call Management at Lisburn, where new instructions have been issued to staff.

**Table 9: PSNI's response to Police Ombudsman's Regulation 20 report recommendations, November 2004 - March 2006 (Continued)**

Issue (no. of instances)	Recommendations	Action
Computer enquiries emanating from the 2003 Annual Whiterock Parade (1)	Recommendations made in relation to parade applications.	An electronic audit trail and a supervisory overview system have been introduced.
Discharge of CS Incapacitant spray (27)	<ul style="list-style-type: none"> <li>PSNI to emphasise distinction between the use of CS spray in public order situations and its use in cases of unanticipated street disorder.</li> <li>Officers should be reminded of the obligation to give a warning.</li> <li>District Commanders should be reminded of the need to ensure that the Police Ombudsman is notified of any discharge of CS spray.</li> <li>All officers should be made aware of and comply with the recognised call-out procedure.</li> <li>All custody officers should be reminded of the need to record all details of CS spray discharges against prisoners and the need for enhanced cell supervision.</li> <li>Issues relating to the use of spray at close range, positional asphyxia, excited delirium etc. to be reinforced to officers.</li> <li>Accurate and comprehensive records should be maintained of modules undertaken by individual officers during foundation training.</li> <li>All officers to be reminded of importance of recording all aspects of use of CS spray and aftercare.</li> </ul>	<ul style="list-style-type: none"> <li>Appropriate amendments made to General Order 28/2004.</li> <li>Individual officers reminded of the need to provide a verbal warning before the use of CS spray.</li> <li>Reminder issued to all police officers of the correct procedure for call-out of the Police Ombudsman.</li> <li>Reminders issued. Recommendations now incorporated into Custody Officer training.</li> <li>Officers reminded of the requirements in General Order 28/2004.</li> <li>Conflict Resolution Skills/ Personal Safety Programme training is a compulsory element of the Foundation course. Student officers failing a resit will be dismissed from the Service.</li> <li>Reminder issued regarding accurate records, aftercare issues and the need to ensure that access to CS storage is available at all times.</li> </ul>
Use of force (1)	<ul style="list-style-type: none"> <li>PSNI to consider whether current training adequately prepares for spitting prisoners and the use of force on juveniles.</li> <li>PSNI to review all existing policies relating to the transportation of violent prisoners.</li> </ul>	ACC Operational Support issued an email reminding all officers that only officially approved/supplied equipment should be used when dealing with violent and obstructive prisoners. Operational Support Department is seeking feedback from forces with anti-spit controls
Sudden death of man outside Police Station (1)	<ul style="list-style-type: none"> <li>Recommendations relating to the layout of the front entrance of police stations.</li> <li>Recommendations relating to the attendance of contractors at police stations.</li> <li>Police personnel employed in security roles should be trained in the use of all electronic equipment.</li> </ul>	

#### NOTES

<sup>60</sup> 2005 Annual Report, Recommendation 25, p.169.

**Table 9: PSNI's response to Police Ombudsman's Regulation 20 report recommendations, November 2004 - March 2006 (Continued)**

Issue (no. of instances)	Recommendations	Action
Discharge of baton rounds (1)	Accurate recording of the issue and return of baton rounds is problematic. Failure to record the warnings given to the public prior to the discharge of baton rounds. Need for refresher training of officers acting as baton gunners.	Issues addressed in revised General Order on baton rounds (now AEP impact rounds) published on 15th April 2005. The need for annual refresher training is addressed during AEP training.

Table 9 indicates that the PSNI has responded to most of the Police Ombudsman's recommendations in a satisfactory way. Some remain outstanding and they should be dealt with as soon as possible. In addition, there needs to be an evaluation of the effectiveness of the PSNI's responses. We will discuss this with the PSNI and the Police Ombudsman and report further in next year's human rights annual report.

### The impact of officers leaving the PSNI on disciplinary proceedings

In our 2005 Annual Report, we noted with concern that at least on one occasion, no misconduct proceedings were brought in respect of serious misconduct identified by the Police Ombudsman because the particular officer concerned retired before such proceedings could be commenced or completed.<sup>61</sup> The fact that an officer retires may obviate the need for disciplinary proceedings, but his/her behaviour before retirement cannot be left out of account by the Policing Board in performing its duty in monitoring compliance of the PSNI with the Human Rights Act 1998. Against that background, we recommended that the PSNI should provide the Policing Board with details of those cases where disciplinary proceedings are either not commenced or not concluded because the officer in question retires or otherwise leaves the PSNI before that stage is reached.<sup>62</sup> In response, the PSNI undertook to provide details of the number of officers being investigated by Internal Investigation Branch or investigated by the Police Ombudsman where misconduct proceedings have commenced. In each of those cases, the PSNI agreed to supply the Policing Board with details of which of those cases were affected by severance, retirement, resignation, medical retirement or non-renewal of contract (with a caveat that the PSNI may not always be aware of the identity of officers subject to the Police Ombudsman's investigation).<sup>63</sup> We consider that this fully implements Recommendation 27(d) of our 2005 Annual Report but remind the PSNI of the on-going nature of this recommendation.

We have been provided with this information for the period 1st April 2005 to 31st March 2006 and we have analysed it. In the period in question, 26 officers left the PSNI while under investigation. This is in addition to the five officers who were dismissed and the five who were required to resign by the PSNI as a result of formal disciplinary action, as set out in Table 5 above. The allegations against the 26 officers ranged from extremely serious, such as participation in a murder squad, to minor. The information is set out in Table 10 below.

#### NOTES

<sup>61</sup> 2005 Annual Report, p.80.

<sup>62</sup> 2005 Annual Report, Recommendation 27(d), p.170.

<sup>63</sup> PSNI's Human Rights Programme of Action 2005-2006, p.33.

**Table 10: Allegations made against officers leaving the PSNI and their reason for leaving, 1st April 2005 - 31st March 2006**

Issue (no. of instances)	Recommendations
Falsehood	Contract not renewed
Other (7.2)	Contract not renewed
Theft (7.2)	Contract not renewed
Part of a murder squad	Contract not renewed
Network club <sup>64</sup>	Contract not renewed
Drunk in charge (7.2)	Medical
Drunk in charge	Medical
Bullying	Medical
Assault	Medical
Theft	Medical
Firearm neglect and criminal offence	Medical
Working on sick leave	Medical
Assault	Medical
Excess alcohol	Medical
Assault	Medical
Counterfeit	Medical
Criminal offence	Resigned
Indecent assault	Resigned
Neglect	Retired
Neglect	Severance
Other (1.10)	Severance
Neglect (1.3)	Severance
Sectarian remarks (7.1)	Severance
Assault	Severance
Neglect	Severance
Neglect	Severance
Criminal offence	Medical
Criminal offence	Contract not renewed
Traffic drink	Medical
Traffic drink	Severance
Traffic drink and criminal offences	Resigned while under suspension
Failure to report for duty	Resigned
Traffic drink	Medical
Traffic drink	Resigned
Traffic drink	Severance

Both the number of these cases and the nature of the misconduct in question are a cause for considerable concern. In our 2005 Annual Report, we recommended that the PSNI should review the arrangements in place regarding severance or retirement of officers and consider whether these should be amended.<sup>65</sup> In response, the PSNI drew our attention to section 6.3 of its voluntary early retirement and severances scheme, which outlines the procedure by which an officer who is suspended or under such investigation may apply for voluntary severance. It states:

“Officers who are suspended or are under serious criminal or disciplinary investigation under the Discipline Regulations, may not, without the consent of the Chief Constable, be accepted for Voluntary Severance...Similar provisions will apply when an officer who has been accepted for Voluntary Severance

#### NOTES

<sup>64</sup> This case related to an allegation of improper licensing of a Network Club.

<sup>65</sup> 2005 Annual Report, Recommendation 30, p.170.

is subsequently suspended, or is subject to serious criminal or disciplinary investigation. The Voluntary Severance arrangements will not apply to officers dismissed for disciplinary reasons or who have been required to resign”.<sup>66</sup>

Given the number of cases in which officers left the PSNI while under investigation in the period 1st April 2005 to 31st March 2006 and the nature of the misconduct in question, we have doubts about the effectiveness of this provision. Rather than re-iterate Recommendation 30 of our 2005 Annual Report, which we are prepared to treat as implemented, we make a new recommendation, namely that the PSNI should provide the Policing Board with evidence of the effectiveness of section 6.3 of its voluntary early retirement and severance scheme.

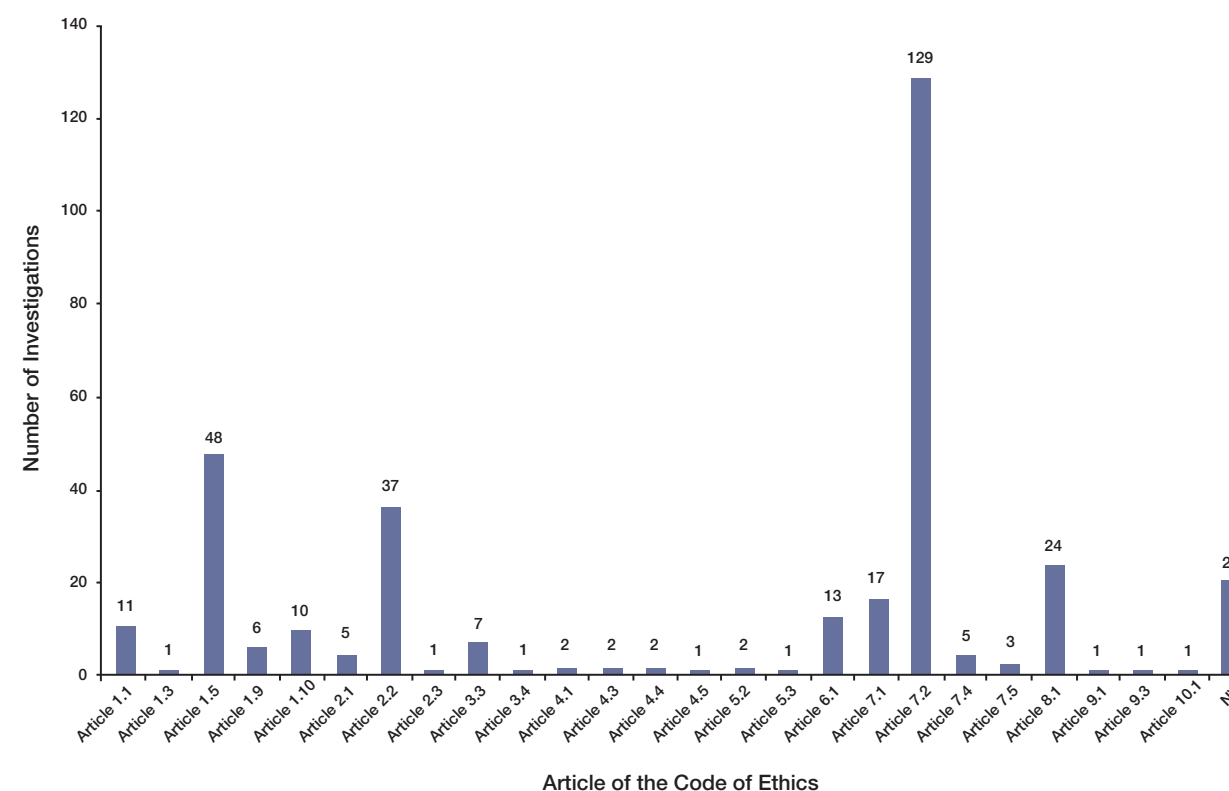
**Recommendation 22: The PSNI should provide the Policing Board with evidence of the effectiveness of section 6.3 of its voluntary early retirement and severance scheme.**

### PSNI internal discipline

In our 2005 Annual Report, we observed that statistics recording internal disciplinary proceedings involving a breach of the Code of Ethics would provide invaluable information on the human rights compliance of the PSNI. We therefore recommended that in future, the PSNI correlate its statistics on disciplinary matters against specific Articles of the Code of Ethics and that the Policing Board track breaches of the Code of Ethics disclosed by the PSNI’s statistics and identify any discernable trends.<sup>67</sup> We further recommended that PSNI Internal Investigation Branch should report to the Policing Board on a quarterly basis on current internal investigations of misconduct and disciplinary action arising as a result of completed investigations.<sup>68</sup>

In its Human Rights Programme of Action 2005-2006, the PSNI agreed to these recommendations.<sup>69</sup> Reports on current internal investigations of misconduct and disciplinary action are now supplied to the Policing Board on a six-monthly basis. These reports include the details of the number of current investigations according to relevant Articles of the Code of Ethics. We consider that this fully implements Recommendations 26 and 27(e) of our 2005 Annual Report, but remind the PSNI of the on-going nature of these recommendations. Figure 2 summarises this information for the period 1st April 2005 to 31st March 2006.

**Figure 2: Investigations into breaches of the Code of Ethics, 1st April 2005 - 31st March 2006**



The PSNI also sent us information on misconduct investigations completed during the period 1st April 2005 to 31st March 2006. The information details the date of completion of the misconduct investigations, the relevant Article of the Code of Ethics breached, any secondary offence committed and the outcome of the case. Table 11 sets out the outcomes of completed misconduct investigations. Table 12 correlates completed misconduct investigation outcomes against the relevant Articles of the PSNI Code of Ethics.

**Table 11: Completed misconduct investigations according to outcome, 1st April 2005 - 31st March 2006**

Outcome	Number of Misconduct Investigations
Advice and Guidance	72
Contract not renewed	6
Caution	1
Dismissed	6
Dismissed as a recruit	2
File to the Police Ombudsman	7
Fined	17
Management discussion	14
Superintendents' Written Warning	36
Medical discharge	11
No further action (NFA)	163
NFA Severance	6
Reprimand	1
Reduction in pay	10
Required to resign	4
Resigned	6
Returned to DCU	13
<b>Total</b>	<b>375</b>

### NOTES

66 PSNI Voluntary Early Retirement and Severance Scheme Information Booklet, Year Seven, section 6.3, p.18.  
 67 2005 Annual Report, Recommendation 26, pp.169-170.  
 68 2005 Annual Report, Recommendation 27(e), p.170.  
 69 PSNI’s Human Rights Programme of Action 2005-2006, pp.32-33.

The sanction recorded is the severest imposed in each case. In some instances, a lesser sanction may also have been imposed. In over 43% of misconduct investigations, no further action was required. Advice and guidance was given in just under 20% of investigations, whilst Superintendents' written warnings resulted in about 10% of investigations. 6.4% of misconduct investigations resulted in dismissal or resignation.

**Table 12: Completed misconduct investigation outcomes correlated against the relevant Article of the Code of Ethics, 1st April 2005 – 31st March 2006**

Code of Ethics Offence Result	Integrity	Prof. Duty	P&C	Equality	Police Investigations	Fitness for duty	Detained Persons	Duty of Supervisor	Property	Use of Force	N/A	Total
NFA	68	39	5	4	8				21		18	163
CNR	2	3									1	6
Caution					1							1
Dismissal	4			1	1							6
Dismissed as recruit		1				1						2
File to PONI	4				1					2		7
Fined	7	3		1	2			1		1	2	17
M. Discussion	6	2		1	4					1		14
Medical Discharge	9										2	11
A&G	20	24		3	16		1		3	3	2	72
Reprimand				1								1
Red. in pay	7	1				1					1	10
Resigned	4	1				1						6
Returned to DCU	4	3		2	1	1					2	13
Required to resign	2										2	4
SWW	11	15	3		6			1				36
NFA Severance	4	2										6
<b>Total</b>	<b>152</b>	<b>94</b>	<b>8</b>	<b>13</b>	<b>40</b>	<b>4</b>	<b>1</b>	<b>2</b>	<b>24</b>	<b>7</b>	<b>30</b>	<b>375</b>

**Key:** NFA – No further action  
 CNR – Contract not renewed  
 M. Discussion – Managerial Discussion  
 A&G – Advice and Guidance  
 SWW – Superintendents' Written Warning

NFA Severance – No further action because of Severance  
 Prof. Duty – Professional Duty  
 P&C – Privacy and Confidentiality  
 N/A – Cases occurring before the introduction of the Code of Ethics

## Complaints against senior officers

Under the Conduct of Senior Officers Regulations 2000<sup>70</sup> complaints against PSNI senior officers<sup>71</sup> are referred to the Policing Board. In 2005/2006, there were two complaints made against senior officers. One<sup>72</sup> was successfully resolved through the informal resolution process. While there are outstanding issues in relation to the second<sup>73</sup> the complaint against the senior officer was found to be unsubstantiated.<sup>74</sup> We will continue to monitor complaints against senior officers and will report further in next year's human rights annual report.

## Civil claims against the PSNI

Legal claims brought by individuals against the police alleging unlawful conduct are obviously relevant to the Policing Board in discharging its duty to monitor the performance of the PSNI in complying with the Human Rights Act. Every judgment against the PSNI is evidence of unlawful conduct, which needs to be considered not only because of the finding that the conduct in question was unlawful, but also because an adverse court judgment often carries with it the additional feature that a judge disbelieved the evidence put forward by police officers on oath.

The PSNI provides the Policing Board with details of civil cases brought against it on a month by month basis. This includes details of the allegation and the outcome. We analyse the information provided for the period January 2005 to March 2006 in Table 13 below.

**Table 13: Civil cases concluded, January 2005 - March 2006**

Month	Closed	Won	Lost	Settled	Withdrawn
Jan 2005	39	2	0	32	5
Feb 2005	54	6	0	42	6
Mar 2005	28	2	0	25	1
April 2005	55	4	1	37	13
May 2005	43	7	0	34	2
June 2005	100	4	1	45	40
July 2005	42	2	1	27	12
Aug 2005	31	0	0	25	6
Sept 2005	39	5	1	25	8
Oct 2005	59	4	0	51	4
Nov 2005	40	1	0	27	12
Dec 2005	41	3	0	32	6
Jan 2006	46	3	0	29	14
Feb 2006	35	2	0	26	7
Mar 2006	50	9	4	30	7

It should be noted that this table includes all claims against the police except industrial tribunal cases. It therefore includes cases relating to personal injury and minor damage to property which do not usually raise human rights issues (at least not directly). It should also be noted that, because legal proceedings tend to take several years before they reach court or are otherwise concluded, many of the cases arise from incidents which took place many years ago.

### NOTES

- 70 Statutory Rules of Northern Ireland 2000 No. 320 Royal Ulster Constabulary (Conduct) (Senior Officer) Regulations 2000. In operation 6th November 2000.  
 71 Of Assistant Chief Constable and above.  
 72 This complaint was made by family members of the deceased.  
 73 The complainant alleged lack of management action.  
 74 At the date of writing (July 2006).

Table 14 provides more insight because it records those cases concluded each month where compensation was paid to the complainant, either because of an adverse court judgment, or more usually, because the case was settled on the advice of counsel. The table excludes cases relating to personal injury and minor damage to property and focuses instead on conduct which more obviously raises human rights issues.

**Table 14: Misconduct cases resulting in compensation to the claimant, January 2005 - March 2006**

Date	Assault	False Imprisonment	Other	Settled	Court Order
Jan 05	3	2		3	0
Feb 05	11	10		14	0
Mar 05	4	2	1 (nervous shock)	6	0
Apr 05	11	11	1 (libel)	16	0
May 05	4	3		6	0
Jun 05	5	2		5	1
Jul 05	3	2		4	0
Aug 05	2	2		3	0
Sep 05	5	5		6	0
Oct 05	7	5	1 (injured hand after refused access to toilet)	10	0
Nov 05	4	2		5	0
Dec 05	2	2		2	0
Jan 06	5	7	1 (trespass to property)	9	0
Feb 06	0	0	1 (comments left on voicemail)	1 (ex gratia)	0
Mar 06	8	6		7	3
<b>Total</b>	<b>74</b>	<b>61</b>	<b>5</b>	<b>103</b>	<b>4</b>

\* Figures do not necessarily reflect the number of cases because more than one claim can be made in one case.

As a result of our analysis last year, we recommended that the PSNI should review all civil cases that are either lost or settled, with a view to bringing disciplinary proceedings where it is appropriate to do so and should provide the Policing Board with details of this review on a quarterly basis.<sup>75</sup> The PSNI accepted this recommendation.<sup>76</sup> A Detective Sergeant within Internal Investigation Branch now reviews all civil cases and reports to the Policing Board, albeit on a six-monthly basis. In addition, the PSNI has now reviewed its internal procedures and information is passed to the Police Ombudsman for action as necessary.

The PSNI has also reviewed its arrangements with the Crown Solicitors Office. Under a revised service agreement, details are provided by the Crown Solicitors Office to the PSNI where any new evidence that emerges in civil proceedings indicates that a police officer may have committed a criminal offence or may have behaved in a manner which would justify disciplinary proceedings.<sup>77</sup> These details are considered by Internal Investigation Branch to establish whether any action is required and, if so, to initiate it.<sup>78</sup> The PSNI has agreed to provide a summary of this information to the Policing Board in accordance with Recommendation 31 of our 2005 Annual Report.

#### NOTES

<sup>75</sup> 2005 Annual Report, Recommendation 31, p.170.

<sup>76</sup> PSNI's Human Rights Programme of Action 2005-2006, p.34.

<sup>77</sup> Internal Investigation Branch Activity Report, 1st April 2005 to 31st March 2006.

<sup>78</sup> Under a recent protocol established with Legal Services which requires notification to Internal Investigation Branch in the event of new evidence coming to light during civil proceedings.

In June 2006, Internal Investigation Branch provided us with details of its review of all civil cases lost or settled by the PSNI between September 2005 and March 2006.<sup>79</sup> 47 cases were reviewed. Of those, 14 cases had been investigated by the PSNI<sup>80</sup> and 30 cases had been referred to the Police Ombudsman at the time the initial civil claim was made. Three of the cases indicated no record of investigation by the PSNI or the Police Ombudsman.<sup>81</sup> None of the 47 cases reviewed by Internal Investigation Branch disclosed new evidence or prompted additional action.

We consider that this fully implements Recommendation 31 of our 2005 Annual Report, but remind the PSNI of the on-going nature of this recommendation.

#### Judicial reviews

In our 2005 Annual Report, we noted the increased number of judicial review cases brought against the PSNI. We highlighted that there is presently no system for collating the judgments or reviewing those settled by agreement. We therefore recommended that the PSNI should supply the Policing Board with details of all judicial review cases brought against the PSNI on a six-monthly basis, indicating which cases were won, which were lost and the terms of any agreement under which any of them were settled.<sup>82</sup> Moreover, we recommended that the PSNI should supply the Policing Board with details of any action taken or proposed in response to any judicial review cases brought against the PSNI, which the Policing Board should track and analyse any discernible trends.<sup>83</sup> The PSNI accepted these recommendations and judicial review cases are now tracked by the PSNI, along with any resulting action. Details are kept by the PSNI human rights legal adviser.<sup>84</sup>

The PSNI submitted its first report on judicial review cases to the Policing Board in November 2005. The report details seven judicial review cases. Of those, six required no further action or did not raise any residual human rights issues. The one other case, concerning an allegation of bias, required reconsideration of the procedure in disciplinary hearings. The PSNI has already responded to this.

A further report was submitted in May 2006, covering the period November 2005 to March 2006. There was one application for leave to apply for judicial review in this period. The application for judicial review was made on 10th March 2006 in relation to a decision not to release a detained person for the purposes of carrying out a medical examination. The applicant sought to defer a police interview to allow his solicitors to arrange for a psychiatric assessment. However, the PSNI refused to defer the interview on the basis that the PSNI Force Medical Officer was in attendance. At the application for leave, the PSNI was held to have taken all reasonable steps and the application for leave to judicial review was refused.

The reports supplied by PSNI allow the Policing Board to monitor this important aspect of human rights compliance. We consider that they fully implement Recommendations 27 (f) and (g) of our 2005 Annual Report, but remind the PSNI of the on-going nature of these recommendations.

#### NOTES

<sup>79</sup> Letter from Internal Investigation Branch to NIPB's human rights advisors, dated June 2006.

<sup>80</sup> The date of claim preceded the establishment of the office of the Police Ombudsman.

<sup>81</sup> These cases have subsequently been reviewed by Internal Investigation Branch and no misconduct action has arisen.

<sup>82</sup> 2005 Annual Report, Recommendation 27(f), p.170.

<sup>83</sup> 2005 Annual Report, Recommendation 27(g), p.170.

<sup>84</sup> PSNI's Human Rights Programme of Action 2005-2006, p.29.

# CHAPTER 7: PUBLIC ORDER

## CHAPTER 7: PUBLIC ORDER

Public order policing in Northern Ireland raises difficult human rights issues, in particular the need to reconcile the often conflicting rights of different groups of individuals. We have analysed these competing rights and the applicable principles for their resolution in our 2005 Annual Report<sup>1</sup> and in our Special Report on the Policing of the Ardoyne Parades 12th July 2005 and the Whiterock Parade 10th September 2005.<sup>2</sup>

The governing legislation is the Public Processions (Northern Ireland) Act 1998 which we analysed in our Special Report on the Policing of the Ardoyne Parades 12th July 2004.<sup>3</sup> That Act places a duty on the Parades Commission to take key decisions affecting the human rights of those wishing to parade and those who live in the vicinity of those parades. In respect of those decisions, no criticism can properly be levelled at the police for carrying them into effect, even if individuals or groups may consider the decision in question to be wrong.

The statutory framework regulating parades and protests against parades changed on 14th May 2005 when the Public Processions (Amendment) (Northern Ireland) Order 2005<sup>4</sup> came into force. One of the key problems we identified in our Ardoyne Parades Report 2004 was the fact that the Parades Commission had no power to issue determinations imposing conditions on those supporting or following parades.<sup>5</sup> The 2005 Order removed that difficulty and the Parades Commission now has power to impose conditions on “any persons supporting” a parade.<sup>6</sup> It has also been given power to impose conditions on “protest meetings”.<sup>7</sup>

Between 17th and 20th May 2005, the PSNI carried out extensive training about the changes in the law for officers likely to be controlling the policing of parades in 2005. This exercise was repeated in February 2006. We attended this training as part of the Policing Board’s oversight of the PSNI.

### Audit of PSNI public order policies

In our 2005 Annual Report, we audited the PSNI’s public order policies and identified a number of shortcomings. This resulted in Recommendation 35, which required the PSNI to review and revise its general orders on public order as follows:

- a) Human Rights Policy in relation to Public Events: include (i) a summary of the relevant provisions of the European Convention on Human Rights, (ii) a short commentary on the application of these provisions in the public order context, and (iii) some guidance on factors likely to be relevant in balancing human rights in the public order context.
- b) Policy on the Public Processions (Northern Ireland) Act 1998 and the Parades Commission: review of the policy in so far as it relates to the arrangements between the PSNI and the Parades Commission and ensure that all officers know and understand (i) the basis upon which the Parades Commission issues its determinations and (ii) the agreed protocols for communication between the PSNI and the Parades Commission.
- c) Public Order Tactical Advisors Policy: include explanations of the key concepts of legality, necessity and proportionality.

In its Human Rights Programme of Action 2005-2006, the PSNI indicated that it agreed with our recommendation and that the amendments would be included in a consolidated Public Order Policy Directive due for completion in late 2006.<sup>8</sup>

#### NOTES

- 1 Monitoring the Compliance of the Police Service of Northern Ireland with the Human Rights Act 1998: Report on the Policing of the Ardoyne Parades 12th July 2005 and Whiterock Parade 10th September 2005 (Special Report on the Ardoyne and Whiterock Parades 2005), para.s 11-13.
- 2 2005 Annual Report, p.90; Special Report on the Ardoyne and Whiterock Parades 2005, para.s 11-13.
- 3 Ardoyne Parades Report 2004, para.s 19-32.
- 4 The Order was laid before Parliament in March 2005 and applies to all parades and protest meetings held after 14th May 2005.
- 5 Ardoyne Parades Report 2004 at para.s 75-76 and 216.
- 6 Public Processions (Amendment) (Northern Ireland) Order 2005, s. 8(1) and defined at s. 17(2A).
- 7 Public Processions (Amendment) (Northern Ireland) Order 2005, s. 9A and defined at s. 17(1).
- 8 PSNI’s Human Rights Programme of Action 2005-2006, pp. 23-24.



The PSNI has drafted a policy directive on the use of force<sup>9</sup> which has completed an internal consultation process and is now the subject of external consultation. We discuss this draft Use of Force Policy Directive in more detail in chapter 8 below. In summary, the directive includes procedure and guidance relating to the use of force and is intended to stand as the principal reference document for police officers in relation to the use of force.<sup>10</sup> The amendments we suggested to the Public Order Tactical Advisors policy have been incorporated into the PSNI's draft Use of Force Policy Directive. We therefore consider Recommendation 35 (c) of our 2005 Annual Report to be implemented in full.

The PSNI Human Rights Policy in relation to Public Events has not been incorporated into the draft Use of Force Policy Directive. We have been informed that the PSNI is currently reviewing its Human Rights Policy in relation to Public Events and that amendments will be made to satisfy Recommendation 35(a) of our 2005 Annual Report,<sup>11</sup> which currently remains outstanding. We will report on the amended policy in next year's human rights annual report.

Following the recommendations made in our 2005 Annual Report and our Special Report on the Ardoyne and Whiterock Parades 2005, the PSNI has amended its policy on the Public Processions (Northern Ireland) Act 1998 and the Parades Commission. We discuss the amended policy in more detail below.<sup>12</sup>

## Parades monitoring

As part of our review of public order policing, in our Monitoring Framework of 2003 we committed ourselves to a first hand annual review of the policing of certain parades. Our remit is to consider whether the policing of these parades complies with the requirements of the Human Rights Act 1998. Since it is a fundamental principle of the Human Rights Act that any action taken by the police must be lawful, this raises two further points: (i) whether the PSNI properly polices the determinations made by the Parades Commission and takes appropriate operational decisions to that end within the framework of the applicable law, including the Human Rights Act; and (ii) whether any use of force by PSNI officers is justified.

## Parades monitoring 2004

For the purposes of our 2005 Annual Report, we carried out extensive monitoring of the 12th July 2004 Ardoyne parades which culminated in our Ardoyne Parades Report 2004.<sup>13</sup> We also attended planning meetings and monitored the 4th July 2004 Drumcree parade, the 12th July 2004 Dunloy parade and the 1st July 2004 Short Strand parade. In light of that work, we recommended that the PSNI should review its arrangements with the Parades Commission and agree protocols for effective communication between itself and the Parades Commission as a matter of priority,<sup>14</sup> and that the PSNI should review the arrangements in place for joint public order operations between itself and the military and make such amendments as it considered necessary.<sup>15</sup>

## Parades monitoring 2005

In the course of our work in 2005, we closely monitored the policing of the Ardoyne parades held on 12th July 2005 and the Whiterock parade held on the 10th September 2005. Like 2004, the Policing Board asked us to produce a special report on those parades. In December 2005, the Policing Board adopted and published our Special Report on the Ardoyne and Whiterock Parades 2005. We set out below a summary of our report, including our findings and recommendations, together with the PSNI's response.

### NOTES

<sup>9</sup> Use of Force Policy Directive.

<sup>10</sup> The directive seeks to amalgamate a number of PSNI General Orders relating to the use of force including the PSNI Human Rights and Police Use of Force Policy, Water Cannon Policy, CS Spray Policy, Public Order Tactical Advisors Policy, Protest Activity in Public Thoroughfares Policy, Command Structures – Police Operation/Events Policy and Guidelines for the wearing of Public Order Protective Equipment. These General Orders will be cancelled following issue of the directive.

<sup>11</sup> Letter from ACC Operational Support to NIPB's human rights advisors dated 5th June 2005.

<sup>12</sup> At p.62.

<sup>13</sup> Ardoyne Parades Report 2004.

<sup>14</sup> 2005 Annual Report, Recommendation 32, p.170.

<sup>15</sup> 2005 Annual Report, Recommendation 33, p.170.

## Ardoyne parades 12th July 2005 and Whiterock parade 10th September 2005

For the 12th July 2005 Ardoyne parades, we attended all planning meetings and briefings at all levels: Gold, Silver and Bronze. We also examined all the relevant documents, including all the intelligence reports, briefings, risk assessments, tactical and legal advice. On the 12th July itself, we observed the policing operation on the ground, attending at the Ardoyne shop fronts when the parades passed through the area on the way out in the morning and when the police and military deployed in preparation for the return parades in the evening. The rest of the time, we either attended on-going planning meetings or observed events and decision-making in the Gold and Silver Command rooms. Subsequently, we examined the records made during the course of the policing operation, including the contemporaneous logs generated by Gold and Silver command. We also watched the available video footage. For the planned Whiterock parade on 25th June and the postponed Whiterock parade on 10th September 2005, we also attended planning meetings and briefings at all levels: Gold, Silver and Bronze. We examined all the relevant documents, including all the intelligence reports, briefings, risk assessments, tactical and legal advice. On 25th June, we attended on-going planning meetings and observed events and decision-making in the Silver Command room. On the 10th September itself, we again attended on-going planning meetings and observed events and decision-making, this time in the Gold Command room. Subsequently, we examined the records made during the course of the policing operation, including the contemporaneous logs generated by Gold and Silver Command (both North and West Belfast). We also reviewed extensive amounts of video footage recorded during the course of the policing operation.

As was the case in 2004, we are pleased to be able to report that we were given unrestricted access to all meetings, documents and officers in respect of both parades. No request by us for information was refused, nor was any limitation placed on our ability to observe and monitor the policing operation. If we had encountered any difficulties, we would have recorded them here.

We also engaged in a community consultation process to provide an opportunity to all those with an interest in the policing of the parades to bring their concerns to our attention.<sup>16</sup> As noted, in December 2005, the Policing Board adopted and published our Special Report on the Ardoyne and Whiterock Parades 2005.

## Findings and recommendations 2005

In respect of both parades, we concluded that the strategic, tactical and operational planning of the policing operations was careful and considered. The human rights of paraders and their supporters, protesters, residents, police officers and the military were taken into account at all stages of the planning process. The senior command responsible for the operations reacted to the changing circumstances of the operations as events unfolded during both parades with care and diligence.

Our Special Report on the Ardoyne and Whiterock Parades 2005 also addressed the use of force on both occasions, in particular the discharge of live fire at the Whiterock parade and the use of AEP impact rounds and water cannon at both parades. Our remit was to consider whether, *overall*, the use of force on each occasion complied with the requirements of the Human Rights Act 1998 and the PSNI's own policies. Any specific complaints about the use of force fall within the jurisdiction of the Police Ombudsman, whose investigations are on-going. We therefore confined ourselves to general findings on the use of force by the police.

Having reviewed and re-reviewed the relevant documentation, including the very many hours of video footage, our general finding about the use of force by the PSNI on both occasions was that it was proportionate and compliant with the Human Rights Act 1998. Further details are set out in our Special Report on the Ardoyne and Whiterock Parades 2005.

### NOTES

<sup>16</sup> We met with Father Troy, the North and West Belfast Parades and Cultural Forum, Inter Action Belfast, Springfield Residents Action Group, Fred Cobain MLA, William Humphries (local DUP Councillor), Billy Mawhinney, District Master of West Belfast and Wesley McCreedy, District Secretary (the parade organisers). We requested meetings with the Ardoyne Parades Dialogue Group and with Gerry Kelly MLA, but they declined to meet us.

One of the issues we were concerned about in our Ardoyne Parades Report 2004 was that two roadblocks under the responsibility of the military were ineffective during the evening of 12th July 2004.<sup>17</sup> In our view, that raised serious questions about the arrangements in place for joint operations between the PSNI and the military. As already noted, we therefore recommended that the PSNI should review the arrangements in place for joint public order operations between itself and the military and make such amendments as it considered necessary.

The PSNI responded by agreeing two revised protocols for the conduct of joint police and military operations: one for Urban Region and one for Rural Region. We have examined the protocols and are satisfied that they meet our concerns and fully implement Recommendation 33 of our 2005 Annual Report. We also note that the military roadblocks put in place for the policing of the Ardoyne Parades in 2005 were effective.<sup>18</sup>

Another issue that we touched on in our 2005 Annual Report and elaborated on in our Special Report on the Ardoyne and Whiterock Parades 2005 was the availability and use made of the PSNI's human rights legal adviser during the planning and execution of the policing operations for parades. In recent years, increasing use has been made of the PSNI human rights legal adviser at all stages of operations, with the legal adviser being present at many of the strategic planning meetings and attending in the Gold Command room, as required, during the operations themselves. This is welcome and should be continued. To that end, in our Special Report on the Ardoyne and Whiterock Parades 2005, we recommended that PSNI Legal Services should review how best to ensure that human rights legal advice continues to be available at all stages of the planning and execution of policing operations for contentious parades and that PSNI Legal Services should formalise the 'on-call' system as soon as possible as a matter of good practice.<sup>19</sup>

The PSNI indicated that it intended to maintain the same level of recourse to the PSNI human rights legal adviser in the planning and execution of policing operations for parades in 2006. Operational Commanders are aware that the PSNI human rights legal adviser should be involved in planning at an early stage and present in the Gold Command room for major operations. Where the PSNI human rights legal adviser is unavailable, arrangements have been put in place to ensure that other legal advisers are available as needed.

The PSNI has also set up an 'on-call' system. A list of all legal advisers and their contact details has been sent to Belfast Regional Control and is available to police officers on request. This list is also appended to the Generic Gold Public Order Strategy. District Commanders are reminded by email of the facility of the on-call human rights advice, as necessary.<sup>20</sup> The PSNI human rights legal adviser also participates in training sessions relating to public order and the use of force. Against this background, we consider Recommendations 15 and 16 of our 2005 Annual Report and the additional recommendations made in our Special Report on the Ardoyne and Whiterock Parades 2005 to be implemented in full.<sup>21</sup>

One important and controversial issue that arose in the context of the Whiterock Parade 2005 was consultation. A number of individuals and groups expressed to us their frustration about the consultation process and we recognised the depth of their feelings on this issue. In our view, however, it is clear that where consultations between interested parties themselves break down, or one or more interested parties decline to engage directly with the Parades Commission, expectations about the role of the police in the consultation process can be unrealistic. It is beyond our remit to make recommendations about interested parties or the Parades Commission. Our remit is to consider the conduct of the PSNI and make appropriate recommendations about the PSNI. Against that background, in our Special Report on the Ardoyne and the Whiterock Parades 2005 we recommended that the PSNI should review its own procedures and guidelines relating to its consultation with interested parties in respect of contentious parades and seek to establish a protocol with the Parades Commission about the purpose and limits of the consultation process.<sup>22</sup> That way, we hoped, there could be clarity even if there is not agreement.

#### NOTES

- 17 Ardoyne Parades Report 2004, para. 218.  
 18 Special Report on the Ardoyne and Whiterock Parades 2005, para. 68.  
 19 Special Report on the Ardoyne and Whiterock Parades 2005, Recommendations 1 and 2, p.27.  
 20 PSNI's Human Rights Programme of Action 2005-2006, p.29.  
 21 Special Report on the Ardoyne and Whiterock Parades 2005, Recommendations 1 and 2, p.27.  
 22 Special Report on the Ardoyne and Whiterock Parades 2005, Recommendation 2, p.61.

The composition of the Parades Commission changed in late 2005 when new Commissioners were appointed. Roger Poole is now the Chairman of the Parades Commission. Following up our recommendation about the consultation process, we had in-depth discussions with ACC Urban and with Roger Poole earlier this year. The PSNI agreed to our recommendation on consultation and although no protocol on consultation has yet been agreed, progress has been made on a number of fronts. A number of discussions have taken place between the PSNI and the Parades Commission and a revised General Order has been issued. This contains protocols on other issues between the PSNI and Parades Commission.

We have reviewed the PSNI's amended General Order on the Public Processions (Northern Ireland) Act 1998 and the Parades Commission, which we consider fully implements Recommendation 35(b) of our 2005 Annual Report.<sup>23</sup> The policy sets out the procedures for dealing with parade and protest applications and gives advice to officers on the interaction between the Parades Commission and the PSNI. This information is reproduced in two flow-diagrams attached to the policy, which provide a useful checklist for officers.

The policy outlines the PSNI's procedure for providing evidence to the Parades Commission in relation to a "sensitive" public procession. The policy requires PSNI officers to submit a "professional assessment of the evidence and intelligence available" and "not opinion". A sample form 11/9, to be completed by the police in response to a notice of intention to hold a parade, is attached as an appendix to the policy. This provides guidance to officers on the factors to be considered when completing the form. The officer is directed to consider the impact of the policing of the parade on Articles 2, 5, 8, 9, 10, 11 and 14 of the European Convention on Human Rights.

The policy outlines the factors the officer should consider in making a Community Impact Assessment, including the impact the procession may have on relationships with the community, disruption to the life of the community, human rights impacts of the parade or protest and other miscellaneous factors.<sup>24</sup>

A protocol between the Parades Commission and the PSNI which governs the day-to-day interactions between the two bodies is attached to the PSNI General Order on Public Processions.<sup>25</sup> The protocol refers to the PSNI Parades Commission Liaison Officer. The role of the PSNI Parades Commission Liaison Officer is important in ensuring that information between the PSNI and Parades Commission flows in distinct channels, is managed effectively and disseminated to the appropriate persons. The Liaison Officer provides an effective contact point for PSNI officers and the Parades Commission.

We welcome the development of the protocol, which will help to ensure that maximum use is made of all available information gathered by the PSNI while maintaining the independence of the Parades Commission as the ultimate decision maker. We therefore consider Recommendation 32 of our 2005 Annual Report to be implemented in full. However, while the protocol provides greater clarification between the roles of the PSNI and the Parades Commission, we are not satisfied that it provides guidance to officers, particularly senior officers, on the aims and limits of the PSNI consultation process or that it establishes a clear protocol between the police and the Parades Commission about the purpose and limits of that consultation process. We therefore re-iterate the recommendation we made in our Special Report on the Ardoyne and Whiterock Parades 2005.<sup>26</sup>

**Recommendation 23: The PSNI should review its guidelines to officers relating to the aims and limits of consultation with interested parties in respect of sensitive parades and seek to establish a protocol with the Parades Commission about the purpose and limits of the consultation process.**

#### NOTES

- 23 General Order No. 20/2006 Public Processions (Northern Ireland) Act 1998 and the Parades Commission.  
 24 The miscellaneous factors may include factual material used to gain an overall assessment of community feeling obtained through normal day-to-day contact with parading organisations, residents groups, clergy, commercial and business sources and community groups.  
 25 The protocol outlines the procedures which apply when the PSNI and Parades Commission interact on the following issues: submission of forms; late notifications; highlighting of parades to the Commission; requests for police oral briefings; police oral information; sharing of information, including the exchange of legal advice where not privileged; issue of draft determinations and determinations; post parade reports; confidentiality of information; out of hours contact and withdrawal of notification.  
 26 Special Report on the Ardoyne and Whiterock Parades 2005, Recommendation 2, p.61.

In response to our recommendation that the PSNI should conduct an internal after-the-event audit of a random selection of public order operations as part of its annual debrief process,<sup>27</sup> the PSNI sent us an update on the issues raised at the public order debrief in 2004. Each of these was discussed and dealt with at a meeting on 6th September 2005. One of the concerns we had last year was that while the debrief process was a good initiative, effective follow through was needed.<sup>28</sup> This issue was raised by police officers themselves at the 6th September 2005 debrief. It was brought to the attention of Senior Command and there was consensus at the subsequent debrief of the Whiterock Parade held on the 25th October 2005 that lessons learnt were being implemented. We attended the debrief of the Whiterock Parade, which was a thorough exercise covering all the important issues that arose.

While the response of the PSNI to Recommendation 34 does not amount to the full implementation of it, given the unexpected nature and scale of disorder at the Whiterock Parade in 2005, we are prepared to treat it as fully implemented. As a result of the Whiterock Parade in 2005, a number of important initiatives have been taken and, in the circumstances, a further internal after-the-event audit of a random selection of public order operations would achieve no useful purpose.

In our Special Report on the Ardoyne and Whiterock Parades 2005, we recommended that the PSNI should review the planning and implementation of the policing operation for the planned Whiterock parade on 25th June and the postponed Whiterock parade on 10th September and consider whether further guidance is required where parades pass through different command units.<sup>29</sup> The PSNI has drawn up a revised Directive on this matter and is currently engaged in a consultation exercise on it.<sup>30</sup> We will review this Directive as part of our monitoring work next year but consider this recommendation of our Special Report on the Ardoyne and Whiterock Parades 2005 to be implemented in full.

In our Special Report on the Ardoyne and Whiterock Parades 2005, we referred to a partial 'gap' in the screening of protesters and supporters, lodges and bands during the 12th July Ardoyne parades 2005. This gap resulted from the absence of two military screen vehicles which were unserviceable on the day in question. We felt that due to the age of the screening material currently used, this is a problem that is likely to reoccur. In light of that, we recommended that the PSNI should consider obtaining its own modern screening equipment.<sup>31</sup> Our recommendation is currently being considered by the PSNI and a business case has been submitted for the procurement of suitable vehicles. It is hoped that vehicles with screens will be procured by the end of the year.<sup>32</sup> We therefore consider this recommendation of our Special Report on the Ardoyne and Whiterock Parades 2005 to be implemented in full.

During the preparation of our Special Report on the Ardoyne and Whiterock Parades 2005 (in relation to the Ardoyne parades), it came to our attention that some police officers failed to display visible identification numbers during the policing operation. In light of this finding, we recommended that all District Commanders should bring the PSNI instructions on the wearing of identification markings in public order situations to the attention of all their officers forthwith.<sup>33</sup> The PSNI has since informed us that the importance of wearing identification markings and the PSNI instructions on this matter were emphasised to all District Command Teams at a Gold Meeting for the 2006 parades season, and that this issue will be constantly revisited throughout 2006.<sup>34</sup>

In March 2006, the Police Ombudsman published a report on police identification in Northern Ireland.<sup>35</sup> The Police Ombudsman made a total of ten recommendations regarding the wearing of identification markings by

police officers, including that the clarity of epaulette numbers should be improved, that breast pocket identification numbers should be introduced and that the PSNI policy on the wearing of name badges should be reviewed annually.<sup>36</sup> In response to the Police Ombudsman's report, the PSNI has indicated that work has already begun on improving the clarity of epaulette numbers, that an officer's station and identification number will be worn when the wearing of a name badge is not possible and that it will review annually the wearing of name badges by officers.<sup>37</sup> Against this background, we consider this recommendation of our Special Report on the Ardoyne and Whiterock Parades 2005 to be implemented in full.

In our Special Report on the Ardoyne and Whiterock Parades 2005 (in relation to the Whiterock parade), we noted that in the process of compiling our report, we had observed two pieces of video footage which caused us concern. One piece of the footage we viewed was of an incident where an individual who appeared to be kicking barrels into the road in the Shankill area was approached by police officers at speed and struck on the legs with a baton by one police officer. The second piece of footage, provided by the Shankill Mirror, appeared to show an individual being struck and kicked by police officers.<sup>38</sup> We recommended that both bits of footage should be studied by the Chief Constable and, if necessary, appropriate action taken.<sup>39</sup> The PSNI has subsequently informed us that the Deputy Chief Constable has studied the tapes of both these incidents and has passed them to the Police Ombudsman who intends to conduct an investigation.<sup>40</sup> We therefore consider these recommendations of our Special Report on the Ardoyne and Whiterock Parades 2005 to be implemented in full.

In our Special Report on the Ardoyne and Whiterock Parades 2005, we made the observation that despite the availability of many hours of video footage of the Ardoyne and Whiterock parades and the policing operation in 2005, many people, with whom we met after the parades, held conflicting accounts of the events that had occurred. In light of that observation, we considered that the PSNI should make some of the video footage publicly available, with pixilation to conceal identities where necessary, in order to allow those people with an interest to form their own view of the events in question.<sup>41</sup> The PSNI's Department of Media and Public Relations has welcomed our recommendation. Some footage of the events at Ardoyne 2005 and Whiterock 2005 were released for broadcast and, according to the PSNI, this proved invaluable in educating the media and the public about the nature of the challenges faced by police on both occasions. The PSNI foresees that for this practice to become part of a media strategy in relation to parades, decisions will need to be taken on how best it can be organised and resourced and what part of the organisation is best placed to edit and produce the tapes. In addition, the PSNI recognises that it must ensure that the release of video footage takes account of operational priorities, legal obligations and any relevant ACPO guidance.<sup>42</sup> We consider this recommendation of our Special Report on the Ardoyne and Whiterock Parades 2005 to be implemented in full.

Finally, we are pleased to note that the PSNI has agreed<sup>43</sup> to our recommendation that it should continue to allow the Policing Board's human rights advisors the same level of access to its decision-making processes, in relation to public order police operations, to enable effective monitoring of its performance in complying with the Human Rights Act 1998 to carry on.<sup>44</sup>

## Parades monitoring 2006

In the course of our work in 2006, we closely monitored the policing of the Tour of the North parade held on 16th June 2006, the Whiterock parade held on 24th June 2006 and the Ardoyne parades held on 12th July 2006. We are pleased to report that the parades that we monitored this year passed off without violence. As a result, our reports on the parades are of a more summary nature than our special reports of 2004 and 2005 allowed. We set out these reports, together with our findings, below.

### NOTES

- 27 2005 Annual Report, Recommendation 34, p.170.  
 28 2005 Annual Report, p.106.  
 29 Special Report on the Ardoyne and Whiterock Parades 2005, Recommendation 3, p.61.  
 30 Letter from ACC Urban to NIPB's human rights advisors dated 22nd May 2006.  
 31 Special Report on the Ardoyne and Whiterock Parades 2005, Recommendation 3, p.27.  
 32 Letter from ACC Urban to NIPB's human rights advisors dated 22nd May 2006.  
 33 Special Report on the Ardoyne and Whiterock Parades 2005, Recommendation 4, p.28.  
 34 Letter from ACC Urban to NIPB's human rights advisors dated 22nd May 2006.  
 35 Police Ombudsman for Northern Ireland, *Police Identification in Northern Ireland: A Report under Section 60A of the Police (NI) act 1998*, March 2006.

### NOTES

- 36 Ibid. at p.31.  
 37 Ibid. at p.31.  
 38 Special Report on the Ardoyne and Whiterock Parades 2005, p.61.  
 39 Special Report on the Ardoyne and Whiterock Parades 2005, Recommendations 4 and 5, p.61.  
 40 Letter from ACC Urban to NIPB's human rights advisors dated 22nd May 2006.  
 41 Special Report on the Ardoyne and Whiterock Parades 2005, Recommendation 6, p.61.  
 42 Letter from ACC Urban to NIPB's human rights advisors dated 22nd May 2006.  
 43 Letter from ACC Urban to NIPB's human rights advisors dated 22nd May 2006.  
 44 Special Report on the Ardoyne and Whiterock Parades 2005, Recommendation 1, p.60.

## Tour of the North parade 16th June 2006

Following the serious violence that erupted at the Ardoyne shop fronts during the Tour of the North parade in 2005, we decided to monitor the policing operation for the Tour of the North parade on 16th June 2006, and in particular, the returning subsidiary parades passing the Ardoyne shop fronts.

Belfast Orange Hall, United Districts Committee notified the Parades Commission of the annual Tour of the North parade on Friday 16th June 2006. The date of this original notification is not clear. The organisers indicated that 1,000 persons and 22 bands were expected to take part in the event. The start time of the outward route of the parade was notified as 7.30pm, the parade's dispersal time as 10.15pm. The Parades Commission issued an initial determination on 7th June 2006. Belfast Orange Hall, United Districts Committee subsequently submitted a new notification form 11/1 on 8th June 2006. The Parades Commission issued a decision on 13th June 2006 not to impose conditions on the parade as notified in the new form 11/1.

A number of subsidiary parades also submitted notifications to the Parades Commission. Ligoniel True Blues LOL 1932 and Earl of Erne LOL 647 notified their intention to pass the Ardoyne shop fronts in the evening of 16th June 2006 on their return from the main Tour of the North parade. Again, the date of these notifications is not clear. The Parades Commission issued no determinations in relation to either of these subsidiary parades.

### Planning

For the Tour of the North parade on 16th June, we attended planning meetings and briefings at all levels: Gold, Silver and Bronze. We examined relevant briefing documents and were given access to all intelligence reports. On the 16th June itself, we observed the policing operation in the Silver Command room.

The North and West Belfast Parades Forum and the Ardoyne Residents Dialogue Group met in the days preceding the Tour of the North parade on 16th June. An understanding was reached between the two groups regarding the return parades passing the Ardoyne shop fronts. It was agreed that two lodges, carrying one banner and accompanied by one band, would proceed past the Ardoyne shop fronts in the evening of 16th June. A small protest comprising 30 individuals with marshals would take place at the shop fronts. As a result of this understanding, the Parades Commission issued no determinations in relation to these return parades and a request was made for a 'sensitive' policing operation.

In the days preceding the parade, senior PSNI officers in North Belfast engaged in extensive consultations with persons representing the parade and protest organisers regarding the policing operation for the return parades. On the basis of the understanding that had been reached by the North and West Belfast Parades Forum and the Ardoyne Residents Dialogue Group, ACC Urban and the North Belfast DCU Commander agreed to a significantly reduced policing presence of six neighbourhood officers, together with the North Belfast DCU Commander, to escort the returning parades as they proceeded up the Crumlin Road past the Ardoyne shop fronts.

### Events in the evening

At 7.57pm, the Ligoniel True Blues LOL 1932, the Earl of Erne LOL 647 and the Pride of Ardoyne flute band separated from the main Tour of the North parade and began to move up the Crumlin Road. Traffic diversions were implemented to facilitate their movement. At 8.11pm, the head of the subsidiary parade reached Woodvale Road. There were at the time about 200 parade supporters standing at the top of Twaddell Avenue, with 14-18 marshals present. At 8.22pm, the parade stopped at Woodvale Parade and marshals moved to the front and sides of the parade. At 8.27pm there was a crowd of about 100 protesters at the junction of Ardoyne Road and Crumlin Road, with a significant number of marshals present. The six neighbourhood officers and the North Belfast DCU Commander were positioned at two points on the Crumlin Road at the top and bottom of the Ardoyne shop fronts.

At 8.39pm, the parade moved off from the junction of Woodvale Road and Woodvale Parade. At 8.42pm, the parade proceeded past the Ardoyne shop fronts. Three neighbourhood police officers escorted the parade. At least one missile was thrown at the parade over the shop fronts. Marshals in green bibs dealt with missiles being thrown out of Estoril Park. At 8.45pm, the parade had moved peacefully past the group of protesters. A firework was thrown and exploded over the Everton Complex.

At 8.46pm, the parade approached the Hesketh Road and Crumlin Road junction, where a large crowd had gathered. A large crowd of protesters which had gathered behind the Everton Complex proceeded to move down the Ardoyne Road towards the junction with Hesketh Road but was held back by marshals wearing green bibs. Large numbers of parade supporters moved down the Hesketh Road towards the junction with the Ardoyne Road and were likewise held back by their own marshals. By 8.53pm, there were effectively two stand-offs, with marshals on both sides holding the two large crowds. The PSNI maintained contact with community representatives throughout this period. At 8.56pm, the crowds started to disperse and by 9.05pm, both crowds had significantly reduced in numbers.

## Whiterock parade 24th June 2006

Following the serious disorder which broke out during the postponed Whiterock parade held on 10th September 2005 and spread across Belfast in the following days, we again monitored the Whiterock parade held on 24th June this year.

On 25th May 2006, No.9 District LOL gave notice of an intention to hold the Whiterock parade on 24th June 2006. The usual route of the Whiterock parade is from the West Belfast Orange Hall on the Shankill Road to the Whiterock Orange Hall via the Springfield Road, returning to the Shankill Road via the West Circular Road and Ballygomartin Road. The organisers indicated that 750 participants and 16 bands were expected to take part in the event. The start time was given as 2.30pm; the dispersal time as 4.30pm. No. 3 District LOL and No.2 District LOL also gave notice of an intention to parade from and to the West Belfast Orange Hall.

### Parades Commission determinations

On 16th June 2006, the Parades Commission issued a determination placing a number of conditions on the organiser and participants of the parade. Only the district officers of Whiterock District No. 9 and office-bearers and members of Whiterock Temperance LOL 974 to a total of 50 persons were allowed to process the parade's notified route in its entirety. In addition, the group was only allowed to display the bannerette of Whiterock District No. 9, the banner of Whiterock Temperance LOL 974, the Union flag and the Orange Standard on that section of the notified route between Workman Gate (situated at the junction of Workman Avenue and Springfield Road) and the junction of the road through the Invest Northern Ireland site (formerly the Mackies complex) and the Springfield Road.

The remainder of those taking part in the No. 9 District LOL, including accompanying bands, were prohibited from going through Workman Gate. Instead, the determination required them to enter the Invest Northern Ireland site at the Woodvale Avenue entrance and exit onto the Springfield Road some 100 yards further up the Springfield Road from Workman Gate. In addition, the remaining participants were only allowed to display certain designated insignia<sup>45</sup> on the section of the parade route from the point that they exited the Invest Northern Ireland site onto the Springfield Road to the junction of the Springfield Road and West Circular Road. Supporters of the parade were prohibited from the section of the parade route between Woodvale Avenue and the junction of the Springfield Road and West Circular Road roundabout.

On 23rd June 2006, the Springfield Road Action Group submitted a late form 11/3 notification of a parade-related protest meeting on 24th June 2006 to the Parades Commission. The Commission issued a determination imposing a number of conditions on the protest meeting. The protest was to take place between the junction of Workman Avenue and Springfield Road (Workman Gate) and the junction of the entrance to the Invest Northern Ireland site and the Springfield Road. Those protesting were confined to the footpaths on both sides of the road and were prohibited from the carriageway between these two points.

### NOTES

<sup>45</sup> The Union flag, the Orange Standard and two other standards, the flag of the 36th Ulster Division and the flag of the 14th Royal Irish Rifles (YCV) relating to World War One. The flag of the 36th Ulster Division and the flag of the YCV had to remain furled on that part of the route. In addition, no banner, instrument or object referring to Brian Robinson was allowed to be displayed on that part of the route.

## Planning

For the Whiterock parade on 24th June, we attended planning meetings and briefings at Gold and Silver levels. We examined relevant briefing documents and were given access to all intelligence reports. On the 24th June itself, we observed the policing operation on the ground, attending at Workman Gate as the police deployed in the early afternoon and subsequently observed events in the Gold and Silver Command rooms.

Throughout the days preceding the parade and during the morning of the 24th June itself, senior police officers in North and West Belfast were involved in extensive consultations with persons representing the parade and protest organisers. In the preceding days, parade organisers had indicated their wish for marshals to accompany that part of the parade proceeding through Workman Gate onto the Springfield Road. Protest organisers had indicated their resistance to this proposal, which they considered to breach the terms of the Parades Commission determination. This issue remained unresolved and created significant tension on the day of the parade. Its resolution had a direct impact on the nature of the policing operation that was required for the parade.

## Events on the day

Discussions between the police and persons representing the parade and protest organisers continued on the morning of the parade, right up until the moment the 50 strong parade went through Workman Gate.

At 1.45pm, various feeder parades in North Belfast commenced their routes. At 2pm, there were about 300 protesters on the Springfield Road. At 3.13pm, the main parade was on the move, with a number of women carrying placards at its head. At 3.26pm, the parade moved down Ainsworth Avenue. At 3.27pm, as the parade approached Workman Gate, the women heading the parade separated off. At 3.31pm, the head of the main parade reached the Woodvale Avenue entrance of the Invest Northern Ireland site. The gate was opened to allow the parade to enter the site. By this time, a large crowd of protesters had gathered at the junction of Pollard Street and Springfield Road. A line of marshals was keeping the crowd in order. At 3.38pm, the tail of the main parade reached Workman Gate. A steady stream of parade supporters continued past the entrance to the Invest Northern Ireland site towards the West Circular Road.

At 3.39pm, the parade of 50 district officers of Whiterock District No. 9 and office-bearers and members of Whiterock Temperance LOL 974 began to form up at Workman Gate. The parade organisers finally agreed with senior police officers that no marshals would accompany the parade through Workman Gate. At 3.41pm, Workman Gate was opened. At 3.43pm, the 50 strong parade proceeded through Workman Gate without marshals. Workman Gate was closed directly behind the parade, which proceeded along the Springfield Road. The large crowd of protesters at Pollard Street remained static. At 3.44pm, the main parade proceeded through the Invest Northern Ireland site onto the Springfield Road. The large number of supporters that had gathered at the Woodvale Avenue entrance of the Invest Northern Ireland site remained static. As the main parade proceeded onto the Springfield Road, the 50 strong parade from Workman Gate rejoined it. At 3.52pm, the last band and lodge exited the Invest Northern Ireland site onto the Springfield Road and the women carrying placards had returned to the head of the parade. The remainder of the parade passed off without incident.

## Ardoyne parades 12th July 2006

Following the serious violence that erupted when returning evening parades and their supporters passed the Ardoyne shop fronts on the 12th July in both 2004 and 2005, we again monitored the 12th July Ardoyne parades this year.

As part of the 316th Anniversary of the Battle of the Boyne 12th July parade, the Earl of Erne LOL 647, Ligoniel True Blues LOL 1932, Ballysillan LOL 1891 and Crystal Spring Temperance LOL 903 submitted form 11/1 notifications<sup>46</sup> to the Parades Commission for subsidiary parades to pass the Ardoyne shop fronts, both on the

outward route in the morning of 12th July and on the return route in the evening. The organisers indicated that the numbers of participants expected to take part in each subsidiary parade were 50, 80, 20 and 70 respectively. All lodges, save for Ballysillan LOL 1891, indicated that one band would accompany them.

Like with the Tour of the North parade, the North and West Belfast Parades Forum and the Ardoyne Residents Dialogue Group met in the days preceding the 12th July. An agreement was reached between the two groups regarding the outward morning parades passing the Ardoyne shop fronts. It was agreed that all the parades would proceed in one movement past the Ardoyne shop fronts, no music would be played by the bands accompanying the parades and supporters would follow quietly behind. It was also agreed that there would be no protest meeting at the shop fronts and marshals would be present to ensure that this was the case. As a result of this agreement, the Parades Commission issued no determinations in relation to the outward morning parades. No protest notification was received by the Parades Commission in relation to any proposed protest meeting on the morning of the 12th July 2006. Again, a request was made for a 'sensitive' policing operation.

No agreement was reached between the North and West Belfast Parades Forum and the Ardoyne Residents Dialogue Group regarding the return parades in the evening of 12th July.

## Parades Commission determinations

The Parades Commission issued determinations in respect of each of the four return parades. These were made on 6th July 2006. The conditions imposed on the return parades in each of the determinations were similar. The four parades were required to proceed together along the Woodvale Road and Crumlin Road to their notified dispersal points. No music other than a single drum beat was to be played from the junction of Woodvale Road and Woodvale Parade until all participants in the parade had passed the junction of Crumlin Road and Hesketh Road. Supporters were prohibited from accompanying the parades on foot between the junction of Woodvale Road and Woodvale Parade and the junction of the Crumlin Road and the Hesketh Road but were allowed instead to proceed along that section of the route by bus, immediately preceding the main parade. All those taking part in the parades were required to have passed the Crumlin Road and Hesketh Road no later than 8.30pm and the parades had to disperse no later than 9pm.

The Parades Commission received requests from the North and West Belfast Parades Forum and the Ardoyne Residents Dialogue Group for a review of its determinations relating to these four subsidiary parades. The Commission reviewed the information, advice and evidence in relation to each parade and decided that its original determinations for the four parades issued on 6th July should stand unchanged.

The Ardoyne Parades Dialogue Group submitted a protest notification to the Parades Commission on 5th July 2006 stating its intention to hold a parade-related protest meeting. The organisers indicated that 150 participants would take part in a protest meeting on the Crumlin Road between the junction of Mountainview Park and Mountainview Place and, on the opposite side of the Crumlin Road, between 565 Crumlin Road to the traffic island, at the same time as the return parade on the evening of 12th July 2006. The Parades Commission issued a determination in respect of the protest meeting. The protest was allowed to take place between 565 Crumlin Road and the traffic island. The protest was prohibited from taking place on the notified area on the Crumlin Road between the junctions of Mountainview Park and Mountainview Place. The protest was required to disperse no later than the time at which the parades had passed the junction of Crumlin Road and Hesketh Road.

## Planning

For the 12th July Ardoyne parades, we attended all planning meetings and briefings at Gold and Silver level. We examined relevant briefing documents and risk assessments and were given access to all intelligence reports. On the 12th July itself, we observed the policing operation on the ground, attending at the Ardoyne shop fronts when the outward parades passed through the area in the morning. For the remainder of the day, we attended on-going planning meetings and then observed the policing operation and decision-making for the return parades in the Gold Command room.

## NOTES

<sup>46</sup> Crystal Spring Temperance LOL 903 submitted a form 11/1 notice on 2nd June 2006, Earl of Erne LOL 647 and Ligoniel True Blues LOL 1932 on 11th June 2006 and Ballysillan LOL 1891 on 14th June 2006.

Again, like the Tour of the North parade, in the days preceding the parade, senior PSNI officers in North Belfast engaged in extensive consultations with persons representing the parade and protest organisers regarding the policing operation. On the basis of the agreement that had been reached by the North and West Belfast Parades Forum and the Ardoyne Residents Dialogue Group in relation to the outward morning parades, ACC Urban and the North Belfast DCU Commander agreed that the police presence would mirror the minor police presence for the Tour of the North parade – i.e. six neighbourhood officers and a senior commander – who would escort the parade as it proceeded down the Crumlin Road along the Ardoyne shop fronts.

#### The morning parades

At 8.15am on the 12th July, we were briefed by North Belfast Silver Commander before going out to observe the movement of the parades down the Crumlin Road past the Ardoyne shop fronts. By 8.30am, a fairly large crowd of parade supporters had gathered at the junction of Hesketh Road and Crumlin Road. A relatively small crowd of protesters had gathered at the junction of Ardoyne Road and Crumlin Road. At 8.55am, the first band arrived at the junction of Hesketh Road and Crumlin Road. By 9am, all the lodges and bands had arrived at the junction of Hesketh Road and Crumlin Road. At 9.05am, the parades proceeded down the Crumlin Road past the Ardoyne shop fronts. No music was played and the supporters following the parades were quiet. A small number of protesters watched the parades proceed past the Ardoyne shop fronts. At 9.15pm, the lodges, bands and supporters were clear of the Ardoyne shop fronts.

#### The return evening parades

Throughout the day, ACC Urban and the North Belfast DCU Commander were involved in extensive community consultation regarding the return evening parades and the extent of the policing operation required. On the basis of assurances provided by parade and protest organisers, it was eventually agreed that PSNI officers in public order uniform would deploy on foot at the Ardoyne shop fronts as the return parades proceeded up the Crumlin Road.

We attended the Gold Command room from 6.55pm on the evening of the 12th July to observe the policing operation for the return parades. At 7.11pm, marshals in orange bibs formed a line at the top of Twaddell Avenue blocking the road. By this time, a significant number of marshals in green bibs were present at both the junction of Crumlin Road and Ardoyne Road and at the junction of the Crumlin Road and Brompton Park. By 7.15pm, a large crowd of between 120 and 150 protesters had gathered at the Ardoyne shop fronts. At 7.22pm, increasing numbers of marshals in green bibs were gathering at Brompton Park and at 7.25pm, marshals in green bibs went onto the roofs of the Ardoyne shop fronts. About 100 parade supporters with marshals were present at the top of Twaddell Avenue. At 7.31pm, the number of protesters at the Ardoyne shop fronts was continuing to grow significantly.

At 7.32pm, the protesters began to move up the Crumlin Road to the protest location (between 565 Crumlin Road and the traffic island) determined by the Parades Commission. By 7.35pm, a very large crowd had gathered at the junction of Crumlin Road and Hesketh Road. At 7.38pm, the bands and lodges of the return parades arrived with their supporters at the junction of Woodvale Parade and Woodvale Road. By 7.40pm, the marshals in green bibs had moved the large crowd of protesters back from the traffic island to the mouth of the Ardoyne Road and the area around the shop fronts was virtually empty. At 7.43pm, parade supporters at the junction of Woodvale Parade and Woodvale Road began to get onto buses. At 7.44pm, marshals in green bibs were in place supervising the crowd of protesters at the junction of Ardoyne Road and Alliance Avenue and marshals in orange bibs were in place supervising the crowd of parade supporters at the top of Twaddell Avenue.

At 7.46pm, police land rovers moved down the Crumlin Road from Hesketh and were positioned on the Crumlin Road adjacent to the Everton Complex. Police land rovers moved up the Crumlin Road from Woodvale Road and were positioned on the Crumlin Road above Mountainview. At 7.51pm, police officers deployed on foot along the shop fronts (from the Mountainview end and the Woodvale Road end), flanking the 5 buses (two full, one half full and two empty) carrying parade supporters as they moved past the Ardoyne shop fronts.

By 7.52pm, the buses were clear of the Crumlin Road and Ardoyne Road junction and police officers were in static positions at the shop fronts (facing towards and away from the Crumlin Road). Immediately, at 7.53pm, the lodges and bands proceeded up the Crumlin Road past the Ardoyne shop fronts. At 7.54pm, the buses had arrived at the Crumlin Road and Hesketh Road junction. A small number of missiles were thrown at the parade. By 7.57pm, all the lodges and bands had passed the Crumlin Road and Ardoyne Road junction, accompanied by a police land rover at the rear of the parade. At 7.58pm, a firework exploded.

At 8pm, the parade passed the Everton Complex and another firework exploded. At 8.02pm, police land rovers began to move out of the area and at 8.05pm, the two military screens situated on the Crumlin Road at the Everton Complex moved out. By 8.06pm, all police land rovers had moved down the Crumlin Road and traffic was beginning to move up the Crumlin Road towards Hesketh. At 8.09pm, a relatively large number of protesters remained at the junction of Ardoyne Road and Alliance Avenue, but by 8.12pm, the numbers had reduced and the crowd of parade supporters at Twaddell Avenue had dispersed. The remainder of the parade passed off without incident.

### Findings and recommendations 2006

As was the case for 2004 and 2005, we were given unrestricted access by the PSNI to all strategic and planning meetings and documents for all three of the public order policing operations that we monitored this year. No request by us for information was refused, nor was any limitation placed on our ability to question senior officers or to observe and monitor the policing operations on the day. No attempt was made to conceal any aspect of the decision making process from us – we observed decisions being made and implemented in live time as matters developed. If we had encountered any difficulties, we would have recorded them here. We therefore consider the recommendation that we made in our Special Report on the Ardoyne and Whiterock Parades 2005 that the PSNI should continue to allow the Policing Board's Human Rights Advisors the same level of access to its decision making processes in relation to public order police operations<sup>47</sup> to be implemented in full.

It is important for us to record that in 2006 the PSNI senior command adopted the same strategic, planning and operational processes and procedures as it employed for policing parades in 2004 and 2005. Like then, a Gold Command strategy meeting for all parades in the Urban Region was held in March 2006. This meeting was attended by all District Commanders in Urban Region. Further Gold Command strategy meetings were held for individual parades from April 2006 onwards. These meetings were attended by relevant District Commanders, the PSNI human rights legal adviser and tactical advisers. Again, like 2004 and 2005, the documents prepared for the Gold Command strategy meetings included the Chief Constable's policy in relation to the policing of public order events and included a list of the PSNI's intentions which included a commitment to "protect and uphold the human rights of all individuals involved in the event, including the public, those living and working within the vicinity of a parade, protesters, police and military, ensuring that any interference with human rights is lawful, in accordance with a legitimate aim, proportionate and necessary".

Again, as in 2004 and 2005, Silver Command tactical planning meetings for the three operations were held in the days leading up to the parades, following the issue of the Parades Commission determination or its decision not to issue a determination. Mini Gold strategy meetings were held in the final days before each of the parades as well as on the day of the parades themselves. The PSNI human rights legal adviser and tactical advisers attended these meetings and gave advice as and when necessary. We attended these meetings as observers.

Once again, it is important for us to highlight that we only seek in this report to make general findings on the human rights compliance of the three policing operations. Our remit is to consider whether, *overall*, the operations complied with the requirements of the Human Rights Act 1998 and the PSNI's own policies on policing public order events. Any specific complaints about the conduct of individual police officers during these operations fall within the jurisdiction of the Police Ombudsman.

#### NOTES

<sup>47</sup> Special Report on the Ardoyne and Whiterock Parades 2005, Recommendation 1, p.60.

Against that background, in respect of the Tour of the North parade on 16th June, the Whiterock parade on 24th June and the 12th July Ardoyne parades, we conclude that the strategic, tactical and operational planning of the policing operations was careful and considered. The human rights of paraders and their supporters, protesters, residents and police officers were taken into account at all stages of the planning process. The policing of each of the parades on the day was operationally effective and demonstrated a high degree of flexibility and sensitivity. The senior commanders responsible for the operations reacted to the changing circumstances of the operations as events unfolded during the parades with care, diligence and proportionality.

In our Special Report on the Ardoyne and Whiterock Parades 2005, we noted (in relation to the Whiterock parade) the potential for difficulties to arise where a parade passes through different DCUs and recommended that the PSNI should consider whether any further guidance is needed for dealing with parades that pass through different command units. Whilst, as we have already noted, the PSNI has drawn up a revised Directive on this matter and is currently engaged in a consultation exercise on it,<sup>48</sup> we are pleased to report an impressive level of consultation, planning and integrated decision making across districts, most particularly in relation to the Whiterock parade on 24th June by the North and West Belfast DCU Commanders, Operations Managers and Operational planning teams. The nature and extent of the communication across the two districts assisted the overall success of the operational planning process and the execution of the policing operation on the day.

Again, during our monitoring of the three public order policing operations in 2006, we were able to observe the availability and use made of the PSNI's human rights legal adviser and tactical advisers during the planning and execution of the policing operations. The PSNI human rights legal adviser and tactical advisers were present at all Gold and Silver planning meetings and attended in Gold Command during the operations themselves. As we have commented before, this is welcome and should be continued.

On a more minor note, following the note in our Special Report on the Ardoyne and Whiterock Parades 2005 (in relation to the Ardoyne parades) that the Gold and Silver logs were not synchronised and therefore there were discrepancies between the logs of a few minutes in places,<sup>49</sup> we are pleased to report that the PSNI has purchased and installed an atomic clock in Gold Command. At the commencement of all public order operations, the Gold Commander now synchronises clocks with Silver Commanders for the benefit of the log. This will further enhance PSNI record keeping for public order operations.

Finally, we turn to consultation. As we noted in our Special Report on the Ardoyne and Whiterock Parades 2005, one important and controversial issue that arose in the context of the Whiterock Parade 2005 was consultation. We made the point that effective consultation between the police and interested parties is very important. However, where consultations between interested parties themselves break down, or one or more interested parties decline to engage directly with the Parades Commission, expectations about the role of the police in the consultation process can be unrealistic.

We have already noted that all of the parades that we monitored this year passed off without violence. This success was due in large part to two main factors. First, dialogue and negotiation between parade and protest organisers in advance of the parades. This resulted, in two instances, in understandings or agreements being reached on the nature of the parade and the related protest and no need for determinations to be issued by the Parades Commission. Second, extensive community consultation by senior PSNI commanders throughout the planning process, either to ensure a sensitive police response in support of community agreements or, in the instances when agreement was not reached, to provide a flexible, proportionate and transparent policing response.

We support the parade and protest organisers' engagement in dialogue and hope that they will build on this positive development next year. We commend the extensive community consultation undertaken by senior PSNI commanders and their demonstrated flexibility in responding to changing circumstances as events unfolded. This had a direct and significant impact on the very different nature of parades in 2006.

Against this background, we make no recommendations in relation to the policing of the Tour of the North parade on 16th June, the Whiterock parade on 24th June or the 12th July Ardoyne parades 2006.

#### NOTES

<sup>48</sup> Letter from ACC Urban to NIPB's human rights advisors dated 22nd May 2006.

<sup>49</sup> Special Report on the Ardoyne and Whiterock Parades 2005, para. 59.

# CHAPTER 8: USE OF FORCE

## CHAPTER 8: USE OF FORCE

The use of force by police officers raises fundamental human rights issues. It is critical for compliance with the Human Rights Act 1998 that the PSNI has clear policies in place to guide officers in the use of force and firearms, as well as robust internal procedures for monitoring all uses of force and investigating any potential breaches of Articles 2 and 3 of the European Convention on Human Rights.

### Audit of PSNI policies on the use of force

In our 2005 Annual Report, we conducted a comprehensive audit of PSNI policies on the use of force. Overall, we were impressed with these policies, although we identified some shortcomings. We concluded that the PSNI's overarching policy on the use of force was comprehensive and clear, but we made a number of minor recommendations, including that the legal basis section of the policy be amended to include reference to Article 2 of the European Convention on Human Rights and set out explicitly both tests on the use of force, that the policy should set out the requirements for an effective official investigation following the death of an individual as a result of the use of force, and that the policy should cross-refer to the PSNI Code of Ethics and include a review date.<sup>1</sup>

In its Human Rights Programme of Action 2005-2006, the PSNI indicated that the policy would be reviewed and revised by January 2006.<sup>2</sup> As noted in chapter 7, the PSNI has drafted a policy directive on the use of force. It is now the subject of external consultation. This Use of Force Directive is intended to stand as the PSNI's principle reference document to guide officers on all uses of force. It seeks to amalgamate a number of PSNI general orders<sup>3</sup> which will be cancelled following introduction of the Directive. It cross-refers to the Code of Ethics and requires ACC Operational Support to review the Directive annually. We consider this fully implements Recommendation 37 (a) (iii and iv) of our 2005 Annual Report.

We have reviewed the Use of Force Directive. We welcome the PSNI's initiative to consolidate its policies on the use of force into one single standard document setting out PSNI policy, procedure and guidance on the use of force. However, the Directive does not incorporate certain general orders relating to the use of force which we would have expected to be included within it, such as the PSNI policy on AEP impact rounds. We therefore recommend that the PSNI review the list of general orders to be incorporated within the Use of Force Directive to ensure it achieves its purpose of becoming the cohesive overarching standard on PSNI use of force.

**Recommendation 24: The PSNI should review the list of general orders to be incorporated within the Use of Force Directive to ensure it achieves its purpose of becoming the cohesive overarching standard on PSNI use of force.**

The Use of Force Directive contains a detailed analysis of the legislation relating to the use of force, including comprehensive discussion of the relevant Articles of the European Convention on Human Rights, particularly Articles 2, 3 and 8. We therefore consider Recommendation 37 (a) (i) to be implemented in full. However there is a degree of repetition and a lack of clarification of items in the legal basis section of the Directive, which we are concerned may cause some officers confusion. We therefore recommend that the PSNI human rights legal adviser review the legal basis section of the Directive to ensure clear and straightforward guidance is available to officers.

**Recommendation 25: The PSNI human rights legal adviser should review the legal basis section of the Use of Force Directive to ensure clear and straightforward guidance is available to officers.**

### NOTES

- 1 2005 Annual Report, Recommendation 37(a), p.171.
- 2 PSNI's Human Rights Programme of Action 2005-2006, p.25.
- 3 Including the PSNI Human Rights and Police Use of Force Policy, Water Cannon Policy, CS Spray Policy, Public Order Tactical Advisers Policy, Protest Activity in Public Thoroughfares Policy, Command Structures – Police Operation/Events Policy and Guidelines for the wearing of Public Order Protective Equipment.



The Directive does not set out the requirement for an effective official investigation when it is arguable that there has been a breach of Article 2 or 3 of the European Convention on Human Rights. Whilst we recognise that the Directive includes a section on the role of the Police Ombudsman, we do not consider that this satisfies the purpose of Recommendation 37(a)(ii) which remains outstanding. We therefore re-iterate that recommendation.

**Recommendation 26: The PSNI should review and revise its Use of Force Directive to set out the requirement for an effective official investigation when it is arguable that there has been a breach of Article 2 or Article 3 of the European Convention on Human Rights (cross-referring to the General Order on Post-Incident Procedures).**

### PSNI Policy on the use of firearms

In our 2005 Annual Report, we concluded that the policy on the use of firearms is clear and comprehensive. Again, we made a number of minor recommendations, including that the policy cross-refer to the Code of Ethics, and that a review date be inserted into the policy.<sup>4</sup> In its Human Rights Programme of Action 2005–2006, the PSNI agreed to this recommendation in principle and indicated that the amendments would be incorporated into the work to progress the 26 recommendations arising out of the HMIC Review on PSNI use of Firearms and Less Lethal Weapons (the HMIC recommendations)<sup>5</sup> due to be completed by March 2007.<sup>6</sup> We welcome the PSNI's indication that it will implement our recommendation but regret the extended timeline for completion of this work to March 2007. As we have noted elsewhere in this report,<sup>7</sup> we recognise that it is sensible for our recommendations to be incorporated within the framework of PSNI's initiatives to progress the HMIC recommendations. However, we consider that Recommendation 37(b) remains outstanding and urge the PSNI to move forward with this work as a matter of priority. We will report in detail on the status of this work in next year's human rights annual report.

### PSNI Policy on firearms tactical advisors

In our 2005 Annual Report, we highlighted that this policy employs an unfortunate reliance on cross-referencing to other policies, which we considered unsuitable for human rights obligations. In light of that observation, we made the recommendation that the policy set out the relevant human rights obligations in the policy itself and include a review date.<sup>8</sup> In its Human Rights Programme of Action 2005-2006, the PSNI agreed to this recommendation in principle and indicated that the amendments will be incorporated into the work to progress the HMIC recommendations.<sup>9</sup> Again, we welcome the PSNI's agreement to implement these recommendations but regret the extension of the timeframe for implementation to March 2007. We acknowledge that the review of the policy should sensibly occur within the framework of the PSNI's initiatives to progress the HMIC recommendations. However, we consider that Recommendation 37(c) remains outstanding and urge the PSNI to move forward with this work as a matter of urgency. Again, we will report on the status of this work in next year's human rights annual report.

### PSNI Policy on use of forced entry techniques

In our 2005 Annual Report, we observed that this policy provided clear guidance to officers, referring explicitly to the relevant Articles of the European Convention on Human Rights. However, we highlighted that the policy failed to include any analysis of the application of the relevant Articles of the European Convention on Human Rights. We therefore recommended that the policy should be amended and cross-refer to the PSNI Code of Ethics.<sup>10</sup> In its Human Rights Programme of Action 2005-2006, the PSNI indicated that this policy has been

#### NOTES

- 4 2005 Annual Report, Recommendation 37(b), p.171.
- 5 HMIC Review of PSNI Compliance and its Statement of Intent on the Police Use of Firearms and Less Lethal Weapons (2006).
- 6 PSNI's Human Rights Programme of Action 2005-2006, p.25.
- 7 At p.10.
- 8 2005 Annual Report, Recommendation 37(c), p.171.
- 9 PSNI's Human Rights Programme of Action 2005-2006, p.25.
- 10 2005 Annual Report, Recommendation 37(d), p.171.

revised in accordance with our recommendation and is ready for dissemination.<sup>11</sup> We have reviewed the new policy and consider Recommendation 37(d) to be implemented in full.

### PSNI monitoring of uses of force

In our 2005 Annual Report, we observed that although PSNI officers are required to record all incidents involving the use of force, that information is not currently monitored. As we have already indicated, it is critical for compliance with the Human Rights Act 1998 that the PSNI have robust internal procedures for monitoring all uses of force and investigating potential breaches of Articles 2 and 3 of the European Convention on Human Rights arising from the use of force. In our 2005 Annual Report, we noted that the PSNI was consulting internally on a generic Use of Force Monitoring Form which had been designed to record all uses of force, from physical restraint to the use of water cannon and the discharge of a firearm. We have been informed by the PSNI that its Information and Communication Services are currently investigating the technical implications of bringing this form on-line. The form is not therefore currently operative and the PSNI has not supplied the Policing Board with general statistics collated on the use of force.

It is the case that the PSNI already provides to the Policing Board details on the deployment and use of AEP impact rounds and CS spray. The Policing Board also reviews all Regulation 20 Reports produced by the Police Ombudsman which address all discharges of firearms. To that extent, we consider Recommendation 36 of our 2005 Annual Report to be partially implemented. However, we consider it important that the PSNI collate all uses of force by its officers at one central point to afford effective monitoring, trending and tracking. We will therefore continue to monitor the full implementation of this recommendation. To that extent, Recommendation 36 remains outstanding. We will report further on this in next year's human rights annual report.

### PSNI use of public order equipment

In our 2005 Annual Report, we reviewed all PSNI policies, guidelines and training on the use of public order equipment for compatibility with human rights. We set out below a summary of our 2005 recommendations and the PSNI's response.

### PSNI Policy on deployment and use of AEP impact rounds

In our 2005 Annual Report, we recommended a number of amendments to the PSNI's policy on the deployment and use of baton rounds, including that the requirements of Article 2 of the European Convention on Human Rights be set out for officers to consider before baton guns are deployed and used; that concepts such as lawful and proportionate should be defined and the application of the relevant Articles of the European Convention on Human Rights be explained in the particular context, and that the policy be reviewed in light of the introduction of other potentially less lethal alternatives, in particular water cannon and CS spray.<sup>12</sup> Following the replacement of baton rounds with AEP impact rounds in 2005, the PSNI issued a new AEP Impact Rounds Policy<sup>13</sup> in June 2005. The policy reiterates that the AEP impact round has not been designed for crowd control use, but is intended for use as a less lethal option in situations where police officers are faced with individual aggressors, whether such aggressors are acting on their own or as part of a group.<sup>14</sup> The policy states that the AEP impact round is intended for use as an accurate and discriminating projectile.<sup>15</sup> The test for use is when absolutely necessary to avoid loss of life or serious injury.

The AEP Impact Rounds Policy vests authority to issue AEP impact rounds in planned public order situations in the Gold Commander.<sup>16</sup> Express authority to deploy and use AEP impact rounds is vested in the Silver

#### NOTES

- 11 PSNI's Human Rights Programme of Action 2005-2006, p.25.
- 12 2005 Annual Report, Recommendation 37(e), p.171.
- 13 General Order 21/2005.
- 14 General Order 21/2005, para.2(4)(a).
- 15 General Order 21/2005, para.2(4)(b).
- 16 General Order 21/2005, para.10 .

Commander. Before a decision to use AEP impact rounds is put into effect, a designated senior officer must, by way of an on the ground assessment, confirm to the Silver Commander that the use of AEP impact rounds is justified.<sup>17</sup> Authorisation to deploy must be kept under review for the lifetime of the operation.<sup>18</sup>

We consider the AEP Impact Rounds Policy to be clear and comprehensive. It explicitly states that AEP impact rounds must be used as a discriminating projectile and defines the circumstances in public order situations when AEP impact rounds can be deployed and used. The ACPO guidance attached to the AEP Impact Rounds policy refers to Article 2 of the European Convention on Human Rights and the absolute necessity test. In our view, the new policy addresses the deficiencies we highlighted in the previous policy on baton rounds. We therefore consider Recommendation 37(e) of our 2005 Annual Report to be implemented in full.

We highlighted in our Special Report on the Ardoyne and Whiterock Parades 2005 that the Urban Region Gold Strategy for Parades 2005<sup>19</sup> departed from the AEP Impact Rounds Policy in requiring that express permission of Gold Command (rather than Silver Command) must be obtained before AEP impact rounds are deployed.<sup>20</sup> This had been Urban Region strategy historically and imposed a more strict command structure for the deployment of AEP impact rounds than that set out in the AEP Impact Rounds Policy. We suggested in our Special Report on the Ardoyne and Whiterock Parades 2005 that the PSNI Urban Region Strategy document and PSNI policy documents should be reconciled and we reported that we had verified that this has now happened: as a result of an internal PSNI debrief held on 16th July 2005, the command structure was aligned so that Gold Command now vests authority for deployment of AEP impact rounds in Silver Command in advance of public order policing operations. We welcome this development.

As we observed in our Special Report on the Ardoyne and Whiterock Parades 2005, AEP impact rounds were discharged for the first time during the serious violence that erupted shortly after the Ardoyne Parade on 12th July 2005.<sup>21</sup> We made general findings regarding the PSNI use and deployment of AEP impact rounds on 12th July 2005 and 10th – 11th September 2005 in our Special Report on the Ardoyne and Whiterock Parades 2005.<sup>22</sup> These findings are summarised in chapter 7 below.<sup>23</sup> In addition, we noted that all discharges of live fire and AEP impact rounds by the PSNI are automatically referred to the Police Ombudsman for investigation. The Police Ombudsman's investigations into the use of AEP impact rounds by the PSNI in 2005 are currently ongoing. Once published, we will review the Police Ombudsman's report and refer to the findings of the Report in our next annual report.<sup>24</sup>

The Joint Committee on Human Rights issued its report on the UK's compliance with the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment at the end of May 2006.<sup>25</sup> The Joint Committee rejected the contention that AEP impact rounds could never be used. It took the position that AEP impact rounds can be used against individual aggressors in riot situations and can be justified in human rights terms as a proportionate response to serious violence which threatens the lives of police or the public. It recommended that the use of AEP impact rounds should continue to be subject to close scrutiny. The Joint Committee also suggested that PSNI guidance on the use of AEP impact rounds should make clear that AEP impact rounds should only be used in circumstances where live fire could otherwise be used. There is a danger that this might inadvertently affect the threshold for the use of live fire. Nonetheless, we recommend that the PSNI should consider it as a suggestion.

#### NOTES

- 17 General Order 21/2005, para.11(2).  
 18 General Order 21/2005, para.12(1).  
 19 Published in December 2005.  
 20 Urban Region Gold Strategy 2005, para.5.6.  
 21 Plastic baton rounds, the predecessor to AEPs, were last used in Northern Ireland on 11th September 2002.  
 22 Special Report on the Ardoyne and Whiterock Parades 2005.  
 23 At p.60 below.  
 24 Special Report on the Ardoyne and Whiterock Parades 2005, para. 233.  
 25 Joint Committee on Human Rights 19th Report, The UN Convention Against Torture, HL Paper 185-I, HL 701-I published on 26 May 2006.

**Recommendation 27: The PSNI should consider the suggestion made by the Joint Committee on Human Rights that guidance on the use of AEP impact rounds make clear that AEP impact rounds should only be used in circumstances where live fire could otherwise be used.**

#### PSNI Policy on deployment and use of water cannon

The PSNI Water Cannon policy was reviewed in January 2005. In our 2005 Annual Report, we highlighted concerns regarding the human rights section of the Water Cannon policy, which we felt merely set out the relevant Articles of the European Convention on Human Rights, without any real elaboration. We made a number of recommendations for improvement of the policy.<sup>26</sup>

In its Human Rights Programme of Action 2005-2006, the PSNI indicated that it agreed with our recommendation regarding the Water Cannon policy and that these amendments would be included in a consolidated Public Order Policy Directive.<sup>27</sup> The PSNI's draft Directive on the use of force incorporates the PSNI's Water Cannon policy, which has been revised in light of our recommendation. We therefore consider Recommendation 37(f) to be implemented in full.

#### Training in the deployment and use of water cannon

The number of officers currently trained in the deployment and use of water cannon is 56, comprising 28 officers in both Urban and Rural Regions.<sup>28</sup> In our 2005 Annual Report, we reviewed the course material on the deployment and use of water cannon. In general, we found the course materials to be clear and comprehensive. Although we considered the water cannon cannoneer programme to cover several key areas required for human rights compliance, we recommended (in line with our recommendations on the Use of Force Policy) that the legal basis section in the human rights and use of force element be amended to include reference to Article 2 of the European Convention on Human Rights and the absolute necessity test, and that officers should be reminded that water cannon, like all applications of force, have the potential for unintended serious injury or loss of life.<sup>29</sup> In light of our finding that the course competencies did not include an assessment of the officer's knowledge of the use of force and/or human rights, we also recommended that the competency form should be amended to include a competency assessing the officer's knowledge of the law on the use of force and human rights as a core course competency.<sup>30</sup>

In our 2005 Annual Report, we also reviewed the water cannon commanders' course. We observed that the water cannon commanders' course did not require human rights or use of force knowledge as a pre-requisite to completion. The law on the use of force and human rights was not included as a core component in either the Command Structure or the Water Cannon General Order and ACPO guidelines lesson plans. We therefore recommended that the lesson plans for the commanders' course be amended to explicitly include human rights and the law on the use of force. We also recommended that the water cannon commanders' course include the human rights knowledge check used in the water cannon cannoneers' course as a tool to assess officers' knowledge on the law relating to the use of force and that the competency form be amended to include a competency assessing the officer's knowledge of the law on the use of force and human rights as a core course competency.<sup>31</sup>

As we have already reported in chapter 2,<sup>32</sup> in its Human Rights Programme of Action 2005-2006, the PSNI indicated that it accepted all of our recommendations on training and in the autumn of 2005 it appointed

#### NOTES

- 26 2005 Annual Report, Recommendation 37(f), p.171.  
 27 PSNI's Human Rights Programme of Action 2005-2006, p.26.  
 28 Letter from ACC Operational Support to NIPB's human rights advisors dated 5th June 2005.  
 29 2005 Annual Report, Recommendation 40(a), p.171.  
 30 2005 Annual Report, Recommendation 40(b), p.172.  
 31 2005 Annual Report, Recommendations 40(c) and (d), p.172.  
 32 At p.6.

Human Rights Consultants.<sup>33</sup> In their April 2006 Report, the Consultants indicated that they had gathered and reviewed all relevant course materials for the water cannoneers and water cannon commanders' course. In their May 2006 Action Plan, the Consultants indicated that they incorporated all the parts of our 2005 Annual Report recommendation on water cannon training<sup>34</sup> into the training material.<sup>35</sup> The Consultants have not however observed the delivery of these courses.

We have reviewed the lesson plan on Human Rights and Police Use of Force for the Water Cannon Cannoneers' Course and the Water Cannon Commanders' Course. We have also reviewed the competency forms for each course. We are satisfied that Recommendations 40(a) to (d) of our 2005 Annual Report have been implemented.

### Reports on the deployment and use of water cannon

In our 2005 Annual Report, we made the recommendation that the PSNI provide reports to the Policing Board on a quarterly basis of all incidents where water cannon have been deployed and used, setting out details of the incident, including the location, time and date, a summary of events, the authority for deployment and use and details of injuries sustained and/or damage to property.<sup>36</sup> In its Human Rights Programme of Action 2005-2006, the PSNI agreed to provide reports in the form outlined, indicating that the information requested would be collated by PSNI Operational Support Department using the Use of Force Monitoring Form.<sup>37</sup> However, in light of the infrequent use of water cannon, the PSNI proposed to submit these reports to the Policing Board on a six-monthly basis. We agree to amendment of Recommendation 38 on these terms.

Due to the delay in introducing the Use of Force Monitoring Form, no reports on the use of water cannon have been supplied to the Policing Board to date. However, we note that the PSNI has provided us with a copy of an internal review of the use of water cannon in 2005 which we discuss below. We welcome the PSNI's attempts to satisfy this recommendation at least in part. But we re-iterate Recommendation 38 of our 2005 Annual Report and will report on the PSNI's progress in implementing this recommendation in full in next year's human rights annual report.

**Recommendation 28: The PSNI should provide reports to the Policing Board on a six-monthly basis of all incidents where water cannon have been deployed and used, setting out details of the incident, including the location, time and date, a summary of events, the authority for deployment and use and details of injuries sustained and/or damage to property.**

In our 2005 Annual Report, we also made the recommendation that the PSNI assign responsibility internally for reviewing, on a six-monthly basis, all instances where water cannon had been deployed and used and for issuing guidelines on best practice further to these internal reviews. Further, we recommended that the PSNI provide the Policing Board with a summary of the conclusions of this six-monthly internal review.<sup>38</sup> The PSNI has agreed to this recommendation but has suggested that due to the seasonal and limited use of water cannon, an annual review would be more appropriate. We accept this amendment to Recommendation 39.

We have been provided with the PSNI Review of Water Cannon dated 15th July 2005. PSNI Operational Policy Support conducted this review through internal consultation (by questionnaire and interview) in mid-2005. We have reviewed the report. No concerns were raised during the review regarding the content of the Water Cannon Policy, which was considered to be relevant and fit for purpose. Five key issues were raised during the internal consultation process. The first issue highlighted confusion regarding the use of force and the use of

#### NOTES

- 33 Human Rights Consultants in association with the Centre for Criminal Justice at Glasgow Caledonian University.  
 34 2005 Annual Report, Recommendation 40, p.171.  
 35 May 2006 Consultants' Action Plan, pp.7-8.  
 36 2005 Annual Report, Recommendation 38, p.171.  
 37 PSNI's Human Rights Programme of Action 2005-2006, p.27  
 38 2005 Annual Report, Recommendation 39, p.172.

alternative types of public order equipment, in the context of a flexible graduated response. The report indicated that some police officers believed that a Gold Commander could not authorise the use of AEP impact rounds until water cannon had been deployed, used and failed to achieve the desired effect. The perception was that one course of action must be attempted and have failed before another is attempted. The report recommended "clear guidance should be given dispelling the myth of a hierarchy of options for use of force tactics. Specifically that the use of water cannon is NOT [PSNI emphasis] a pre-requisite to the use of impact rounds".

The second and third issues related to requests by PSNI Combined Operational Training (COT) to be informed of the recruitment criteria for the selection of water cannon crews and the identification of a set number of crews to be trained. The report recommended that COT exercise closer liaison with PSNI Operational Command Unit (OCU) to establish and agree the selection criteria and the potential numbers for training.

The fourth issue related to training in the deployment and use of water cannon. TED suggested that some form of licensing should be introduced for drivers of water cannon to ensure regular refresher training is undertaken to maintain the competence required to operate the water cannon. The report recommended that TED progress this issue.

Finally, Transport Services Branch suggested a number of technical amendments to the Water Cannon policy. The report recommended that the changes should be implemented and that a new appendix dealing with procedures for servicing/maintenance and breakdown of the water cannon be included in the policy.

In September 2005, Operational Policy Support forwarded the report to the relevant departments within PSNI for information and necessary action. We have been informed by the PSNI that all of the five issues raised during the internal consultation process have been or will be addressed.

We commend the PSNI for its pro-active response to addressing the issues raised in its internal consultation on the use of water cannon. This demonstrates the value of an annual review of the deployment and use of water cannon which we consider to be a productive and necessary exercise to ensure the operational use of water cannon complies with the requirements of the Human Rights Act 1998. We consider that the review mechanism the PSNI has established implements Recommendation 39 of our 2005 Annual Report in full, but remind the PSNI of the continuing nature of this recommendation. We will monitor and evaluate this annual internal review of the deployment and use of water cannon and report on it in our subsequent human rights annual reports.

### PSNI use of CS incapacitant spray

The PSNI introduced hand-held incapacitant spray (CS spray) on 1st July 2004. On 6th August 2004, the Police Ombudsman and the Chief Constable agreed that all use of CS spray from that date would be referred to the Police Ombudsman.<sup>39</sup> This agreement was made at the request of the Chief Constable and kept in place until 31st December 2004 to allow the PSNI to identify trends and/or patterns emerging from the first six months of use of CS spray and to address any issues arising.<sup>40</sup>

### Police Ombudsman report on the first six months' use of CS spray

In January 2006, the Police Ombudsman published her report on complaints and Chief Constable referrals received in relation to the use of CS spray in 2004.<sup>41</sup> The report made a number of findings. It recorded 60 CS spray incidents between 1st July 2004 and 31st December 2004. The 60 incidents included 59 referrals from the Chief Constable and 31 complaints from members of the public. Coleraine DCU recorded the highest number of CS Spray incidents, with nine incidents over the period. In total, the Greater Belfast area recorded

#### NOTES

- 39 Under the Police (Northern Ireland) Act 1998, s.55(4).  
 40 Office of the Police Ombudsman Policy and Practice Directorate Bulletin, *Analysis of CS Spray use during 2004*, Foreword by Nuala O'Loan (January 2006).  
 41 Police Ombudsman CS Spray Report 2004.

ten CS spray incidents during the period.<sup>42</sup> The report indicated that the rollout of training for officers on the use of CS spray may have influenced these figures: PSNI Rural Region were much faster at rolling out training on the use of CS spray to officers, with the result that officers in Rural Region were issued with and able to use CS spray before their counterparts in Urban Region.<sup>43</sup>

The vast majority of CS spray incidents recorded between 1st July 2004 and 31st December 2004 (51) occurred in open areas. The most frequent location was in the street (38 incidents). In four of the 60 incidents, CS spray was discharged in an enclosed area. These included two discharges in response to domestic disturbances, one in the course of a property search and one in a custody suite.<sup>44</sup> In more than two-thirds of the CS spray incidents, there was only one person targeted. In six incidents, there were two targets and in eight incidents, there were more than two targets.<sup>45</sup> 35 of the incidents took place at the weekend, with more than 65% of incidents (43) taking place between the hours of midnight and 6.00am.

In 80% of incidents, a warning was issued prior to the discharge of CS spray. In 52 of the incidents (88%), there was no evidence of CS spray being discharged against an individual who had already been handcuffed. CS spray was discharged against a restrained individual in two of the 60 incidents.<sup>46</sup>

As Table 1 below indicates, more than 50% of incidents recorded related to a police response to public disorder situations.

**Table 1: Type of CS spray incident, 1st July – 31st December 2004<sup>47</sup>**

Type of Incident	Frequency	% of incidents
Public disorder	32	53.3%
Domestic dispute	7	11.7%
Other	19	31.7%
Unknown	2	3.3%
<b>Total</b>	<b>60</b>	<b>100.0%</b>

On 28th October 2004, the Police Ombudsman provided the Chief Constable with a preliminary analysis of CS spray incidents to date. One of the issues outlined was the use of CS spray in public order events. The Police Ombudsman referred to the difficulties with using CS spray as a 'dispersal' weapon in terms of its indiscriminate nature and the likelihood of an adverse impact on innocent bystanders (members of the public were reported as having been affected by the CS spray discharge in 12, or 20%, of incidents), contamination of fellow officers (12 incidents resulted in at least one PSNI officer being affected by the CS spray discharge) and the wider impact of community confidence in the police.<sup>48</sup> The Police Ombudsman report stated that the use of CS spray in public order situations needed to be monitored and concluded that the use of CS spray as a crowd dispersal tool is inappropriate due to the high possibility of cross-contamination. As noted below,<sup>49</sup> the section of the CS spray policy which sets out when CS spray should not be used<sup>50</sup> has now been amended to address this concern.

Table 2 shows the reasons recorded by officers in 2004 for the use of CS spray. These disclose that CS spray was said to have been used in self-defence in over 50% of incidents (43) and to protect the public or protect colleagues in just under 40% of incidents (33).

#### NOTES

42 Ibid. at p.9.

43 Ibid.

44 Ibid. at p.10.

45 Ibid. at p.14.

46 The Police Ombudsman Report records (at p. 13) that in one of these incidents, it was clear from CCTV footage that the subject was on the ground and being restrained by three police officers. In the other incident, the subject was sprayed four times, twice before he was restrained and twice afterwards. The subject was initially resisting arrest, kicking and spitting at police officers and for this reason was sprayed on a further two occasions, the last of which occurred when the detained person had been placed in a cellular police van.

47 Police Ombudsman CS Spray Report 2004, p.18.

48 Ibid. at p.12.

49 At p.84.

50 Unless the nature of the risk to the officer is such that this cannot be avoided.

**Table 2: Stated circumstances of use of CS spray, 1st July – 31st December 2004<sup>51</sup>**

State reason for use	Frequency*	% of incidents
Self-defence	43	50.6%
Protection of public	14	16.5%
Protection of colleague(s)	19	22.4%
Other	9	10.6%
<b>Total</b>	<b>85</b>	<b>100.0%</b>

\* More than one reason could be given for CS spray use

As Table 3 below indicates, in 44 incidents (73.3%), at least one arrest was made following the use of CS spray, whilst in ten incidents no arrest was made. In the majority of cases where no arrest was made, the Police Ombudsman report recorded that this was because the CS spray use related to a public order incident and the police were either outnumbered or the crowd dispersed after the CS spray discharge.<sup>52</sup>

**Table 3: Outcomes of CS spray incidents, 1st July – 31st December 2004<sup>53</sup>**

Target arrested	Frequency	% of incidents
Yes	44	73.3%
No	10	16.7%
Missing	6	10.0%
<b>Total</b>	<b>85</b>	<b>100.0%</b>

Table 4 sets out the status of complaints made to the Police Ombudsman between 1st July and 31st December 2004 concerning the use of CS spray. It indicates that by 31st August 2005, 52 of the 90 complaints/Chief Constable referrals received were still being investigated. Of the 38 cases closed, 50% (19 cases) were closed under the head 'not substantiated – no further action' whilst 21% (8 cases) were closed due to non-cooperation of the complainant. 15 of the 90 complaints/Chief Constable referrals have been sent to the Public Prosecution Service. Only one of these cases recommended prosecution for unlawfully administering a noxious substance.<sup>54</sup> The Police Ombudsman investigations have resulted in one officer receiving advice and guidance on the correct after-care procedures to be employed after using CS spray.<sup>55</sup>

**Table 4: Status of CS spray cases, 1st July – 31st December 2004<sup>56</sup>**

Status	Frequency	%
Closed - non co-operation	8	9%
Closed - outside remit	1	1%
Investigated	52	58%
Closed - ill-founded	1	1%
Closed - outside remit (policy)	1	1%
Closed - PONI call-in/call-out N.F.A.	4	4%
Closed - not substantiated - no further action	19	21%
Closed – Reg. 23 withdrawn	2	2%
Closed – informal disc/misc. action recommended	1	1%
Closed - policy recommendation	1	1%
<b>Total</b>	<b>90</b>	<b>100%</b>

#### NOTES

51 Police Ombudsman CS Spray Report 2004, p.18.

52 Ibid. at p.14.

53 Ibid. at p.19.

54 The remaining 14 cases recommended that no further action be taken.

55 Police Ombudsman CS Spray Report 2004, p.15.

56 Ibid. at p.20.

The Police Ombudsman report noted that the first six months following introduction of CS spray on 1st July 2004 coincided with a 7% increase in the number of allegations of oppressive behaviour for the same period in the previous year. However, the number of allegations involving the use of batons fell by 28% when compared to the same period in the previous year and the number of allegations involving firearms or the discharge of firearms has followed a similar pattern.<sup>57</sup> Table 5 sets out the pattern of allegations involving the use of batons, firearms and CS spray for the period 2001/2002 – 2004/2005. As the table demonstrates, the reduction in the number of allegations involving batons and firearms over this four year period is significant.

**Table 5: Allegations involving use of force, 2001/2002 – 2004/2005<sup>58</sup>**

Year	Total allegations involving batons	Total allegations involving firearms	Total allegations involving CS spray
2001/02	312	48	n/a
2002/03	242	34	n/a
2003/04	174	21	n/a
2004/05	99	12	94*

\* CS spray introduced on 1st July 2004.

The Police Ombudsman report included a summary of recommendations to date from published Regulation 20 reports regarding the use of CS spray. These included recommendations that CS spray not be used at a distance of less than one metre or on a restrained or handcuffed subject and that all custody officers be reminded of the need for enhanced cell supervision when dealing with detainees exposed to CS spray.<sup>59</sup>

The CS spray policy has been revised to include guidance to officers on the carriage and use of CS spray in custody suites. The policy instructs officers that CS spray should not be routinely carried within the custody suite and its use within the confines of the custody suite “must only be in the most exceptional circumstances. CS spray should *not* [PSNI emphasis] be used in an enclosed area or upon a subject who is restrained or handcuffed, unless the nature of the risk to the officer or the other person is such that this cannot be avoided”. Where CS spray is used within a custody suite, the CS spray policy requires PSNI staff to provide aftercare for all persons affected and to record a full account of the incident in the custody record of any affected detainees.

The Police Ombudsman report’s overall finding was that despite its relatively recent introduction in Northern Ireland, and subject to a few exceptions, “the use of CS spray has been justified and proportionate given the circumstances prevailing at the time”.<sup>60</sup>

### PSNI Policy on CS spray

In our 2005 Annual Report, we observed that the PSNI’s policy on CS spray was clear and comprehensive. We made two minor recommendations to improve the policy - first, that the policy underline that CS spray is not intended for large-scale public order use but rather is for use in individual incidents of disorder (in line with ACPO Guidance) and second, that the policy be amended to include a requirement that each use of CS spray be reviewed by the relevant District Commander.<sup>61</sup> In its Human Rights Programme of Action 2005-2006, the PSNI indicated that this recommendation has been implemented, that appropriate guidance has been issued and that each use of CS spray is recorded, reviewed and signed off by the relevant District Commander.<sup>62</sup>

#### NOTES

- 57 Ibid. at p.15.  
 58 Ibid. at p.20.  
 59 Ibid. at p.17.  
 60 Ibid.  
 61 2005 Annual Report, Recommendation 37(g), p.171.  
 62 PSNI’s Human Rights Programme of Action 2005-2006, p.28.

The PSNI CS spray policy has been amended and re-issued on two occasions<sup>63</sup> since the publication of our 2005 Annual Report. Revisions were made to the policy to take account of the recommendations in our 2005 Annual Report, the Police Ombudsman’s report recommendations<sup>64</sup> and findings emanating from the PSNI’s own internal review of the use of CS spray in 2005.<sup>65</sup> The section of the policy which sets out when CS spray should *not* be used<sup>66</sup> now includes “(d) as a crowd dispersal tactic (due to the possibility of other officers and innocent bystanders being affected)”. The policy requires all officers to record deployment and/or use of CS spray, together with any warnings given, in their personal notebooks. The policy further requires officers to bring the deployment and/or use of CS spray to the attention of their supervisor as soon as possible after the device is used.

Each officer using CS spray must complete an Occurrence Report which is signed off by the officer’s supervisor and referred to the District Commander. The Occurrence Report requires the supervisor to indicate whether there has been any breach of discipline. Following review by the District Commander, the Occurrence Report is forwarded to ACC Operational Support and the Head of Internal Investigation Branch. Where a breach of discipline has been identified, the Head of Internal Investigation Branch appoints an investigating officer to conduct an investigation. We consider that this implements Recommendation 37(g) of our 2005 Annual Report in full.

### PSNI Reports on use of CS spray

In our 2005 Annual Report, we recommended that the PSNI provide reports to the Policing Board on a quarterly basis of all incidents involving the deployment and discharge of CS spray.<sup>67</sup> In its Human Rights Programme of Action 2005-2006, the PSNI agreed to our recommendation.<sup>68</sup> As noted above, the use of CS spray has been recorded by the PSNI since its introduction in July 2004.<sup>69</sup> Statistics on the use of CS spray for the period 1st April 2005 to 31st March 2006 have been provided to the Policing Board.<sup>70</sup> We set out below our analysis of the statistics on the use of CS spray for the period.

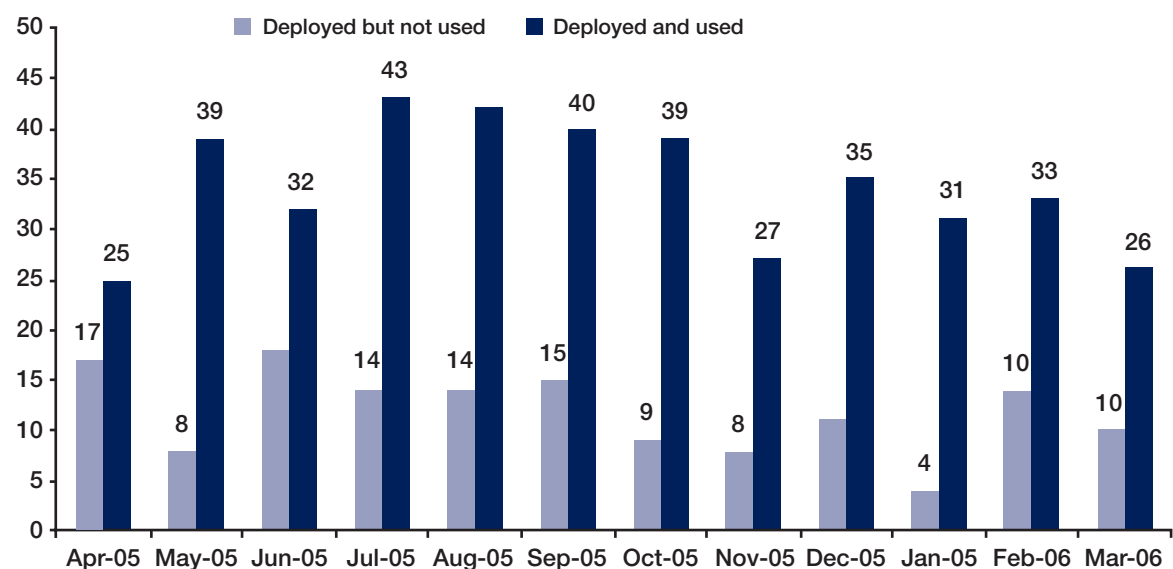
### Use of CS spray, 1 April 2005 - 31 March 2006

The deployment and use of CS Spray for the period is set out in Figure 1 below.<sup>71</sup> There were 554 deployments of CS spray in the 12 month period. 74.4% of these deployments (412) resulted in the use of CS spray. The highest number of deployments resulting in use of CS spray were in July – September 2005.

Figure 1 compares the number of instances where CS spray was deployed and not used with the number of instances where CS spray was deployed and used for the period 1st April 2005 to 31st March 2006. The highest number of deployments resulting in CS spray being used was in July 2005 (43), the lowest in April 2005 (25).<sup>72</sup>

#### NOTES

- 63 On 31st May 2006 and 3rd February 2006.  
 64 Discussed above at pp.80-83.  
 65 Discussed further below at pp.86-87.  
 66 Unless the nature of the risk to the officer is such that this cannot be avoided.  
 67 Setting out details of the incident, including the location, time and date, a summary of events, the authority for deployment and details of injuries sustained and/or damage to property: 2005 Annual Report, Recommendation 41, p.172.  
 68 PSNI’s Human Rights Programme of Action 2005-2006, p.28.  
 69 The PSNI has indicated that collation of statistics on the use of CS spray will be enhanced with the introduction of the Use of Force Monitoring Form, which will contain information on location, date, time, injuries sustained, damage to property and other additional information relevant to the incident.  
 70 *Statistics on the Use of CS Spray 1st April 2005 to 31st March 2006*, PSNI Central Statistics Unit.  
 71 Ibid.  
 72 Ibid.

**Figure 1: Use of CS spray - 1st April 2005 to 31st March 2006**

The statistics provided by the PSNI to the Policing Board set out details of the number of deployments and/or uses of CS spray according to each DCU, as well as a very short summary of the nature of the incident of each deployment and/or use. The greatest number of deployments of CS spray in the period occurred in North Belfast DCU (60 deployments). Over 90% of these deployments (56) resulted in CS spray actually being used. The number of deployments that resulted in CS spray being used was second highest in Craigavon DCU, where it was deployed on 54 occasions and used on 34 occasions. The third highest usage of CS spray was in Omagh DCU, where out of 34 deployments, CS spray was used on 29 occasions, closely followed by Strabane DCU, where CS spray was used in 28 of the 29 occasions of deployment. The lowest number of deployments resulting in the use of CS spray was in Antrim DCU (two uses out of a total of four deployments) followed by Castlereagh DCU (three uses out of four deployments) and Banbridge DCU (three uses out of eight deployments).<sup>73</sup>

Following consideration of the PSNI's report on the deployment and use of CS spray for the year 1st April 2005 – 31st March 2006 by the Policing Board's Human Rights and Professional Standards Committee in March 2006, the Policing Board wrote to the PSNI requesting further information on the high deployment and use of CS spray in Craigavon, Fermanagh, Moyle, Omagh and Strabane DCUs. The PSNI's response to the Policing Board<sup>74</sup> indicated that for Craigavon DCU, the analysis patterns demonstrated highest usage of CS spray at weekends, to deal with alcohol related incidents against a spectrum of individuals. CS spray was deployed or used in 40 incidents spread throughout the district with no concentration identified within a particular sector or area. In all incidents, a threat of injury to officers or members of the public was identified, whether through the presence of a weapon, actual physical assault or the presence of a hostile crowd.

Higher use in Fermanagh DCU was explained due to a district initiative introduced in April 2005 to police the "night-time economy" in Enniskillen by deploying sector police, operational support units and specialist office staff to provide a high profile presence in the immediate vicinity of licensed premises and congregation points at weekends. As a result of this initiative, police witnessed more assaults taking place and were able to provide an immediate response. Strabane and Omagh DCUs indicated higher use of CS spray in the period due to the same partnership problem solving approach.

**NOTES**

73 Ibid.

74 Letter from Command Secretariat to Policing Board Statistics &amp; Research Branch dated 31st March 2006.

We welcome the PSNI's comprehensive response to the issues raised by the Policing Board. In light of the willingness of the PSNI to engage with the Policing Board and provide further information as requested, we agree to the PSNI's proposal that Recommendation 41 of our 2005 Annual Report be amended to require the PSNI to report to the Policing Board on the deployment and use of CS spray on an annual basis.

However, the statistics provided by the PSNI to the Policing Board on the deployment and use of CS spray do not provide sufficient details of the nature of the incident to allow a full understanding of the circumstances and reasons for its use. Several of the summary reports raise concerns, including instances where CS spray was used against detained or arrested persons without any indication of whether the detainee was handcuffed at the time of use of the spray. Furthermore, the vast majority of the summaries did not record any reference to the giving of warnings. Only two of the reports referred to the issue of a warning, one of which was only to record that no warning was given. This leaves open the question of whether warnings were issued in any of the other occasions, or whether officers merely failed to record whether a warning was issued.

The lack of adequate detail in the information submitted to the Policing Board prevents us from assessing whether, in general terms, the use of CS spray by the PSNI complies with the requirements of the Human Rights Act 1998. We therefore recommend that the PSNI and the Policing Board should revisit Recommendation 41 of our 2005 Annual Report and agree how further information can be supplied to the Policing Board to allow it to monitor more effectively the use of CS spray for compliance with the Human Rights Act 1998.

**Recommendation 29: The PSNI and the Policing Board should revisit Recommendation 41 of the 2005 Annual Report and agree how further information can be supplied to the Policing Board to allow it to monitor more effectively the use of CS spray for compliance with the Human Rights Act 1998.**

**PSNI internal review of use of CS spray**

The CS spray policy indicates that formal evaluations of the deployment and use of CS spray will be carried out by PSNI Operational Support and may include consultation with statutory and non-statutory bodies. In our 2005 Annual Report, we recommended that the PSNI assign responsibility internally for reviewing on a six-monthly basis all uses of CS spray and for issuing guidelines on best practice to police officers further to these internal reviews. Further, we recommended that the PSNI provide the Policing Board with a summary of the conclusions of this six-monthly internal review.<sup>75</sup> In its Human Rights Programme of Action 2005-2006, the PSNI agreed to our recommendation.<sup>76</sup>

The PSNI completed a central review of CS spray twelve months after its introduction. The PSNI has provided us with a copy of the report on that review.<sup>77</sup> The report stated that it should be read in conjunction with recommendations arising from the Police Ombudsman's CS spray report. As part of its central review, the PSNI conducted an internal consultation exercise on the operational aspects of CS spray. The report detailed a number of issues arising from that consultation. It recorded that operational carriage of the spray has bolstered the confidence of officers in dealing with violent individuals. However, it noted that rollout of training in the use of CS spray had been slow. The report recorded officers' uncertainty as to the correct procedure for obtaining refresher training and in particular, whether an officer who failed to attend refresher training within a twelve month period is barred from using CS spray until (s)he attends another initial course. In addition, the report noted some confusion regarding the use of CS spray against multiple attackers and recorded officers' request for clearer guidance on the use of CS spray in crowd (not public order) situations. Guidance was also sought on procedures to be adopted for unused sprays that became contaminated, e.g. by blood.

**NOTES**

75 2005 Annual Report, Recommendation 42, p.172.

76 PSNI's Human Rights Programme of Action 2005-2006, p.28.

77 Review of Operational Aspects of CS Incapacitant Spray 2005.

The PSNI's report recorded that in some areas, it was not feasible to allow time for decontamination of prisoners before placement into a police vehicle due to the prevailing threat of attack upon officers. It noted high levels of cross-contamination in vehicles during transportation and road safety implications (although the report indicated that only one officer had reported unfit for duty due to operational exposure to CS spray).<sup>78</sup> The report recorded problems experienced by officers in the decontamination of custody suites and vehicles. One consultee commented that the removal and bagging of contaminated clothing from a drunk/violent prisoner amounted to an unnecessary risk to officers.

The report concluded that the contamination issues associated with CS spray were operationally the most problematic. It recommended that clearer guidance be provided to officers on the following:

- a) the use of CS spray in crowd situations;
- b) failure to receive annual refresher training;
- c) disposal of contaminated CS spray;
- d) carriage of persons contaminated by CS spray aboard helicopters; and
- e) carriage of CS spray during planned public order events.

We welcome the PSNI's review of the operational use of CS spray and its transparency in providing full disclosure to the Policing Board of the findings of its internal review. We note that the revised CS spray policy satisfies recommendation (a) of the PSNI's report. The revised policy also includes guidance to officers on the disposal of contaminated CS spray in satisfaction of recommendation (c) - where CS spray has been discharged and has become contaminated by a hazardous/noxious substance, the policy requires officers to place the CS spray canister in a tamper evident bag clearly marked with (i) health hazard type and (ii) a description of the nature of the contamination. Where CS spray has not been discharged but has become contaminated, canisters must be packaged in the same way.

The PSNI has informed us that the Personal Safety Programme is currently being revised to include a requirement for annual refresher training in satisfaction of recommendation (b). We have been advised in response to recommendation (d) of the PSNI's report that the military NI Policy Branch and PSNI Joint Helicopter Command will not authorise the carriage of persons contaminated by CS spray in military helicopters and districts have been informed accordingly. Finally, in response to recommendation (e), the PSNI has carried out two sets of scientific experiments to test the integrity of CS spray canisters when exposed to petrol bombs. A PSNI Health and Safety report in May 2006 concluded that officers could carry CS spray during public order events providing they adhered to relevant drills and that fire extinguishers were also available. We commend the PSNI for its proactive response to implementing the recommendations made in its internal review of the use of CS spray. This demonstrates the value of an internal review mechanism, which we consider to be a productive and necessary exercise to ensure the operational use of CS spray complies with the requirements of the Human Rights Act 1998. We are satisfied that an annual rather than a six-monthly review is adequate. We therefore consider that, providing it is conducted annually, this internal review mechanism established by the PSNI implements Recommendation 42 of our 2005 Annual Report in full, but remind the PSNI of the continuing nature of this recommendation. We will monitor and evaluate the annual internal review of the deployment and use of CS spray and report on it in our annual human rights reports.

## PSNI proposal to introduce TASER

In March 2005, the Home Secretary agreed that the Chief Police Officers of all forces in England and Wales could make TASER available to authorised firearms officers, as a potentially less lethal alternative, for use in situations where a firearms authority had been granted.<sup>79</sup> The PSNI is currently considering whether to equip a limited number of officers with TASER. We are advising the Policing Board on the human rights issues raised by the use of TASER and will report in due course.

### NOTES

<sup>78</sup> The officer was involved in the arrest of a disorderly male and was in close proximity to the offender at the time CS spray was discharged. The officer remained unfit for one day with symptoms described as 'nausea and vomiting'.

<sup>79</sup> In accordance with criteria set down in the ACPO Manual of Guidance on Police Use of Firearms.

## PSNI reports to the Policing Board

In our 2005 Annual Report, we reviewed the process by which incidents of the firing of AEP impact rounds and incidents of serious public disorder are reported to the Policing Board. We expressed concern about the speed and consistency with which reports on serious public disorder are submitted to the Policing Board. We therefore recommended that the PSNI submit reports on serious public disorder to the Policing Board within 7 days of such incidents.<sup>80</sup> In its Human Rights Programme of Action 2005-2006, the PSNI reported that it already met this recommendation, indicating that reports on serious public disorder were normally submitted to the Policing Board immediately following such incidents. In cases of protracted disorder (continuing beyond 24 hours), the PSNI submitted interim reports to the Policing Board 24 hours after the commencement of the disorder and every 12 hours thereafter until cessation of the disorder, upon which a final report was submitted.

The Policing Board has received reports on the use of AEP impact rounds and reports on serious public disorder from the PSNI since 13th May 2002. In the period 1st November 2004 to 31st May 2005, one report on serious public disorder was submitted to the Policing Board. (No reports on the use of AEP impact rounds were submitted as impact rounds had not been deployed or used during that period.) The report on serious public disorder concerned an incident on the 22nd May 2005 at the Ardoyne shop fronts.<sup>81</sup> In the period 1st April 2005 to 29th June 2005, two reports on serious public disorder were submitted to the Policing Board. Between June and August 2005, two reports on the use of AEP impact rounds were submitted to the Policing Board. One concerned the 12th July Ardoyne parades in North Belfast. The second report concerned another incident in North Belfast on 4th August.<sup>82</sup> One serious public disorder report was submitted in the same period relating to an incident on 17th June 2005 in North Belfast.<sup>83</sup> In the period September - October 2005, there were four reports on the use of AEP impact rounds and nine reports on serious public disorder submitted to the Policing Board. From October to December 2005, one report of serious public disorder was submitted.

We welcome the PSNI's commitment to submitting reports on serious public disorder and on the use of AEP impact rounds. However, we remain concerned about the delays in submission of these reports. We therefore consider Recommendation 37(i) to be implemented in part and re-iterate that part of the recommendation requiring the PSNI to submit these reports within seven days of the relevant incident.

**Recommendation 30: The PSNI should submit reports on serious public disorder to the Policing Board within seven days of such incidents.**

## PSNI post-incident procedures

In our 2005 Annual Report, we recommended some minor improvements to the PSNI policy on post-incident procedures, including that the policy set out explicitly the requirements of investigations into deaths howsoever caused, that it refer to victims and victims' families, that it requires police officers to notify relatives/close friends of an injured or affected person at the earliest opportunity<sup>84</sup> and that the policy should set out the rights of police officers who are the subject of investigation following a death.<sup>85</sup> In its Human Rights Programme of Action 2005-2006, the PSNI indicated that the review and revision of the policy would be incorporated into work to progress the HMIC recommendations.<sup>86</sup>

We acknowledge that the review of this policy should sensibly occur within the framework of the PSNI's initiatives to progress the HMIC recommendations. We understand that the policy has now been revised and will be issued shortly. We therefore consider Recommendation 37 (h) to be implemented in part. We will comment more fully on the revised policy in next year's annual report.

### NOTES

<sup>80</sup> 2005 Annual Report, Recommendation 37(i), p.171

<sup>81</sup> The incident involved approximately 300 persons. 19 officers were injured but no civilians were reported as being injured. No arrests were made. Water cannon was deployed at the scene, but not used.

<sup>82</sup> The incident involved approximately 500 people. Water cannon was not used. 11 AEPs were discharged, ten people were recorded as struck by AEPs and 36 officers but no civilians were injured.

<sup>83</sup> The incident involved approximately 400 persons. Water cannon were deployed and used. 19 officers and 11 civilians were injured. Three arrests were made.

<sup>84</sup> In compliance with the Code of Ethics, Article 4.3(iv).

<sup>85</sup> 2005 Annual Report, Recommendation 37(h), p.171.

<sup>86</sup> PSNI's Human Rights Programme of Action 2005-2006, p.27.

# CHAPTER 9: COVERT POLICING

## CHAPTER 9: COVERT POLICING

Surveillance and the use of covert human intelligence sources by the police is highly regulated. The Regulation of Investigatory Powers Act 2000 (RIPA) sets out rules which are intended to ensure that the surveillance and the use of covert human intelligence sources by the police is compatible with the Human Rights Act 1998. It also puts in place an oversight framework comprising the Chief Surveillance Commissioner and a team of inspectors who regulate and monitor adherence to the rules and a Tribunal for dealing with complaints. The functions of the Commissioner and Tribunal are summarised in our 2005 Annual Report<sup>1</sup> and are not repeated here.

In keeping with the Policing Board's duty to co-ordinate its activities with other public bodies,<sup>2</sup> we have not sought to replicate the work of the Commissioner or the Tribunal established under RIPA. Instead, we have examined all of the reports of the Chief Surveillance Commissioner and the PSNI's response to those reports. We have also examined the PSNI's policies on covert policing and reviewed special operations training. In doing so we have been greatly assisted by the open and highly professional way in which the PSNI has dealt with us in this important area of our work.

The PSNI has established a Central Authorisation Bureau (CAB). Its remit is to ensure that all PSNI investigations and operations comply with RIPA and with the Police Act 1997 where relevant. All directed surveillance, intrusive surveillance and property interference applications are processed through CAB and a central record of authorisations is kept by CAB.

### The Authorising Officers' Course

CAB has devised an Authorising Officers' Course for all officers who may be called upon to authorise investigations and operations under RIPA (i.e. officers who hold the ranks stipulated for authorisation in RIPA). The course lasts three days and is delivered by the National Specialist Law Enforcement Centre, with external input from the Office of the Surveillance Commissioner and internal input from CAB. We have discussed the contents of this course with CAB.

So far three courses have been run in January, February and May this year. A further course is scheduled for September. It is anticipated that over 70 officers will have completed the Authorising Officers' Course by the end of 2006. This extensive training programme for authorising officers that CAB has embarked upon is an important initiative. The intention of the PSNI is that once the training programme is complete, only those who have completed the course should be eligible as authorising officers. We recommend that this basic safeguard be put in place as soon as practicable.

**Recommendation 31: Following completion of the authorising officers' training programme in September 2006, only those officers who have completed the course should be eligible as authorising officers.**

### Other training

In our 2005 Annual Report, we made some observations about specialist operations training but indicated that our assessment of that training was limited by the redactions in the material provided to us.<sup>3</sup> We recommended that the PSNI should make available to us unredacted copies of PSNI covert training materials (so far as possible)<sup>4</sup> and also that the PSNI should consider how best to evaluate the actual delivery of covert policing training.<sup>5</sup>

#### NOTES

- 1 2005 Annual Report, p.124.
- 2 Police (Northern Ireland) Act 2000, s.3(4)(d).
- 3 2005 Annual Report, p.127.
- 4 2005 Annual Report, Recommendation 49, p.172.
- 5 2005 Annual Report, Recommendation 50, p.172.



This year, we were given an extensive briefing on the PSNI's surveillance, intelligence and armed response training. That included disclosure of the detailed structure and content of this training. It also included discussions about the strengths and weaknesses of this training. We consider that this fully implements Recommendation 49 of our 2005 Annual Report.

It is clear that the PSNI's surveillance, intelligence and armed response training is extensive and demanding. It is also clear that the significance of the Human Rights Act 1998 is recognised by those devising and delivering the course. However, as the PSNI readily acknowledges, greater recourse to specialist advice and guidance on human rights issues would enhance the training, especially if focused on the practical difficulties encountered in covert police investigations and operations. We therefore recommend that the PSNI consider how best to provide further specialist advice and guidance on human rights issues in the course of its surveillance, intelligence and armed response training.

**Recommendation 32: The PSNI should consider how best to provide further specialist advice and guidance on human rights issues in the course of its surveillance, intelligence and armed response training.**

So far as the evaluation of the actual delivery of covert police training is concerned, we have discussed this with the PSNI. In the first instance, we intend to attend and monitor covert police training ourselves during the course of next year. We will then make a further recommendation on the matter. Against this background, we consider Recommendation 50 of our 2005 Annual Report to be implemented in full.

## The Surveillance Commissioner's reports

For our 2005 Annual Report, we were given access to and read the reports of the Chief Surveillance Commissioner relating to the PSNI for the period 2002-2004. We noted an improvement over that period in the PSNI's compliance with recommendations of the Chief Surveillance Commissioner and that the 2004 report provided a very sound platform for the future.

Against that background, we recommended that the PSNI and the Policing Board agree a protocol for the disclosure to the Chairman and Vice-Chairman of the Policing Board of an effective summary of the Surveillance Commissioner's reports, including recommendations made by the Commissioner and the PSNI's response thereto.<sup>6</sup> In its Human Rights Programme of Action 2005-2006, the PSNI accepted this recommendation and an agreement has been drawn up between ACC Crime Operations and the Policing Board covering access and dissemination matters.<sup>7</sup> The Chairman and Vice-Chairman are now briefed on the contents of the Surveillance Commissioner's reports and the PSNI response to the recommendations. We consider that this fully implements Recommendation 43 of our 2005 Annual Report.

In our 2005 Annual Report, we also recommended that consideration should be given by the PSNI and the Policing Board to the possibility of the Surveillance Commissioner meeting the Chairman and Vice-Chairman of the Policing Board on at least an annual basis.<sup>8</sup> After discussions involving ourselves, it has been agreed that the protocol agreed in implementing Recommendation 43 is sufficient for the Policing Board's monitoring role. Accordingly, we consider Recommendation 44 of our 2005 Annual Report to be implemented in full, even though the possibility we put forward has not been adopted.

Another of the recommendations made in our 2005 Annual Report was that the Surveillance Commissioner's reports and the PSNI response to those reports should continue to be made available to the Policing Board's

### NOTES

<sup>6</sup> 2005 Annual Report, Recommendation 43, p.172.

<sup>7</sup> PSNI's Human Rights Programme of Action 2005-2006, p.35.

<sup>8</sup> 2005 Annual Report, Recommendation 44, p.172.

human rights advisors.<sup>9</sup> This was accepted by the PSNI and in preparing this report we have had access to and read the Surveillance Commissioner's reports for 2005 and 2006, together with the PSNI responses to those reports. We consider that this fully implements Recommendation 45 of our 2005 Annual Report.

In his 2005 Report, the Chief Surveillance Commissioner noted with satisfaction the PSNI's compliance with the recommendations made in 2004 and other areas in which good progress was being made. In other respects he raised issues of concern. We have reviewed each of these issues of concern. Although most were procedural, some were on-going and, in our view, indicate possible gaps in training. The Chief Commissioner made twelve recommendations and, in May 2005, the Chief Constable accepted all of them and indicated what action he proposed to take to implement them. We have had access to and read the Chief Constable's response to the Surveillance Commissioner's report.

The 2006 oversight inspection took place in March 2006. A report was drawn up and sent to the Chief Constable under cover of a letter dated 12th April 2006. We have had access to and read both the report and the letters. We have also discussed their contents with the head and deputy head of the PSNI's CAB.

The 2006 Surveillance Commissioner's report notes various structural matters, including the consolidation under one command of all intelligence matters and that the PSNI Dedicated Source Handling Units (DSHUs) are now firmly established. It explains the purpose of the inspection visit, namely to ascertain compliance with all the recommendations of the Surveillance Commissioner in 2005, to examine policies, procedures and operations, to inspect records and organisations, to visit DSHUs at various locations and levels (including DCU level) and to interview PSNI staff.

The 2006 report records that four of the twelve recommendations of the Surveillance Commissioner in 2005 have been fully discharged. In respect of the other eight recommendations, non-compliance ranged from relatively minor matters to more significant areas of concern. Where the PSNI had put policies or procedures in place since the 2005 oversight report, these were reviewed and found to be "expertly produced" and of "high quality". We have reviewed these policies and procedures which we discuss below.<sup>10</sup> The 2006 Report also commended the new audit system put in place by CAB.

The findings of the 2006 oversight inspection, however, are mixed. In some areas the Surveillance Commissioner recorded that the PSNI has now put in place sound and effective systems for high level RIPA authorisations. In others, the Surveillance Commissioner recorded the persistence of difficulties identified in previous oversight reports and an insufficiently rigorous approach to the requirements of RIPA. While it is fair to say that most of the problems betray deficiencies in training, their extent and range are a matter of concern.

The Chief Surveillance Commissioner concluded that the PSNI continues to make steady and positive progress with respect to RIPA compliance. However, he identified a number of areas that warranted immediate attention, and was critical of the PSNI for not implementing all of his 2005 recommendations fully. Eleven new recommendations were made in the 2006 Report, which the Surveillance Commissioner indicated should be implemented without delay.

In May 2006, the PSNI drew up an action plan to respond to the Surveillance Commissioner's findings. It welcomed and accepted all the recommendations of the Surveillance Commissioner and set out in some detail what the PSNI intends to do to implement them. The action plan was presented to the Surveillance Commissioner in June 2006. We have been given access to and read the action plan. We have also discussed it with the head and deputy head of CAB.

Set against the very positive findings of the Surveillance Commissioner in late 2004, the findings in 2005 and, more particularly 2006, are somewhat disappointing. There can be no doubt that considerable efforts have

### NOTES

<sup>9</sup> 2005 Annual Report, Recommendation 45, p.172.

<sup>10</sup> At p.93.

been made to ensure and maintain the highest standards and, as the Chief Surveillance Commissioner notes, the investment in CAB and DSHUs is now paying dividends, with a more professional and consistent approach being adopted across the Service. But more work is needed if the PSNI is not to fall below acceptable standards.

That work has begun. As we have noted earlier,<sup>11</sup> the extensive training programme for authorising officers that CAB has embarked upon is a significant and timely measure. In addition, the PSNI has taken a number of significant steps to address the shortcomings identified by the Surveillance Commissioner. Although set up before the 2006 Surveillance Commissioner's report, we consider that the internal audit regime put in place by CAB is an extremely important initiative. It is intended to replicate, internally and at the district level, the type of scrutiny carried out by the Surveillance Commissioner. District level audits carried out by CAB involve the examination of applications and authorisations under RIPA. This helps to identify shortcomings and allows any deficiencies to be dealt with speedily.

In addition, CAB, in conjunction with Training, Education and Development (TED), has devised a three day "professional applicant and gatekeepers" course. This is to provide each DCU and specialised department with a small number of 'RIPA experts' who will be responsible for drawing up RIPA applications for presentation to PSNI authorising officers. It is the intention that only those officers trained in this way will be permitted to complete RIPA applications. Like the authorising officers training programme and internal audits, it is an extremely important initiative.

As we observed in our 2005 Annual Report, since the scrutiny provided by the Surveillance Commissioner is (and should remain) confidential, it is of the first importance that the PSNI should respond quickly and fully with any recommendations made after an inspection. The 2006 inspection report demands action and having reviewed the 2005 and 2006 reports, together with the PSNI's responses to those reports, and having discussed them at length with the PSNI, we are satisfied that oversight by the Surveillance Commissioner is taken very seriously by the PSNI and that there is a real determination to meet the high standards demanded.

In accordance with a further recommendation in our 2005 Annual Report,<sup>12</sup> in July 2006 we provided a detailed briefing to the Chairman of the Policing Board about the PSNI's response to the Chief Surveillance Commissioner's recommendations. We therefore consider Recommendation 48 of our 2005 Annual Report to be implemented in full.

## Policies and procedures

In preparation for our 2005 Annual Report, we examined the PSNI manual for the management of covert human intelligence sources, the procedure for dissemination of intelligence to serious crime investigators, and the procedure for handling confidential information supplied by members of the public. We were impressed with these documents and took the view that, if followed, they would ensure high standards of compliance with RIPA and the Human Rights Act 1998.

Since all three policies were published only shortly before our 2005 Annual Report, we recommended that the PSNI should review their effectiveness within twelve months.<sup>13</sup> The PSNI agreed to this recommendation. A limited review has taken place and supplementary guidance has been issued on a number of issues. In addition, a comprehensive policy on RIPA is being drafted, with an anticipated completion date of September 2006. On

balance, we consider that this implements Recommendation 46 of our 2005 Annual Report. However, given the state of play, we recommend that the PSNI should further review the effectiveness of its policies on covert policing within twelve months of this Human Rights Annual Report.

### NOTES

- 11 At p.90.  
12 2005 Annual Report, Recommendation 48, p.172.  
13 2005 Annual Report, Recommendation 46, p.172.

### Recommendation 33: The PSNI should further review the effectiveness of its policies on covert policing within twelve months of this Human Rights Annual Report.

In our 2005 Annual Report, we also recommended that PSNI policies on covert policing should continue to be made available to the Policing Board's human rights advisors for a review of their compatibility with the Human Rights Act.<sup>14</sup> The PSNI agreed to this recommendation<sup>15</sup> and in September 2005, ACC Crime Operations provided us with a detailed briefing about new policy initiatives. We were then provided with access to and reviewed a new policy on the procedures for the use of police officers working undercover and two supplementary provisions to the manual for the management of covert human intelligence sources. We consider this implements Recommendation 47 of our 2005 Annual Report in full.

Having reviewed these policies, we are satisfied that they are clear, comprehensive and set out detailed guidance on the roles and responsibilities of all concerned. Relevant human rights obligations are set out and explained and the policies also make express reference to the PSNI Code of Ethics (including provision that a breach of the procedures may constitute a breach of the Code of Ethics).

One issue we raised last year was the extent to which PSNI policies on covert policing could be made available to the public. The PSNI is currently considering this issue and we will report further on progress towards publication in next year's human rights annual report.

## Operations

As part of our monitoring work, we requested access to sample PSNI covert operations. This was provided and in February 2005, we were briefed on two operations, one large scale, the other smaller. We had in-depth discussions about the planning and execution of these operations and were provided with the decision making logs and other relevant materials.

More detailed work was undertaken by us in monitoring a counterfeiting operation and a burglary operation. Fuller details of these operations are given in chapter 4.

## Covert surveillance of solicitor consultations

In February 2006, it emerged that the PSNI had engaged in covert surveillance of a solicitor's consultations at Antrim Serious Crime Suite. A number of individuals and bodies expressed their concern to us about this and raised questions about the compatibility of such surveillance with the Human Rights Act 1998.

The solicitor in question was arrested and has since been charged with several offences. In those circumstances, it would be inappropriate for us to comment specifically about the case at this stage. However, we raised a number of issues with ACC Crime Operations at a meeting in May 2006. He indicated that covert surveillance on members of the legal profession is only undertaken in rare and extreme circumstances. He also explained to us the history, procedures and safeguards relating to the incident in February this year. This has assisted us considerably in such monitoring as we can undertake at this stage. In due course, fuller details will emerge, either at court or in the course of the Surveillance Commissioner's oversight (or both) and we will report further at that stage.

### NOTES

- 14 2005 Annual Report, Recommendation 47, p.172.  
15 PSNI's Human Rights Programme of Action 2005-2006, p.35.

## Management of intelligence sources

A number of individuals expressed concerns to us regarding the management of intelligence sources, in particular, the possible use of sources who may be involved in unauthorised criminal activity and the disclosure of the identities of sources. As a result, we raised a number of these and related issues with ACC Crime Operations at a meeting in June 2006. It would be inappropriate for us to comment specifically on these matters. However, ACC Crime Operations explained to us the internal procedures and mechanisms in place to address the issues we raised. He also indicated that all sources deemed to be high risk must be personally endorsed by him and are subject to a review every three months. Again, our discussions assisted us considerably in such monitoring as we can undertake at this stage. In due course, we will report further on these matters.

## National security: transfer of primacy

In February 2005, the Government announced that the lead responsibility for national security intelligence work in Northern Ireland would transfer from the PSNI to the Security Service.<sup>16</sup> This will reflect the model that has been in place in the rest of the UK since 1992. It is anticipated that this transfer of responsibility will take place in the autumn of 2007.

Undoubtedly, there are benefits in having arrangements for national security in line with the rest of the UK, and national security has always been an excepted matter under the Northern Ireland Act 1998. However, it is important that the transfer of responsibility for national security intelligence work in Northern Ireland does not affect the compliance of the PSNI with the Human Rights Act 1998 or the Policing Board's ability to monitor such compliance. There is an important interface between national security matters and some organised crime activities.

Against that background, we recommend that before the transfer of responsibility for national security intelligence work in Northern Ireland takes effect, the PSNI and the Policing Board should devise a framework to ensure that the transfer does not affect the compliance of the PSNI with the Human Rights Act 1998 or the Policing Board's ability to monitor such compliance.

**Recommendation 34: Before the transfer of responsibility for national security intelligence work in Northern Ireland takes effect, the PSNI and the Policing Board should devise a framework to ensure that the transfer does not affect the compliance of the PSNI with the Human Rights Act 1998 or the Policing Board's ability to monitor such compliance.**

## NOTES

<sup>16</sup> Northern Ireland Office, *Devolving Policing and Justice in Northern Ireland: A Discussion Paper*, (2006).

# CHAPTER 10: VICTIMS

## CHAPTER 10: VICTIMS

It is now well recognised that the rights of victims are protected by the European Convention on Human Rights, the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power,<sup>1</sup> the Commonwealth Best Practice Guidelines for the Treatment of Victims of Crime,<sup>2</sup> and many other human rights instruments. This is reflected in the PSNI Code of Ethics which includes the duty to treat all victims of crime and disorder with sensitivity and respect their dignity, and requires police officers to consider the special needs, vulnerabilities and concerns victims have.<sup>3</sup>

PSNI Community Safety Branch has responsibility for the development of all PSNI policies and guidelines relating to victims, for the development of inter-agency protocols to support victims and tackle domestic violence and hate crime incidents and for building partnerships (internally and externally) to deliver appropriate training on the treatment of victims.<sup>4</sup> It is also responsible for issuing guidance and direction to officers in respect of Service-wide policy compliance and consistency of recording.

### PSNI policy on victims

In our 2005 Annual Report, we reviewed the mechanisms in place for the treatment of victims by police officers. We audited all PSNI policies relating to the treatment of victims and conducted an initial assessment of specialist PSNI units established to support victims of crime and specialist officers appointed with specific responsibilities for victims. Our audit of PSNI policies revealed that the PSNI did not have a comprehensive policy on the treatment of victims. However, the PSNI had indicated in 2005 that it was in the process of drafting a comprehensive policy for the treatment of victims. We therefore recommended that the PSNI's policy on victims should provide a standard approach across the PSNI to the treatment of victims and, in particular, establish clear procedures for communicating with victims and/or their families and voluntary and statutory agencies working with victims.<sup>5</sup>

In its Human Rights Programme of Action 2005-2006, the PSNI indicated that its victims policy was at an advanced stage following completion of a consultation process.<sup>6</sup> The PSNI's Policy on Dealing with Victims and Witnesses<sup>7</sup> was subsequently introduced in May 2006. It standardises PSNI's approach to the treatment of victims and witnesses, setting out clear procedures for communication between victims and witnesses and providing guidance on how to treat victims according to their needs and particular racial, religious, sexual and cultural identities. The policy directs officers to make a careful assessment of the needs and wishes of the victim when responding to a reported crime. Officers are instructed to give advice to the victim regarding further contact, either personal (with the officer) or with the PSNI Crime Management Unit.

Following the report of a crime, an initial letter should be sent by the PSNI to the victim (unless the victim has specified that he or she does not want further contact).<sup>8</sup> The purpose of the letter is to advise the victim that a referral will be made to Victim Support Northern Ireland unless the victim elects against such a referral.<sup>9</sup>

The policy underlines the importance of communication between investigating officers and the PSNI Crime Management Unit regarding victim contact. In the most serious cases, contact with the victim should be maintained by the Family Liaison Officer,<sup>10</sup> or in sexual cases, a CARE Officer.<sup>11</sup> It is the responsibility of the

### NOTES

- 1 UN General Assembly Resolution 40/34 (1985).
- 2 The Commonwealth Guidelines are non-binding but provide an administrative and legal framework for the treatment of victims.
- 3 Code of Ethics, Article 2.1.
- 4 Including training for officers appointed to specialist roles e.g. domestic violence officer in relation to the treatment of victims of crime.
- 5 2005 Annual Report, Recommendation 51, p.172.
- 6 PSNI's Human Rights Programme of Action 2005-2006, p.11.
- 7 Policy Directive No. 05/06.
- 8 The letter includes the name of the investigating officer, the crime reference number, advises the victim of the services of the local Crime Prevention Officer and encloses an NIO leaflet, *Information for Victims of Crime*.
- 9 Reference is made to the role of Victim Support Northern Ireland in providing practical help, emotional support and assistance in claims for compensation.
- 10 A Family Liaison Officer is an officer who facilitates an investigation into a family's loss through homicide or a road traffic accident by establishing a supportive relationship linking the family with the enquiry team.
- 11 A Child Abuse and Rape Enquiry (CARE) Officer is a detective specially trained to investigate all alleged and suspected cases of child abuse.

investigating officer to inform the victim at the earliest opportunity when a person is remanded in custody or released on bail pending appearance in court.<sup>12</sup> When an individual is due to appear in court to be prosecuted for a crime, the victim should also be informed.

The PSNI's new victims policy provides a standard approach to the treatment of victims across the PSNI. It establishes clear procedures for communicating with victims of crimes and/or their families. We therefore consider this first part of Recommendation 51(a) of our 2005 Annual Report to be implemented in full. We further consider that the new policy satisfies Recommendation 55(f) of our 2005 Annual Report, which we also consider to be implemented in full.

### PSNI Quality of Service Survey 2004/2005

The PSNI conducted a survey of victims of violent crime, vehicle crime, domestic burglary, racist incidents and road traffic collisions in 2004/2005 on behalf of the Policing Board.<sup>13</sup> Questionnaires were sent to a random sample of such victims for the period 1st April 2004 to 31st March 2005. 2,972 questionnaires were returned, representing a response rate of 26.7%. The survey's key findings are set out in Table 1 below.

**Table 1: PSNI Quality of Service Survey 2004/2005<sup>14</sup>**

Area surveyed	Percentage of respondents expressing satisfaction with PSNI's performance
Overall service provided by the police.	82%
Ease of contacting someone who would assist them.	90%
Time taken for the police to arrive.	84%
Actions taken by police.	77%
How well they were kept informed of progress.	70%
Treatment by the police officers and staff who dealt with them.	89%

### Criminal Justice Inspection Report July 2005

In July 2005, the Criminal Justice Inspection for Northern Ireland published a report into the treatment of victims.<sup>15</sup> The report made a number of findings and recommendations directly related to the PSNI and its approach to victims and witnesses, which we set out under four sub-headings below.

#### Crime Reporting and Victim Referral

The report found that there was a lack of awareness among officers of the existence of PSNI policy on service delivery for victims and witnesses and that there were disparities across districts in the standard of response time to crime and the time taken to make a referral to Victim Support. The report also observed delays in victim referral rates due to slow internal procedures for recording victim details, preparing the required paperwork, updating computer records and discontinuity of personnel caused by shift patterns, training and leave commitments.

The report recommended that PSNI and Victim Support Northern Ireland undertake a joint review of the workings of the referral system to ensure adequate information exchange, the setting of performance measures and implementation of communication and monitoring systems.<sup>16</sup>

#### NOTES

- 12 When the victim or witness is deemed vulnerable, intimidated or to have particular requirements, the investigating officer should include details in the report submitted to the Public Prosecution Service.
- 13 The PSNI intends to conduct this survey on an annual basis. The survey monitors victim/user satisfaction in terms of the following a) first contact, b) police actions to deal with the incident, c) follow up and being kept informed, d) treatment by police staff and e) the whole experience and overall service.
- 14 PSNI and Northern Ireland Policing Board: *2004/2005 Quality of Service Survey*.
- 15 Criminal Justice Inspection *Improving the Provision of Care for Victims and Witnesses within the Criminal Justice System in Northern Ireland*, July 2005.
- 16 Criminal Justice Inspection Report, Recommendation 7, p.7.

#### Investigation and prosecution

The report indicated a lack of awareness among officers of PSNI policy and guidelines relating to the care of victims and witnesses, as well as a lack of clarity regarding the application of special measures for vulnerable witnesses.<sup>17</sup> The report recorded that victims and witnesses frequently experience difficulty in making contact with the officer in charge of their case. In addition, some officers interviewed disclosed a skills deficit among front line officers in respect of training to work with vulnerable victims and witnesses.

The report recommended that the PSNI, the Public Prosecution Service and Northern Ireland Court Service establish an interagency case management trail to ensure victims' and witnesses' needs are at the forefront of case planning.<sup>18</sup>

#### Appearance at Court

The report recorded that victims had indicated that the level of support they received from the PSNI (and other bodies) influenced their level of anxiety about the court process. They expressed frustration about not being kept informed of the progress of their case. The report recommended that the Northern Ireland Court Service, Public Prosecution Service and the PSNI should examine the technical opportunities available to ensure victims and witnesses are updated about developments in their cases.<sup>19</sup>

#### Inter-agency Cooperation

The report indicated that some minority ethnic groups expressed a reluctance to engage with the PSNI for a range of reasons.<sup>20</sup> The report also noted the reluctance of the lesbian, gay, bisexual and transgender community to report crimes to the PSNI. The report recommended that the PSNI develop a more meaningful outreach programme to vulnerable victim and witness groups, particularly minority ethnic communities.<sup>21</sup>

We endorse the recommendations made in the Criminal Justice Inspection Report 2005 and will monitor the PSNI's response to them in next year's human rights annual report.

### Communication and engagement with voluntary and statutory agencies

Poor communication with victims and witnesses encourages a lack of confidence in the police and criminal justice system, with a high risk of disengagement and disempowerment of victims. The police and local authorities need to develop a co-ordinated approach to ensure that resources are directed to meet the needs of victims and witnesses. In our 2005 Annual Report, we noted the PSNI's longstanding relationship with Victim Support Northern Ireland and PSNI policy on partnership working with Victim Support. Whilst we commended the PSNI's approach, we recommended that the PSNI should establish clear protocols for communicating with voluntary and statutory agencies working with victims.<sup>22</sup>

In its Human Rights Programme of Action 2005-2006, the PSNI indicated that it has a standardised approach to contacting and working with Victim Support Northern Ireland and that this remains a fundamental and integral part of the new victims policy. It is currently working with Victim Support in an effort to streamline the transfer of information and the possibility of electronic transfer is being evaluated. Further, the PSNI suggested that the Public Prosecution Service is currently modelling a process for updating victims and their families. We therefore consider this second part of Recommendation 51(a) of our 2005 Annual Report to be implemented in full.

#### NOTES

- 17 Under the Youth Justice and Criminal Evidence Act 1999, the police are required to conduct a risk assessment of the needs of witnesses, with a view to establishing the need for 'special measures'. 'Special measures' are available to vulnerable, young and intimidated witnesses and may include giving evidence by way of a video link or behind screens, removing of wigs and gowns and clearing the court.
- 18 Criminal Justice Inspection Report, Recommendation 2(o), p.12.
- 19 Criminal Justice Inspection Report, Recommendation 10, p.8.
- 20 Including language barriers, ingrained perceptions of corrupt state authorities, fear of harassment and reluctance of the police to regard and record incidents as 'racial'.
- 21 Criminal Justice Inspection Report, Recommendation 2(m), p.12.
- 22 2005 Annual Report, Recommendation 51(a), p.172.

## Addressing the needs of specific victims

Victims are not one homogeneous group. They respond to crime in a variety of ways depending on age, gender, race, ethnicity, sexuality, religion and disability. In our 2005 Annual Report, we recommended that the PSNI's policy on victims should provide guidance on the need to treat victims according to their particular needs, both as victims (i.e. identifying vulnerable victims) and as individuals (with particular cultural, racial and sexual identities).<sup>23</sup>

In our 2005 Annual Report, we indicated that during our monitoring work in 2005/2006, we would review PSNI policies relating to the investigation of crimes committed against particular victim groups such as the victims of domestic violence, homophobic and racist crime<sup>24</sup> and conduct an audit of the work of PSNI specialist crime and victim officers, such as Domestic Violence Officers, Minority Liaison Officers and Youth Diversion Officers.<sup>25</sup>

In its Human Rights Programme of Action 2005-2006, the PSNI indicated that various PSNI policies already exist which deal with the treatment of victims with special needs and that these form an integral part of its new victims policy.<sup>26</sup>

The PSNI's victims policy specifically addresses the issues of hate crime, vulnerable victims, victims of domestic violence, older victims, victims who do not speak or understand English and children and young people as victims. In all these cases, officers are directed to have regard to the specific needs and interests of such victims. Officers are instructed to ensure, where necessary, that interpreters are present to aid communication with victims and ensure that vital information is not lost. In addition, the PSNI has developed a specific policy providing guidance to officers on action which should be taken when cases involving young, vulnerable or intimidated witnesses are to be heard at the Crown Court.<sup>27</sup>

We have completed a comprehensive audit of policies relating to the investigation of crimes committed against particular victims groups, including PSNI Policy on the Police Response to Domestic Violence Incidents,<sup>28</sup> PSNI Policy on the Police Response to Hate Incidents,<sup>29</sup> PSNI Policy on Family Liaison Officers,<sup>30</sup> PSNI Policy on Preventing and Responding to Crime against Older Persons,<sup>31</sup> and PSNI Policy on the Introduction of Support Services at Crown Court for Vulnerable and Intimidated Witnesses.<sup>32</sup> These policies are discussed further under relevant headings below.

Against this background, we consider Recommendation 51(b) of our 2005 Annual Report to be implemented in full.

## Victims of domestic violence

Reported incidents of domestic violence are increasing significantly year on year in Northern Ireland. Table 1 indicates the number of domestic violence incidents, recorded crimes and clearance rates between 2004 and 2006. Not all domestic incidents will result in the recording of a crime. The number of crimes recorded by the police is dependent on two factors:

- (i) whether the victim or a representative of the victim brings that crime to the attention of the police or on the crime coming to the attention of the police through some other means;<sup>33</sup> and
- (ii) whether that incident is determined as being a recordable offence within the categories laid down by the Home Office in the official counting rules.<sup>34</sup>

### NOTES

<sup>23</sup> 2005 Annual Report, Recommendation 51(b), p.172.

<sup>24</sup> 2005 Annual Report, Recommendation 53(a), p.172.

<sup>25</sup> 2005 Annual Report, Recommendation 53(d), p.173.

<sup>26</sup> PSNI's Human Rights Programme of Action 2005-2006, p.11.

<sup>27</sup> General Order 33/2004, Introduction of Support Services at Crown Court for Vulnerable and Intimidated Witnesses.

<sup>28</sup> Policy Directive No. 02/04, Police Response to Domestic Incidents.

<sup>29</sup> Policy Directive No. 02/06, Police Response to Hate Incidents.

<sup>30</sup> General Order 10/2002, Family Liaison Officers.

<sup>31</sup> Preventing and Responding to Crime Against Older Persons.

<sup>32</sup> General Order 33/2004, Introduction of Support Services at Crown Court for Vulnerable and Intimidated Witnesses.

<sup>33</sup> Such as the police officer being present at the time.

<sup>34</sup> Recorded crimes are those which are deemed to be indictable or triable-either-way. Indictable offences are those more serious crimes which are tried on indictment in the Crown Court. Triable-either-way offences are those offences which under certain circumstances are triable either summarily in a magistrates court or on indictment in the Crown Court.

A crime will be recorded as domestic where it meets these criteria. Clearances (or detections) are, broadly speaking, those crimes that have been 'cleared up' by the police. Crimes are counted as cleared or detected in accordance with strict counting rules issued by the Home Office.<sup>35</sup>

**Table 2: Domestic violence incidents, recorded crimes and clearance rates, 2004-2006**

	2004/2005	2005/2006	Change
<b>Total number of incidents</b>	20,959	23,059	+10.0%
<b>Total number of recorded crimes:</b>			
including breach of orders	9,656	10,768	+11.5%
excluding breach of orders	8,508	9,353	+9.9%
<b>% clearance rate:</b>			
including breach of orders	Not available	77.5	Not available
excluding breach of orders	72.9	78.4	+5.5%

The overall clearance rate for domestic violence crimes is 77.5%. This is high when compared to figures for other violent crime.<sup>36</sup> Excluding breach of non-molestation orders,<sup>37</sup> the clearance rate stands at 78.4%, representing a 5.5% increase from 2004/2005, when the clearance rate was 72.9%.

## PSNI policy on domestic violence incidents

The PSNI's domestic violence policy was issued in 2004.<sup>38</sup> It sets out the objectives of the PSNI when dealing with domestic violence incidents, which are to record, respond and investigate effectively all reported incidents of domestic violence in a consistent, robust and proactive manner, appoint specialist domestic violence investigators in every district and take adequate steps to protect children (including unborn children) who may be at risk from domestic violence by engaging with the appropriate authority. The policy reminds officers that domestic violence incidents impact upon victims' human rights, including the right to life, the prohibition against inhuman and degrading treatment and the right to respect for family and private life.

## Role of domestic violence officers

A central feature of the PSNI's policy to tackle domestic violence is the establishment of a specialist role of domestic violence officer (DVO). Each District Commander is required to appoint a dedicated DVO who must have proper support. The role of the DVO is to investigate all domestic crimes of assault occasioning actual bodily harm (AOABH) and above,<sup>39</sup> as well as all repeat offences of domestic violence. The DVO is also responsible for providing advice to operational officers investigating domestic incidents and support and guidance to victims during the prosecution process. All DVOs must complete a Domestic Violence Investigators training course.

As indicated elsewhere in this Report, in March and April of this year, we held a series of in-depth meetings with District Command Teams across Northern Ireland. All DCUs that we visited demonstrated commitment to tackling domestic violence in their districts. Many have developed specialist Domestic Violence Units comprising at least one, but more often two, DVOs,<sup>40</sup> together with support and administrative staff. However, some DCUs highlighted resource limitations. Several districts indicated difficulty in conforming to that part of the PSNI's domestic violence

### NOTES

<sup>35</sup> The following methods of clearance involve a formal sanction: charging or issuing a summons to an offender; issuing a caution to the offender; having the offence accepted for consideration in court. Offences not involving a formal sanction but still regarded as 'cleared up' are those where the police take no further action for the following reasons: offender, victim or essential witness is dead or too ill; victim refuses or is unable to give evidence; offender is under the age of criminal responsibility; police or Public Prosecution Service decides that no useful purpose would be served by proceeding; time limit of six months for commencing prosecution has been exceeded.

<sup>36</sup> The incident crime clearance rate rose from 51.1% to 53.9% in 2005-2006.

<sup>37</sup> Breach of a non-molestation order has been recorded as a notifiable offence under the Home Office Counting Rules since 1st April 2005. Prior to this date, the number of breaches of these orders was available, but the clearance rate was not.

<sup>38</sup> Policy Directive No. 02/04 Police Response to Domestic Violence Incidents.

<sup>39</sup> Except where existing PSNI protocols are in place for the investigation of serious crime, e.g. murder and attempted murder.

<sup>40</sup> DCUs with more than one DVO include Craigavon, East Belfast, Enniskillen, Foyle, Newry, North Belfast and South Belfast.

policy requiring DVOs to investigate all domestic crimes of AOABH and above. Due to the high numbers of domestic violence incidents reported, uniformed response officers are often required to investigate domestic crimes of AOABH. Some districts also suggested that the investigative role of DVOs has a negative impact on the DVOs' victim support role.

Officers in response teams will often have the first contact with a victim of domestic violence. It is critical that information on repeat incidents of domestic violence is passed from specialist DVOs to response teams and vice versa. Our meetings with District Command Teams confirmed that, in the main, procedures are in place to ensure an adequate information flow between DVOs and response teams. In general, repeat offenders of domestic violence incidents are recorded and flagged on district command and control logs, to which all response teams have access. This is an important procedural safeguard. Non-molestation or Occupation Orders<sup>41</sup> and possible presence of firearms are also recorded to inform response teams attending at a domestic incident.

It is the responsibility of the DVO to liaise with statutory and voluntary organisations involved in tackling domestic violence. Our meetings with District Command Teams demonstrated that the majority of DCUs engage on a regular basis with the main statutory and voluntary organisations, including Women's Aid, Department of Social Services, the NI Housing Executive, RELATE and Victim Support. In addition, a number of districts have engaged external specialists, such as Women's Aid, to provide awareness training on domestic violence issues. Our consultation with District Policing Partnerships (DPPs) confirmed this engagement.

### Example of good practice

As we have already indicated, during our meetings with District Command Teams in March and April this year, we discussed approaches to tackling domestic violence at the district level and explored evidence of good practice. We set out below a short summary of Foyle DCU's domestic violence policy.

#### Foyle DCU inter-agency domestic violence policy

In response to the high number of domestic violence incidents in the district,<sup>42</sup> Foyle DCU has developed, in partnership with the main voluntary and statutory groups, an inter-agency domestic violence policy (the Protocol) to tackle domestic violence.

The Protocol defines domestic violence as any incident of quarrel, altercation, threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between family members or adults who are or have been intimate partners, regardless of gender. The Protocol acknowledges the responsibility the PSNI Code of Ethics places on officers regarding methods of crime investigation and treatment of victims of crime.

The Protocol's objectives are to:

- reduce repeat victimisation<sup>43</sup> through increased intervention levels;
- extend the partnership approach to improve the quality of service provided to victims;
- raise community awareness;
- increase community confidence and safety; and
- inform and make more effective police and other agency responses to domestic violence incidents.

The Protocol sets out the procedure to be adopted following a report of a domestic violence incident, defining the duties of the response team, the duties of the Sector police regarding follow-up, and the specialist roles of the DVO and the Community Safety Co-ordinator.

#### NOTES

41 Imposed under the Family Homes and Domestic Violence (Northern Ireland) Order 1998.

42 At the time of introduction of the Protocol, Foyle DCU was identified as having the highest reported incidence of domestic violence in Northern Ireland.

43 A repeat victim of domestic violence is a person about whom an incident of domestic violence has been reported to police within the previous 12 months.

The Protocol identifies that a "measured training commitment, both internally and externally, of district officers will be required." The Protocol indicates that internal training will be delivered to all district staff, while external training, provided in partnership with Women's Aid, will be directed at PSNI Sergeants and Inspectors. An aide memoire will be distributed to all officers, outlining responsibilities, procedures and police powers. DVOs will be provided with additional specialist training.

The Protocol also includes a section on domestic violence involving police personnel and explicitly highlights that where perpetrators of domestic violence have access to firearms, "serious consideration must be given to whether the continued possession of a firearm by the holder is likely to endanger the safety of same person".

We commend the pro-active steps that Foyle DCU has taken to tackle domestic violence and recommend that the PSNI should consider adopting the Foyle Protocol as a template of good practice for tackling domestic violence and distribute it to all District Command Teams.

**Recommendation 35: The PSNI should consider adopting the Foyle Protocol as a template of good practice for tackling domestic violence and distribute it to all DCU Command Teams.**

### New initiatives to tackle domestic violence

Over the last few years, a number of initiatives have emerged across the UK which have sought to provide better services to domestic violence victims through partnerships between criminal justice agencies and the voluntary sector. One such initiative is the multi agency risk assessment conference (MARAC) model.<sup>44</sup> The aim of this model is to provide a forum for sharing information and taking joint action to reduce future harm to very high risk victims of domestic violence and their children.

In June 2004, Cardiff University conducted an evaluation of the MARAC model.<sup>45</sup> It suggested that the risk assessment conferences facilitate information-sharing between agencies, contribute to victims' safety, and raise awareness about the impact of domestic violence on children.<sup>46</sup> Indicators revealed that 6 out of 10 victims had not been revictimised following multi-agency action arising from the risk assessment conference.<sup>47</sup>

The MARAC model is being piloted by the PSNI in Larne, Carrickfergus, Antrim and Ballymena Districts ('the MARAC pilot').<sup>48</sup> The model requires an initial risk assessment to be completed by the police officer attending the scene of a domestic violence incident.<sup>49</sup> Once those victims most at risk have been identified, a list of high risk victims is circulated to all those co-operating in the risk assessment conference.<sup>50</sup> All agencies consider the high risk victim list against their own records, ensuring that all information on the case is collected and shared between agencies at the conference.

If the MARAC pilot is successful, it will be introduced Service-wide. We will monitor the PSNI's evaluation of the MARAC pilot and report further on this scheme in next year's annual report.

#### NOTES

44 The first MARAC was held in Cardiff in April 2003 and was attended by members of 16 agencies.

45 *Domestic Violence MARACs (Multi-Agency Risk Assessment Conferences) for Very High-Risk Victims in Cardiff, Wales: A Process and Outcome Evaluation*, June 2004.

46 Improvement in the safety of the victims of domestic violence was measured by the number of police domestic violence complaints post the risk assessment conference, the number of police call-outs for domestic violence post the risk assessment conference and telephone interviews with victims.

47 As of April 2004, 79% of MARAC victims did not have any additional complaints on file and 70% did not have any police call-outs for domestic violence.

48 The MARAC pilot commenced on 1st April 2006.

49 All response officers are trained in the use of the risk assessment evaluation form.

50 Including the PSNI, Social Services Department, Probation Board, Health Authority and Education Board, and other voluntary and statutory agencies where relevant.

## Perceptions of PSNI's approach to tackling domestic violence

We had a meeting with representatives of Women's Aid in May 2006. The representatives indicated that they were generally pleased with the progress the PSNI is making in tackling domestic violence. However, the quality of relationships between the PSNI and Women's Aid varied across DCUs, often dependent on the priorities of District Commanders. The Foyle DCU Protocol was identified as an example of successful partnership working. The Women's Aid representatives referred to the PSNI policy requiring DVOs to adopt an investigatory role in domestic violence incidents and suggested this role potentially conflicted with the DVOs' victim support role. In addition, concerns were expressed regarding inconsistencies in the PSNI's approach to dealing with breaches of Non-molestation Orders.

The representatives of Women's Aid were impressed with the training on domestic violence delivered to student officers. However, they were critical of the domestic violence training delivered to officers at district level, which they considered to be little more than awareness-raising. They suggested that practical scenario-based skills training was needed at district level to dispel stereotypes and give officers the necessary skills to deal with domestic violence incidents.

## Victims of hate crime

Hate incidents are defined by ACPO as "any incident which may or may not constitute a criminal offence, which is perceived by the victim or any other person, as being motivated by prejudice or hate".<sup>51</sup> The level of reported<sup>52</sup> hate crime is increasing in Northern Ireland. In 2005/06, there were 936 reported incidents in Northern Ireland with a racial motivation (an increase of 15.1% on 2004/05 figures), 220 reported incidents with a homophobic motivation (an increase of 12.2% on 2004/05 figures), 70 reported incidents with a faith/religion motivation, 1,701 reported incidents with a sectarian motivation and 70 reported incidents with a disability motivation.<sup>53</sup>

Table 3 below sets out the clearance rates for hate crime in Northern Ireland. As noted earlier, clearances (or detections) are, broadly speaking, those crimes that have been 'cleared up' by the police. Crimes are counted as cleared or detected in accordance with strict counting rules issued by the Home Office.<sup>54</sup>

**Table 3: Clearance Rates for Hate Crimes 2005/2006<sup>55</sup>**

Type of Hate Crime	Racial	Homophobic	Faith/Religion	Sectarian	Disability
% Clearance Rate	20.5	32.4	17.9	14.4	39.5

Clearance rates for crimes with a racial or homophobic motivation have both increased from 2004/05, when they stood at 15.9% and 22.5% respectively. There are no comparative statistics for 2004/05 for faith/religion, sectarian or disability motivated incidents as monitoring of these hate crimes only commenced in 2005. Clearance rates for hate crimes were a focus of DCU Accountability Meetings in both Urban and Rural Regions

### NOTES

51 ACPO definition adopted pursuant to the Stephen Lawrence Inquiry, Recommendation 12.

52 The number of crimes reported by the police is dependent upon (i) whether the victim or representative of the victim brings that crime to the attention of the police or on the crime coming to the attention of the police through other means and (ii) whether that incident is determined as being a recordable offence within the categories laid down by the Home Office in its official counting rules.

53 There are no comparative statistics for 2004/2005 for faith/religion, sectarian or disability motivated incidents: the PSNI introduced baseline monitoring of these hate crimes in 2005.

54 The following methods of clearance involve a formal sanction: charging or issuing a summons to an offender; issuing a caution to the offender; having the offence accepted for consideration in court. Offences not involving a formal sanction but still regarded as 'cleared up' are those where the police take no further action for the following reasons: offender, victim or essential witness is dead or too ill; victim refuses or is unable to give evidence; offender is under the age of criminal responsibility; police or PPS decides that no useful purpose would be served by proceeding; time limit of six months for commencing prosecution has been exceeded.

55 PSNI Statistical Report No.3, 1st April 2005-31st March 2006, May 2006.

in 2006.<sup>56</sup> In addition, hate crime has been included as a target in the local policing plan in a number of districts, with the District Command Team required to report on progress in tackling hate crime to their respective DPPs.

## PSNI policy on hate incidents

In March 2006, the PSNI introduced a new policy on hate incidents<sup>57</sup> based on the ACPO Hate Crime Good Practice and Tactical Guidance Manual.<sup>58</sup> The hate incident policy adopts the ACPO definition of hate incident set out above.<sup>59</sup> It provides guidance on the defining, recording and investigation of hate incidents, requires supervision of all hate crime investigations, and provides for a 28 day review<sup>60</sup> where charges have not been brought in relation to a hate crime.

The policy requires each DCU to appoint a specialist Minority Liaison Officer (discussed further below) and expressly requires District Commanders to include training on the hate incident policy in the DCU district training schedule for 2006/2007.

We welcome the introduction of the PSNI hate incident policy and will report further on the implementation of the policy in next year's human rights annual report.

## Role of minority liaison officers

Minority Liaison Officers are appointed in every DCU. The role of the MLO is to provide support and guidance to victims of hate crime and to advise operational officers investigating hate crime. The MLO is responsible for developing relationships with statutory, voluntary and community support agencies, for assisting victims of hate crime to access these agencies and for engaging with local minority and vulnerable groups to increase confidence in the PSNI's response to hate related incidents.

In our meetings with District Command Teams in March and April 2006, we discussed the reporting and investigation of hate crime incidents. The districts that we visited recognised that hate crime incidents, both against the more established minority ethnic communities<sup>61</sup> and against the newer communities,<sup>62</sup> are impacting on community stability and cohesion of districts. There is a clear engagement in problem solving and outreach strategies by District Command Teams. We found that each district had appointed at least one MLO, standardly situated within the DCU's Community Safety Unit. The majority of districts are adopting a multi-agency approach to tackling hate crime.<sup>63</sup>

Where minority ethnic communities are not represented by established organisations operating in a particular district, some MLOs have been creative in their outreach programmes, engaging with less accessible communities through attendance at local English classes, placing columns in relevant minority languages in local newspapers and liaising with employers of migrant workers. For example, Dungannon and South Tyrone DCU has responded to the large increase in the number of migrant workers in its district through the use of translation services, by supporting officers to learn relevant migrant languages, by distributing welcome packs to migrant families in relevant minority languages and through working with local groups to protect vulnerable members of the minority ethnic community.

### NOTES

56 Discussed in more detail in chapter 13.

57 Policy Directive No. 02/06 Police Response to Hate Incidents.

58 Issued in March 2005.

59 At p.105.

60 By an officer of at least Chief Inspector rank.

61 Predominantly Chinese, Pakistan and Bangladeshi communities.

62 Predominantly Portuguese, Eastern European, East Timorese.

63 Officers regularly engage with the main statutory and voluntary organisations, including the NI Housing Executive, the Rainbow Project, Northern Ireland Gay Rights, Lesbian Line, minority ethnic forums and the minority welfare associations.



## Examples of good practice

As already noted, during our meetings with District Command Teams, we explored DCU's approaches to tackling hate crime and investigated evidence of good practice. There are two particular initiatives which we would like to highlight. We set these out below.

### Foyle DCU approach to homophobic hate crime

Foyle District has pro-actively established a protocol with key stakeholders in an attempt to tackle the increasing problem of homophobic hate crime. The protocol is broad in nature, aiming to address the fear of attack engendered amongst the lesbian, gay, bisexual and transgender community by such incidents. Formal partnership meetings have taken place since September 2004.

The protocol sets out a number of agreed objectives, which include a reduction in the number of homophobic attacks in the Derry City Council area, an improvement in the quality of services provided by the police to the lesbian, gay, bisexual and transgender community through crime pattern analysis and partnership training for police officers, community awareness campaigns, the preparation of an inter-agency information and advice pack and partnership meetings between the district and the Rainbow Project every four to six weeks, with broader stakeholder meetings on a quarterly basis. The protocol's implementation plan details the action required in fulfillment of each objective and assigns responsibility for actions and outcome.

As a result of this initiative, there has been a 33% reduction in reported homophobic incidents in the last year in the district. The DCU plans to extend its strategy to combat homophobic hate crime to other areas of hate crime.

We support Foyle DCU's efforts to tackle homophobic hate crime and suggest that the PSNI should consider whether this model could be adopted in other districts.

### West Belfast DCU partnership with the Traveller community

West Belfast district has the largest number of Traveller families in the Belfast area. West Belfast DCU has engaged with the Traveller community through a number of initiatives. At the end of January 2006, senior DCU personnel, sector officers and members of the PSNI Community Safety Branch met with representatives of the Traveller community to discuss their issues and concerns around policing. As a result of this meeting, designated neighbourhood police officers now visit Traveller sites once a fortnight to establish and develop relationships with the community.

This is a good initiative and the PSNI should consider whether it could be adopted in other districts.

## Minority communities' perceptions of PSNI

As part of our work monitoring the PSNI's treatment of particular victim groups, we felt it important to gauge different minority communities' perceptions of the PSNI. To that end, we consulted with the Northern Ireland Council for Ethnic Minorities (NICEM), the Rainbow Project, an organisation representing gay and bisexual men and An Munia Tober, an association representing the Traveller community. We discussed with them the levels of contact they have with the PSNI, the effectiveness of partnership working with the PSNI and their perceptions of the PSNI's awareness and understanding of the needs of particular minority groups.

NICEM suggested that there was a gap between PSNI policy and practice in tackling hate crime. It provided anecdotal evidence of a pattern of incidents, when victims reported racial incidents to local police stations, where police officers failed to accept the victim's perception that it was a racist or racial incident and refused to recognise the incident or crime as hate related without evidence of motivation. NICEM emphasised that this was in direct contravention of current hate crime legislation, PSNI's own hate incident policy and the recommendations of the Stephen Lawrence Inquiry.<sup>64</sup>

### NOTES

<sup>64</sup> *The Stephen Lawrence Inquiry, Report of an Inquiry by Sir William Macpherson of Cluny*, Cm 4262-1, February 1999.

NICEM recognised that the PSNI has attempted to incorporate training on minority issues into its Foundation Programme for student officers, but was not satisfied that this training is adequate to educate officers to deal effectively with hate crime or victims of hate crime. NICEM was also critical of the lack of anti-racism training for officers across the service.

The Rainbow Project was critical of the lack of consultation or engagement by the PSNI with groups representing the lesbian, gay, bisexual and transgender community. It reported a perception among the gay community of institutional homophobia within the PSNI. In its view, this is due at best to lack of leadership and at worst to negligence and prejudice. The Rainbow Project directed particular criticism at Coleraine DCU regarding its approach to dealing with a particular incident of unlawful public sexual activity. The Rainbow Project endorsed the Protocol developed with Foyle DCU as a proactive approach to tackling homophobic hate crime and suggested that other districts should follow a similar approach to tackle homophobic hate crime.

An Munia Tober indicated that it was in the initial stages of establishing a working relationship with the PSNI. An application has been made to the PSNI Policing with the Community Fund to provide training for a number of Travellers to act as points of contact within their own community and to advise on the legal rights of Travellers in their dealings with the PSNI. An Munia Tober was critical of the general lack of awareness and understanding among PSNI officers of the Traveller community and its traditions and highlighted a perception among the Traveller community that a significant number of PSNI officers were prejudiced and misinformed.

More positive feedback came in the form of the Institute for Conflict Research (ICR) 2006 reports. In February 2006, the Northern Ireland Policing Board and the Police Ombudsman commissioned the ICR to undertake research on the attitudes of the lesbian, gay and bisexual community and the black and minority ethnic communities towards the new policing arrangements and their experiences of it.<sup>65</sup> 56% of respondents reported that they were either satisfied or very satisfied with the service they received from the PSNI. However, 32% of respondents indicated that they had experienced problems with the police. Of those, 25% felt it was due to their sexual orientation.<sup>66</sup> 50% of respondents from the black and minority ethnic communities who had reported a crime were either satisfied or very satisfied with the service they had received from the PSNI. However, a third of respondents stated that they had not reported a crime because they believed the PSNI would ignore them due to their minority ethnic status.<sup>67</sup>

The two reports published by the ICR<sup>68</sup> made recommendations to the PSNI about reporting, training and recruitment of officers, the provision of interpreter services and outreach work. In particular, the reports recommended that all PSNI staff should receive diversity, anti-discrimination and anti-racist training as a matter of urgency.<sup>69</sup>

We have not had the opportunity to verify the matters raised with us by NICEM, the Rainbow Project and An Munia Tober, and there is clearly some conflict between their perceptions and the ICR 2006 reports. Nevertheless, we will attempt to follow up these concerns in the forthcoming year. However, whether or not the particular allegations made are well founded, there are clearly significant problems of perception which need to be addressed by the PSNI. We welcome the outreach work the PSNI has undertaken at the district level and its efforts to engage with minority ethnic, lesbian, gay, bisexual and transgender and Traveller communities. However, the PSNI needs to build on this work and the examples of good practice identified to address the negative perceptions articulated above. We therefore recommend that the PSNI should develop and strengthen its relationships with the minority ethnic, lesbian, gay, bisexual and transgender and Traveller communities and work with the groups representing them to address the significant concerns raised.

### NOTES

<sup>65</sup> The ICR used a variety of methods including questionnaires, focus groups, interviews and observation of policing operations and training.

<sup>66</sup> Institute for Conflict Research, *Policing, Accountability and the Lesbian, Gay and Bisexual Community in Northern Ireland*, p.6.

<sup>67</sup> *Ibid.*

<sup>68</sup> Institute for Conflict Research, *Policing, Accountability and the Lesbian, Gay and Bisexual Community in Northern Ireland and Policing, Accountability and the Black and Minority Ethnic Communities in Northern Ireland*, February 2006.

<sup>69</sup> Institute for Conflict Research, *Policing, Accountability and the Lesbian, Gay and Bisexual Community in Northern Ireland*, p.10 and Institute for Conflict Research, *Policing, Accountability and the Black and Minority Ethnic Communities in Northern Ireland*, p.11.

**Recommendation 36: The PSNI should develop and strengthen its relationships with the minority ethnic, lesbian, gay, bisexual and transgender and Traveller communities and work with the groups representing them.**

### Family liaison officers

The PSNI's policy on family liaison officers<sup>70</sup> establishes the position of specialist family liaison officers (FLOs) who are appointed in cases of suspected homicide to facilitate the investigation of the murder by establishing a supportive and appropriate relationship which links the family of the victim and the enquiry team.<sup>71</sup> The role of the FLO is to provide care, support and information to the family in a sensitive manner, to ensure the family are given details of relevant support agencies and to gather information from the family which contributes to the investigation.

### PSNI approach to youth justice

Significant changes were made to the youth justice system by the Justice (Northern Ireland) Act introduced in July 2002 for the treatment of children and young people under the age of 17. In our 2005 Annual Report, we recommended that the PSNI's policy on victims reflect changes in the youth justice system.<sup>72</sup>

In its Human Rights Programme of Action 2005-2006, the PSNI indicated that its existing policies, in particular its Youth Diversion Scheme policy<sup>73</sup> and its policy on support services at Crown Court for vulnerable and intimidated witnesses already reflected these changes and the PSNI agreed to incorporate this approach into its new victims policy.<sup>74</sup>

### PSNI youth diversion scheme

The PSNI youth diversion scheme policy<sup>75</sup> came into effect in September 2003. It sets out the framework for the PSNI's response to all children and young people under the age of 17 coming into contact with the police who have:

- (a) offended; or
- (b) not offended but have come to the attention of police because
  - (i) they may be at risk in terms of their own safety or well-being; or
  - (ii) they may be at risk of becoming involved in offending or anti-social behaviour.

The PSNI youth diversion scheme is based on a restorative justice model and recognises that the reasons why young people turn to crime or anti-social behaviour are complex. PSNI Community Safety Branch is responsible for the PSNI youth diversion scheme. The scheme is administered by specialist Youth Diversion Officers attached to each DCU.<sup>76</sup>

The PSNI youth diversion scheme policy states that where a young person commits an offence, the PSNI or the Public Prosecution Service may direct the following diversionary disposals:

- (a) an informed warning;<sup>77</sup>
- (b) a restorative caution.<sup>78</sup>

#### NOTES

70 General Order No. 10/2002 Family Liaison Officers.

71 An FLO is also appointed where a death occurs as a result of a road traffic accident.

72 2005 Annual Report, Recommendation 51(c), p.172.

73 Discussed below.

74 PSNI's Human Rights Programme of Action 2005-2006, p.11.

75 General Order 33/2003.

76 It is the responsibility of the Youth Diversion Officer to ensure that the victim is kept informed as to the progress of the investigation and to liaise with relevant statutory agencies, Schools Involvement Officers and PSNI Child Abuse and Rape Enquiry Units.

77 Directed where the behaviour is less serious.

78 A restorative caution is administered for more serious offending and takes the form of a restorative conference whereby a trained facilitator leads a meeting between the offender and their victim and members of the community.

The core criteria for either disposal is that there is evidence which would provide a realistic prospect of conviction if the young person were prosecuted, that there has been an admission of guilt and that it is not in the public interest to prosecute in this instance.<sup>79</sup> Informed consent from the offender and their parent or guardian must be secured before either disposal is directed. Neither disposal is a conviction. However, both disposals are recorded on the young person's criminal record for a fixed period.<sup>80</sup>

The policy states that where a child or young person comes into contact with the PSNI for any reason *other* than committing an offence, a record should be completed by the police officer with that initial contact which should be forwarded to the DCU Youth Diversion Officer.<sup>81</sup> The policy requires the Youth Diversion Officer to enter the details in a separate register for non-offence referrals. There is no limit to the number of non-offence referrals relating to a young person. However, if the Youth Diversion Officer receives three such referrals relating to a particular young person over a 12 month period, the policy requires that officer to consider referral of the young person to a relevant multi-agency forum, subject to the consent of the young person's parent or guardian.

The PSNI's youth diversion scheme policy is comprehensive, providing clear and careful guidance to officers on the treatment of children and young persons who come into contact with them. Against this background, we consider Recommendation 51(c) of our 2005 Annual Report to be implemented in full.

### PSNI approach to crime against older persons

The PSNI policy on crime against older persons<sup>82</sup> is due to be published shortly. It will apply to victims of crime of 50 years and over. The policy indicates that the PSNI will work in partnership with other key agencies both to reduce the fear of crime amongst older persons and combat incidents of crime against older persons.

The policy requires officers investigating crimes against older persons to have regard to the particular characteristics of the older victim.<sup>83</sup> We welcome the pro-active steps the PSNI has taken to tackle crimes directed at older people and its efforts to increase the confidence of older people and reduce their fear of crime.

### Example of good practice

As we have indicated already in this chapter, during our meetings with District Command Teams in April and May of this year, we discussed approaches to particular victim groups. We set out below a short commentary on North Belfast DCU's approach to tackling crime directed at older people.

#### North Belfast DCU Older Persons Community Safety Partnership

In 2003, there were a number of high profile crimes against older people in North Belfast. While there was no evidence of a rise in crime against older persons, there was evidence of a rise in the fear of crime. The North Belfast DCU Community Safety Team convened a group of voluntary and statutory agencies to form the North Belfast Older Persons Community Safety Partnership. The aim of this Partnership was to address the issues facing older people in North Belfast. Its objectives were to create an effective partnership with key agencies, reduce fear of crime amongst older people, increase the provision of crime prevention advice and support and reduce crime in the district.

#### NOTES

79 The policy requires all officers to base all decisions regarding disposal options for young persons committing offences on the Public Prosecutor's Considerations which are appended to the policy.

80 An informed warning is recorded on the young person's criminal record for a period of 12 months, unless further offending takes place within this period whereby the earlier offence disposal remains on the criminal record for at least the duration of the more recent offence disposal. A restorative caution is recorded on the young person's criminal record for a period of two and a half years, again unless subsequent offending takes place whereby the same rule as for informed warnings applies.

81 The policy reminds officers that when no offence has been committed, they have no specific powers to demand details of the child or young person involved.

82 Preventing and Responding to Crime Against Older Persons.

83 In particular, (i) older victims may require more time to recount the event because they may be in shock, (ii) third party support may be helpful, (iii) medical implications should be borne in mind, especially difficulties in communication and with short term memory; and (iv) the additional benefit from meeting personally with the victim and maintaining a continuity in personnel dealing with the victim.

The Partnership has provided support, advice, resources and practical assistance to over 1,100 older persons in North Belfast. As a result, over 90% of those surveyed indicated that their fear of crime had reduced. Following the establishment of the Partnership, 12 roadshow events were organised throughout the district. The events were targeted towards domestic burglary hotspots, as identified by PSNI analysts.

*Community Safety Road Show for Older People, 5th March 2006*

This road show was held in an Indian Community Centre after a religious ceremony in order to encourage the maximum number of attendees. About 40 and 50 people attended. Each organisation involved in the Partnership addressed the audience on its role and what services it offered older people.<sup>84</sup>

In light of an audit, the Partnership has now branched out into inter-generational work, and in December 2005, members of the Partnership met with pupils from Belfast Model School to establish a volunteer base of over 30 pupils. A local fold has agreed to partner the girls in their volunteering initiatives. The Belfast Community Safety Partnership has now adopted this model.

This is a good initiative and the PSNI should consider whether it could be adopted in other districts.

## Training on victims

In our 2005 Annual Report, we recommended that the PSNI develop, in conjunction with Victim Support and other relevant agencies, training on the treatment of victims to be integrated as a core component of the Student Officer Training Programme.<sup>85</sup>

In its Human Rights Programme of Action 2005-2006, the PSNI stated that the Foundation Training Programme for Student Officers incorporates external agencies such as Victim Support, Women's Aid and Bereavement Training to assist with delivery of this module, which is evaluated for effectiveness and to reflect changes in protocols between Victim Support and the PSNI.<sup>86</sup>

We have reviewed the student officer training materials. The training material on domestic violence is comprehensive and well designed. It includes a lesson delivered by a Domestic Violence Officer involving a case-study based practical assessment and a lesson delivered by Women's Aid raising awareness of domestic violence issues. This dual combination of internal training on PSNI policy and procedure and external awareness raising training is mirrored for lessons on child cruelty and dealing with bereavement. This dual approach to victims training is to be welcomed.

The training delivered by Victim Support is primarily focused on the role of Victim Support and its relationship with PSNI. We therefore encourage the PSNI to supplement this training with internal training based on the PSNI's new victims policy.

We are less encouraged by the student officer training on hate crime. The training materials are limited and involve no formal contribution from external agencies. While student officers are trained on racist incidents, that training is restricted to an introduction to racism and the definition of a racist incident. Student officers are not trained on other types of hate crime. We therefore suggest that the PSNI develops student officer training on hate crimes based on the new PSNI policy on hate incidents.

Against this background, we consider Recommendation 52 of our 2005 Annual Report to be implemented in part and encourage the PSNI to fully implement this recommendation as a matter of urgency.

## NOTES

<sup>84</sup> Organisations attending included the North and West Belfast Health and Social Services Trust, the NI Fire Brigade, Belfast City Council Home Safety Division, the Voluntary Service Bureau, Age Concern, Trading Standards Branch, the Consumer Council, and NI Victim Support.

<sup>85</sup> 2005 Annual Report, Recommendation 52, p.172.

<sup>86</sup> PSNI's Human Rights Programme of Action 2005-2006, p.12.

In our 2005 Annual Report, we also undertook to review the adequacy of the training of officers on the treatment of victims and to investigate the numbers of specialist officers appointed to support victims of specific crimes and the specialist training they receive. A number of districts engage specialist groups, such as Women's Aid and the Rainbow Project to deliver training where a need or gap is identified. Other *ad hoc* measures have also been adopted.<sup>87</sup> However, there appears to be no Service-wide approach. We therefore recommend that the PSNI should consider whether it needs to develop a corporate policy on the training of officers on the treatment of victims and the training of specialist officers appointed to support particular victim groups, or to adopt particular models of good practice.

**Recommendation 37: The PSNI should consider whether it needs to develop a corporate policy on the training of officers on the treatment of victims and the training of specialist officers appointed to support particular victim groups, or to adopt particular models of good practice.**

## NOTES

<sup>87</sup> For example, in Craigavon DCU which has a large migrant worker community, 12 officers are being supported to learn Portuguese.

# CHAPTER 11: TREATMENT OF SUSPECTS

## CHAPTER 11: TREATMENT OF SUSPECTS

The treatment of suspects in police custody can raise very important human rights issues usually under Articles 3, 5 and 8 of the European Convention on Human Rights. Serious allegations of abuse in the past led first to the Report of the Committee of Inquiry into Police Interrogation Procedures for Northern Ireland and then the creation of an Independent Commissioner for Detained Terrorist Suspects in 1993. The Policing Board are also obliged to keep under review designated places of detention through inspections of custody suites by lay visitors.<sup>1</sup> In accordance with this duty, the Policing Board set up the Independent Custody Visiting Scheme in 1991. Custody visitors are volunteers from the community who make unannounced visits to police custody suites and report on the welfare and treatment of persons detained. There are five custody visiting teams covering Antrim, Belfast, Down/Armagh, North-West and Tyrone/Fermanagh. A further custody visiting team for Antrim Serious Crime Suite was established in October 2005. This team is made up of representatives of Antrim and Belfast custody visiting teams.

In keeping with the Policing Board's duty to co-ordinate its activities with other public bodies,<sup>2</sup> we have not sought to replicate the work of these bodies. Instead, in like fashion to the approach adopted in our 2005 Annual Report, we have reviewed the reports of the Commissioner and the custody visiting teams. In addition, as part of our monitoring work this year, in May 2006 we held an in-depth meeting with the leaders of the Policing Board's custody visiting teams.

Having reviewed the available reports last year, made two unannounced visits to detention facilities<sup>3</sup> and considered the overall system in place for the detention of suspects, we were satisfied that the Independent Custody Visiting Scheme fulfilled an important function in monitoring the condition and treatment of detained suspects.

### The Independent Commissioner for Detained Terrorist Suspects

The Commissioner's Twelfth Annual Report (2004) was published in May 2005. The Report records that over the 2004 calendar year, 230 persons were detained at Antrim Serious Crime Suite. This figure represents a decrease of 37% on the previous year. The Commissioner made 83 visits to the facility, meeting with detainees on 138 occasions. He monitored 61 police interviews by way of remote viewing system and sat in on four interviews.

Two of the detainees spoken to by the Commissioner complained of being roughly handled at the time of arrest. No other complaints were made. However, the Commissioner made a number of general observations and raised a number of matters of concern.

The first matter raised by the Commissioner related to the locking up of detainees at Antrim Serious Crime Suite while showering. He was concerned to ensure that a mechanism was put in place to allow anyone showering to summons a member of the custody staff, e.g. if feeling unwell. He reported that the PSNI has responded by issuing a directive that when a prisoner is showering, a member of custody staff should remain outside. In addition, the Commissioner reported that a call system has been set up in the recently built Serious Crime Suite support facility at Grosvenor Road Police Station.

The second issue the Commissioner raised regarded the numbers and training of custody inspectors. This is something he identified in his previous report and raised with us in 2004. The Commissioner observed that sometimes less experienced officers are assigned to act as custody sergeants and custody inspectors when the custody unit is most busy and under pressure. He identified potential problems of consistency and potential for human error. That said, he reported that the custody staff performed well in 2004.

The Commissioner also raised concerns in his 2004 Report about the custody record. In his view, it had become outmoded and needed redesigning. He was concerned that the times of review of detention and recording of the granting of a warrant for further detention were neither prominently displayed nor easily accessible. He also noted

#### NOTES

- 1 Under Section 73 of the Police (Northern Ireland) Act 2000, implementing Patten Recommendation 64.
- 2 Police (Northern Ireland) Act 2000, s.3(4)(d).
- 3 Antrim Serious Crime Suite and Antrim Road Police Station in North Belfast.

that the custody record had no means of indicating whether it had been inspected either by the Commissioner or by custody visitors. He recommended that modifications be made as a matter of urgency.

The Commissioner reported ongoing difficulties caused by the speed of response by scene of crime officers and the consequent delay in some cases in the release of those in custody. In his view “this long-standing, recurring problem remains a matter for concern and warrants an early solution”.<sup>4</sup>

In our 2005 Annual Report, we noted that the custody suite at Grosvenor Road Police Station was being upgraded to provide a support facility to Antrim Serious Crime Suite. In his 2004 Report (published in May 2005), the Commissioner noted that this upgrade had been completed and reported that he was satisfied that the new unit at Grosvenor Road met the requirements for the detention of terrorist suspects.

As to the length of detention, as Table 1 below indicates, the Commissioner recorded that for the calendar year 2004, 50% of those detained in the Antrim Serious Crime Suite were detained for less than 24 hours, 43% were detained between 24 and 48 hours, 2% of detainees were held for between 48 and 72 hours and 5% were held for between 72 and 120 hours.<sup>5</sup> The Commissioner questioned the legitimacy of extending detention pending the results of forensic tests and identified discrepancies between the approaches taken in different cases. He recommended clarification.

**Table 1: Length of detention of detainees held in Antrim Serious Crime Suite, 2004**

Length of detention	Percentage of Detainees held
Less than 24 hours	50%
Between 24-48 hours	43%
Between 48-72 hours	2%
Between 72-120	5%

Finally, the Commissioner dealt with medical services. In 2003, he had highlighted difficulties experienced in providing a medical service to the Antrim Serious Crime Suite. In 2004, he noted the resolution of these difficulties by which a senior forensic medical officer now provides medical cover on a rota basis whenever required.

The Commissioner’s concluding report for the period 1st January 2005 to 30th September 2005 was published in January 2006. In this period, 188 terrorist suspects were detained at Antrim Serious Crime Suite.<sup>6</sup> The Commissioner visited the facility 61 times and saw and spoke to detainees on 122 occasions. During his visits, he monitored 29 interviews with suspects. At three of the interviews, the Commissioner was present. He observed the remaining 26 interviews by remote monitoring system. In the reporting period, the Commissioner received no complaint from any detained person or their legal representative. In the last quarter of 2005, one person was detained for a period of eight consecutive days at Antrim Serious Crime Suite. This period of detention under the Terrorism Act 2000 is the longest to date.<sup>7</sup>

In his concluding report, the Commissioner dealt with a number of “matters of ongoing importance”. One of these was access by detainees to reading material of their choice, an issue which seems to remain unresolved.

The Commissioner reported that he had requested and been permitted to observe and monitor the arrest of a terrorist suspect. He reported that the exercise was conducted properly and professionally by the police.

#### NOTES

<sup>4</sup> Commissioner’s Report 2004, p.18.

<sup>5</sup> Commissioner’s Report 2004, p.25.

<sup>6</sup> The comparative figure for the same nine months in 2004 was 182. The total number for 1st January to 31st December 2005 was 249.

<sup>7</sup> Commissioner’s Concluding Report 2005, pp.2, 3 and 24.

The Commissioner noted in his report that the PSNI intends to make wider use of video identification systems in Northern Ireland.

The Commissioner also reported that he maintained regular contact with medical officers during 2005 and observed their attendances. Having raised some concerns in earlier reports, in his final report, the Commissioner concluded that the “medical cover presently provided is wholly satisfactory.”

The Commissioner made a number of recommendations to the PSNI in respect of the possible adoption of a non-smoking policy at police premises.

In light of the proposed change in the law for an increase in the maximum period of detention of terrorist suspects to 28 days,<sup>8</sup> the Commissioner made a number of comments. In his view, “future oversight would need to take account of the practical arrangements required for such prolonged detention and the need to monitor their implementation accordingly.” He made the important observation that the serious crime suite facilities available in Northern Ireland have not been designed for protracted periods of detention.<sup>9</sup>

On 30th September 2005, the Secretary of State discontinued the role of the Commissioner and in his concluding report, the Commissioner reported that responsibility for the independent oversight of the detention of persons suspected of terrorist offences passed to the custody visitors under the Policing Board’s Independent Custody Visiting Scheme. However, he noted that apart from visits to Antrim Serious Crime Suite and the support facility at Grosvenor Road to see consenting detainees, to inspect custody records and to observe interviews, custody visitors would “not be undertaking” the other duties of the Commissioner.<sup>10</sup>

We have carefully considered whether the discontinuance of the office of the Commissioner leaves any gaps in the protection of terrorist suspects detained by the PSNI. During the course of 2005, consideration was given to extending the role of custody visitors to enable them to observe interviews of detainees, including terrorist suspects, on camera. An Order was made in September 2005 enabling the Policing Board, through its custody visitors, to monitor the conduct of interviews with detainees.<sup>11</sup> This Order came into force on 1st October 2005. As part of this process, the Policing Board drew up guidelines for custody visitors on observing interviews of detained terrorist suspects on remote monitor.

We summarised the powers and functions of the Commissioner previously in our framework document.<sup>12</sup> In his concluding report, the Commissioner accepted that this “fairly described” his role. For the purposes of this report, we have reviewed the extent to which these powers and functions correspond to the newly expanded powers and functions of custody visitors. We set out our analysis in Table 2 below.

**Table 2: The powers and functions of the Commissioner compared with the powers and functions of the custody visitors**

Powers and functions of Commissioner	Powers and functions of custody visitors
Inspect the area in which detainees are held	Yes
Inspect arrangements for monitoring interviews by CCTV	No
Inspect arrangements for electronic time-stamping of interview notes	No
Scrutinise custody records to ensure adherence to Code of Practice, treatment, questioning and identification of detainees	In part – no powers regarding identification of detainees

#### NOTES

<sup>8</sup> Terrorism Act 2006, s.23.

<sup>9</sup> Commissioner’s Concluding Report 2005, p.25.

<sup>10</sup> Commissioner’s Concluding Report 2005, p.15.

<sup>11</sup> Lay Visitors’ Reports Order 2005.

<sup>12</sup> Northern Ireland Policing Board Monitoring PSNI Compliance with the Human Rights Act 1998, p.30.

**Table 2: The powers and functions of the Commissioner compared with the powers and functions of the custody visitors (Continued)**

Powers and functions of Commissioner	Powers and functions of custody visitors
Conduct interviews with detainees	Yes
If denied immediate access to detained person, can observe via CCTV	No
If after observation, the Commissioner has grounds for concern, access granted	No
To attend as an observer at any police interview with a suspect	No – remote monitoring only
Bring complaints to officer in charge and forward copy to Chief Constable	No referral to Chief Constable
To receive complaints from those detained to be referred to Chief Constable and Commissioner informed of outcome	Referral to Police Ombudsman
To keep Code of Practice under review and make recommendations to Secretary of State	No
Identify safeguards and/or refinements necessary in relation to the detention process	No
To report annually to the Secretary of State	No

As is clear from his reports, the Commissioner has also liaised, over the years, with interested parties such as Amnesty International, the Independent Reviewer of Terrorism Legislation, HMIC, senior officials in the Northern Ireland Office, the Office of the Oversight Commissioner, the Police Ombudsman, the Chief Constable and, on some occasions, with other police forces. As is equally clear, the reports of the Commissioner cover a number of issues, such as monitoring access to medical services and delays caused by inadequate numbers of scene of crime officers.

Although the role of custody visitors has now been expanded to enable them to monitor interviews, in our view none of the other powers and functions of the Commissioner have been subsumed by the custody visitors. This leaves significant gaps in the protection of terrorist suspects detained by the PSNI, as the leaders of the custody visiting teams themselves recognised with concern at our meeting with them in May 2006. We therefore recommend that the Policing Board, in liaison with the PSNI and the Northern Ireland Office, address the question of how these gaps caused by the abolition of the post of Independent Commissioner for Detained Terrorist Suspects can be filled. This is particularly important in light of the new power in the Terrorism Act 2006 to detain terrorist suspects for up to 28 days.<sup>13</sup> As the concluding report of the Commissioner identified, the serious crime suite facilities available in Northern Ireland may need modification if the 28 day period of detention is used in Northern Ireland.

**Recommendation 38: The Policing Board, in liaison with the PSNI and the Northern Ireland Office, should address the question of how gaps in the protection of terrorist suspects detained by the PSNI caused by the abolition of the post of Independent Commissioner for Detained Terrorist Suspects can be filled.**

If there is to be any further expansion of the custody visitors' role to fill any of the gaps identified above, serious consideration will have to be given to the training that custody visitors receive. In the past, custody visitors have received a briefing by the Commissioner and training and guidelines on their existing role from the Policing Board. Human rights aspects were incorporated into induction training and highlighted in guidelines and protocols. This training has not changed, save that there is no longer a briefing by the Commissioner. When we met the

**NOTES**

<sup>13</sup> Terrorism Act 2006, s. 23. In force 13th April 2006.

leaders of the custody visiting teams, as part of our monitoring work this year, a number expressed concern about the adequacy of their training, in particular in relation to detained terrorist suspects. There was also clearly some confusion about the precise limits of their role.

Custody visiting team leaders also highlighted to us a general lack of communication and/or liaison between their teams and District Command Teams. Whilst this had not been a significant area of concern when the Independent Commissioner was in post, due to the fact that he regularly met with District Commanders and briefed custody visiting teams on relevant matters arising at an annual meeting, this lack of communication and resulting information flow has now become more pressing. We therefore recommend that the PSNI considers establishing a policy that all District Commanders meet their respective custody visiting teams on an annual basis to discuss concerns regarding treatment of persons in custody.

**Recommendation 39: The PSNI should consider establishing a policy that all District Commanders meet their respective custody visiting teams on an annual basis to discuss concerns regarding treatment of persons in custody.**

**Independent Custody Visiting Scheme**

In our 2005 Annual Report, we noted that a high number of visits by custody visitors were carried out each year. In 2003/2004, 80% of those visits were classified as satisfactory and the number of complaints made to custody visitors was very low. However, last year we noted that two of the custody visiting teams did not meet their targets and we were also a little concerned that 50% of all custody visits took place on Mondays, Tuesdays or Wednesdays, with only 20% at weekends when custody suites are busiest. Against that background, we recommended that the Policing Board ensure that the targets set for each custody visiting team in 2004/2005 were met, and that the Policing Board set targets for a higher number of visits by the custody visiting teams to take place at weekends.<sup>14</sup>

**Number of custody visits 2004-2006**

We have reviewed the number of visits made by each of the custody visiting teams against their targets for the 2004/2005<sup>15</sup> and 2005/2006.<sup>16</sup> We set out the results in Tables 3 and 4 below.

**Table 3: Target and actual number of visits per custody visiting team, 2004/2005**

Custody visiting team	Target number of visits for 2004/2005	Actual number of visits in 2004/2005
Belfast	288	268
Antrim	148	183
Down/Armagh	186	180
North-West	152	172
Tyrone/Fermanagh	122	177
<b>Total</b>	<b>896</b>	<b>980</b>

This table shows that there were 980 visits in 2004/2005. Of those, only one visit was deemed invalid.<sup>17</sup> The table shows that the Belfast team and the Armagh/Down team did not meet their visiting targets in the year 2004/2005. Having spoken with the leaders of the two teams, we are aware that there were good reasons for this.

**NOTES**

<sup>14</sup> 2005 Annual Report, Recommendation 54, p.173.

<sup>15</sup> 1st April 2004 to 31st March 2005.

<sup>16</sup> 1st April 2005 to 31st March 2006.

<sup>17</sup> On the ground that the custody visitors were unable to gain access to the custody suite as it was closed for repairs.

The figures for 2005/2006 are much more positive. On 1st July 2005, the Policing Board set new (increased) targets for the number of visits in 2005/2006. Table 4 below indicates the number of visits made against target for 2005/2006.

**Table 4: Target and actual number of visits per custody visiting team, 2005/2006**

Custody visiting team	Target number of visits for 2005/2006	Actual number of visits in 2005/2006
Belfast	296	321
Antrim	156	178
Down/Armagh	212	221
North-West	158	212
Tyrone/Fermanagh	159	203
Antrim Serious Crime Suite (Antrim SCS) <sup>18</sup>	48 <sup>19</sup>	43 <sup>20</sup>
<b>Total</b>	<b>1,029</b>	<b>1,178</b>

As the table indicates, there were a total of 1,178 visits by custody visitors in 2005/2006. This figure includes 43 visits to Antrim Serious Crime Suite by the newly established Antrim Serious Crime Suite custody visiting team during the period 1st October 2005 to 31st March 2006. We discuss the activities of the Antrim Serious Crime Suite custody visiting team in more detail later in the chapter.<sup>21</sup>

Save for the Antrim Serious Crime Suite custody visiting team, all the custody visiting teams in the period April 2005 to March 2006 exceeded their targets. Given the voluntary nature of the custody visiting scheme and the obvious demands that additional visits place on custody visitors, we welcome this fact and commend the custody visitors. We consider that this fully implements Recommendation 54 of our 2005 Annual Report.

## Days of visits 2004-2006

The percentage of visits at weekends for 2004/2005 was approximately 21%, as set out in Table 5 below. As Table 6 indicates, the number of visits at weekends in 2005/2006 has remained virtually unchanged, at 20%.

**Table 5: Days of visits, 2004/2005**

Day of the week	Annual Total	Percentage of total
Monday	190	19%
Tuesday	126	13%
Wednesday	173	18%
Thursday	168	17%
Friday	118	12%
Saturday	97	10%
Sunday	108	11%
<b>Total</b>	<b>980</b>	<b>100%</b>

### NOTES

<sup>18</sup> The Antrim Serious Crime Suite custody visiting team is made up of representatives of Antrim and Belfast custody visiting teams and was established in October 2005.

<sup>19</sup> For the period 1st October 2005 to 31st March 2006.

<sup>20</sup> For the period 1st October 2005 to 31st March 2006.

<sup>21</sup> At p.122.

**Table 6: Days of visits, 2005/2006**

Day of the week	Annual Total	Percentage of total
Monday	210	18%
Tuesday	204	17%
Wednesday	157	13%
Thursday	198	17%
Friday	168	14%
Saturday	122	10%
Sunday	119	10%
<b>Total</b>	<b>1,178</b>	<b>99%</b> <sup>22</sup>

## Times of visits 2004-2006

Table 7 indicates the times of visits to custody suites by the custody visiting teams between 2004-2006.

**Table 7: Times of visits, 2004-2006**

Time	Annual Total 2004/2005	Percentage of total	Annual Total 2005/2006	Percentage of total
00:00-06:00	6	1%	65	6%
06:00-09:00	22	2%	32	3%
09:00-12:00	209	21%	201	17%
12:00-15:00	154	16%	192	16%
15:00-18:00	159	16%	223	19%
18:00-21:00	345	35%	356	30%
21:00-24:00	85	9%	109	9%
<b>Total</b>	<b>980</b>	<b>100%</b>	<b>1,178</b>	<b>100%</b>

## Custody visiting team activity 2004-2006

We have analysed the visits conducted by the custody visitors for the years 2004/2005 and 2005/2006. Tables 8 and 9 depict the number of visits by each custody visiting team for 2004/2005 and 2005/2006 respectively, setting out details of the number of detainees held at the time of the visit, the number seen by custody visitors, the number who refused to be seen and the number not seen for any other reason. Tables 10 and 11 depict the number of visits to Antrim Serious Crime Suite for the period 1st October 2005 to 31st March 2006,<sup>23</sup> indicating the number of suspected terrorist detainees held at the time of the visit, the number seen by custody visitors, the number who refused to be seen and the number not seen for any other reason.

### NOTES

<sup>22</sup> Figures do not tally to 100% due to rounding.

<sup>23</sup> Visits by the Antrim Serious Crime Suite team only commenced on 1st October 2005.

**Table 8: Custody visiting team activity, 2004/2005**

Custody visiting team	No. of Visits	Detainees held	Detainees seen	Detainees who refused to be seen	Detainees not seen for another reason	Refusal rate (Percent)
Belfast	268	428	226	72	130	17%
Antrim	183	148	76	45	27	30%
Down/Armagh	180	107	58	14	35	13%
North-West	172	143	72	29	42	20%
Tyrone/Fermanagh	177	63	38	14	11	22%
<b>Total</b>	<b>980</b>	<b>889</b>	<b>470</b>	<b>174</b>	<b>245</b>	<b>20%</b>

The 980 visits in 2004/2005 mark an increase of nearly 1% over the number of visits in 2003/2004 (973).

As Table 8 indicates, there were 889 detainees held at the time of the visits made in 2004/2005. At least one detainee was being held during 466 of the 980 visits (48%). At least one detainee was interviewed during 299 of the 980 visits (31%). Of the 889 detainees held, custody visitors saw 470 (53%), 174 detainees refused to be seen and 245 detainees were not seen for other reasons. The numbers of detainees seen has increased by 4 from 466 in 2003/2004. The overall refusal rate in 2004/2005 was 20% which marks a decrease on the 22% refusal rate for 2003/2004.

In total, custody visitors classified 800 of the 979 valid<sup>24</sup> visits (82%) as satisfactory, raising no issues regarding the treatment of detainees or the conditions in which they were held. This is a 2% increase from satisfaction levels in 2003/2004. The majority of cases in which the custody visitors deemed their visit unsatisfactory concerned the cleanliness and condition of cells, the need for repairs, the adequacy of food and drink, access to an appropriate adult and medical attention. The Antrim custody visiting team recorded the lowest level of satisfaction (76%) and the Tyrone/Fermanagh team recorded the highest (89%).

In the period 2004/2005, there were three allegations of physical abuse made by detainees to custody visitors. In one case, the detainee complained that he had been strip searched and intimately touched by an officer. In the two other cases, the detainees alleged mistreatment and the custody visitors recorded bruising on the detainees' face and body.

The custody visitors expressed concern when one detainee, who was speech and hearing impaired, was given access to cleaning materials to clean up her cell after being physically sick. The custody visitors raised this with the District Commander and, from that point on, this incident has not been repeated.

On average, custody visitors experienced delay during four visits each month. Delays are usually due to the custody suite being busy and the resulting lack of available PSNI custody staff to accompany custody visitors.

**NOTES**

<sup>24</sup> As noted at p.118, one visit was deemed invalid on the ground that the custody visitors were unable to gain access to the custody suite as it was closed for repairs.

**Table 9: Custody visiting team activity, 2005/2006**

Custody visiting team	No. of Visits	Detainees held	Detainees seen	Detainees who refused to be seen	Detainees not seen for another reason	Refusal rate (Percent)
Belfast	321	624	332	122	170	20%
Antrim	178	198	91	54	53	27%
Down/Armagh	221	161	84	36	41	22%
North-West	212	209	121	48	40	23%
Tyrone/Fermanagh	203	124	59	31	34	25%
<b>Total</b>	<b>1,135</b>	<b>1,316</b>	<b>687</b>	<b>291</b>	<b>338</b>	<b>22%</b>

In total, custody visitors made 1,135 visits to custody suites (excluding visits to the Antrim Serious Crimes Suite from 1st October 2005 to 31st March 2006) in 2005/2006. There were 1,316 detainees held at the time of these visits, of which custody visitors saw 687 (52%). That figure represents a slight decrease on the previous year, when 53% of detainees were seen. Of those held, 291 refused to be seen, and 338 were not seen for another reason. The overall refusal rate was 22%.

**Visits to Antrim Serious Crime Suite**

As noted above, in October 2005, the custody visitors' role was expanded. A new custody visiting team made up of representatives from Antrim and Belfast custody visiting teams was established for Antrim Serious Crime Suite. Visits by the Antrim Serious Crime Suite custody visiting team commenced on 1st October 2005. Table 10 indicates the number of visits to Antrim Serious Crime Suite by custody visitors and Table 11 sets out the custody visiting team activity for the period 1st October 2005 – 31st March 2006.

**Table 10: Visits to Antrim Serious Crime Suite, 1st October 2005 - 31st March 2006**

Custody visiting team	Target number of visits	Actual number of visits
Antrim SCS	48	43

**Table 11: Custody visiting team activity for Antrim Serious Crimes Suite, 1st October 2005 – 31st March 2006**

Custody visiting team	No. of Visits	Detainees held	Detainees seen	Detainees who refused to be seen	Detainees not seen for another reason	Refusal rate (Percent)
Antrim SCS	43	54	15	23	16	43%

As Table 11 sets out, in the period 1st October 2005 to 31st March 2006, custody visitors made 43 visits to Antrim Serious Crime Suite. During these visits, 54 suspected terrorist detainees were held and, of those, 15 were seen (28%). 23 detainees refused to be seen, representing a refusal rate of 43%, which is nearly twice the refusal rate of detainees held in other custody suites in Northern Ireland.

In total, custody visitors made 1,178 visits to custody suites and Antrim Serious Crime Suite during 2005/2006. Of those, 6 were deemed invalid. At least one detainee was being held during 669 (or 57%) of those visits. At least one detainee was interviewed during 431 of the 1,178 visits (37%).



Custody visitors classified 926 (79%) of the 1,172 valid<sup>25</sup> visits as satisfactory, raising no issues regarding the treatment of detainees or the conditions in which they were held. This represents a small decrease on 2004/2005, when 82% of all visits were classified as satisfactory. The level of satisfaction varied, with Antrim Serious Crime Suite custody visiting team recording the lowest level at 55%, and the Belfast team recording the highest level of satisfaction at 89%. Mirroring the pattern in 2004/2005, the majority of cases in which the custody visitors classified visits as unsatisfactory concerned cleanliness and condition of cells, need for repairs, adequacy of food and drink and access to an appropriate adult and medical attention.

In 2005/2006, there were four complaints regarding the treatment of detainees. These comprised one allegation of assault, one allegation that the detainee was handcuffed too tightly, one allegation of verbal abuse and one allegation relating to the detainee's general treatment whilst in custody. In addition, there were two occasions on which the custody visitors recorded concerns around the detainee's access to a solicitor.

On average, the custody visitors faced delays in their visits on six occasions each month. As was the case in 2004/2005, these delays were usually due to detainees being processed or delay in the availability of PSNI custody staff to escort custody visitors. However, in March 2006, two visits to the Antrim Serious Crime Suite had to be aborted because the suite was too busy for PSNI personnel to accommodate the custody visitors.

During our meeting with custody visiting teams in May 2006, team leaders acknowledged that delays in custody visits were likely to occur during busy periods, particularly at weekends, with no fault on the part of PSNI officers. They emphasised, however, that it was important that this did not become a standard justification for preventing custody visitors from carrying out their duties on a regular basis. We support the custody visitors' practical response. However, we are concerned by the indication that a number of delays were caused by the PSNI custody suite receptionist staff not being aware that custody visitors were entitled to immediate access to the custody suite. We therefore recommend that the PSNI remind its custody officers, in particular custody sergeants, of the role and responsibilities of the custody visiting teams, and the need to facilitate custody visits as a matter of standard practice.

**Recommendation 40: The PSNI should remind its custody officers, in particular custody sergeants, of the role and responsibilities of the custody visiting teams, and the need to facilitate custody visits as a matter of standard practice.**

On 1st July 2005, the Policing Board introduced an additional target that each custody visiting team make two visits per month between midnight and 6.00am. Table 12 below records the number of visits made by each custody visiting team between midnight and 6.00am in the period 1st July 2005 to 31st March 2006.

#### NOTES

<sup>25</sup> Six visits were deemed to be invalid on the grounds that (i) the custody visiting partner did not turn up for the visit (visits must be conducted by at least two custody visitors), (ii) the custody suite was closed for computerisation, (iii) computer problems were encountered at the custody suite, (iv) the custody suite was closed for repair of computer installation, (v) the custody visitors were turned away (Antrim Serious Crime Suite) and (vi) the custody visit was aborted due to language difficulties.

**Table 12: Number of visits made by custody visiting teams between midnight and 6.00am, 1st July 2005 - 31st March 2006**

Custody visiting team	Target number of visits between midnight and 6am	Percentage of total number of visits
Belfast	15	6%
Antrim	15	11%
Down/Armagh	11	6%
North-West	10	6%
Tyrone/Fermanagh	14	8%
Antrim SCS	0	0%
<b>Total</b>	<b>65</b>	<b>7%</b>

Table 12 indicates that custody visiting teams failed to meet their target of two visits per month during midnight to 6.00am. In the nine-month period since the introduction of the target, each custody visiting team was expected to complete 18 visits between midnight and 6.00am. We have discussed the failure to meet this new target with custody visiting team leaders. The main reason given for failing to achieve this target was custody visitors' concerns regarding their own personal safety. Against this background, we commend the custody visitors for the significant increase in the number of visits between midnight and 6.00am, from 6 such visits in 2004/2005, to 65 visits in the period 1st July 2005 to 31st March 2006 and recommend that the Policing Board review its targets for visits by custody visiting teams between midnight and 6.00am. We understand that work has already begun in this regard.

**Recommendation 41: The Policing Board should review its targets for visits by custody visiting teams between midnight and 6.00am.**

During our meeting with the leaders of the custody visiting teams in May 2006, various other matters were raised with us. Other than the lack of appropriate training following the expansion in their role, concerns were raised regarding the treatment and detention of foreign nationals. Custody visitors identified serious delays in the provision of interpreter services and raised concerns regarding the provision of appropriate medical care caused by language difficulties. Custody visitors also highlighted the limitation in their welfare role in these circumstances. Team leaders also requested clarification as to whether their role extended to visiting non-nationals who were held in police custody suites under immigration legislation. We suggest that the Policing Board should work with the custody visiting teams to address these concerns and we will report further in next year's human rights annual report.

# CHAPTER 12: HUMAN RIGHTS AWARENESS

## CHAPTER 12: HUMAN RIGHTS AWARENESS

The promotion of human rights awareness of PSNI officers at all levels is vital not only to facilitate the development of a tangible human rights culture within the PSNI, but also to demonstrate the PSNI's commitment to the human rights agenda in its dealings with others external to it.

In March 2004, we devised, with the assistance of the PSNI, a human rights questionnaire intended to gauge the basic human rights knowledge of PSNI officers and to give some indication across the Service of the extent to which a human rights culture existed, if at all. The questionnaire was sent to all PSNI officers and the results were analysed in our 2005 Annual Report.<sup>1</sup> Drawing on that analysis, we made a number of recommendations, mainly related to training, but also touching on policy.<sup>2</sup> The PSNI response to some of these recommendations is dealt with in the chapters on training and policy respectively.<sup>3</sup> However, some general remarks are necessary here.

In our 2005 Annual Report, we recommended that the results of questions 1, 2, 3, 7, 8, and 9 of our human rights questionnaire should be reviewed by those responsible for student officer training and amendments made where necessary. That has not happened. Instead, the Consultants appointed by the PSNI to assist in the implementation of our training recommendations conducted an exercise (based on our human rights questionnaire) with student officers during the human rights input to the Student Officer Training Programme. We deal with this in some detail below.

### Student Officer training exercise

With the assistance of the lecturer, the power-point presentation and lesson plans were amended to reflect the questionnaire recommendations made in our 2005 Annual Report. The questionnaire used in our 2005 Annual Report was then given to the student officers<sup>4</sup> prior to the lesson and again afterwards. In total, 49 student officers completed the exercise. The results of the questions relating to our recommendations<sup>5</sup> are reproduced in Table 1 below.

**Table 1: Results of Policing Board human rights questionnaire completed by student officers during the Student Officer Training Programme**

Qu.	Correct after the class	Incorrect after the class	Incorrect before the class but correct afterwards	Correct before and after afterwards	Correct before but incorrect after the class
1	43	7	4	39	3
2	15	34	10	6	n/a
3	37	12	10	27	4
7	47	2	1	46	n/a
8	34	15	8	26	3
9	44	5	0	44	4

Question 1 dealt with the distinction between 'absolute' and 'qualified' rights under the European Convention on Human Rights. The results of the exercise outlined above showed that the vast majority of students (39) got the question right before and after the course and an even greater number (43 in total) got it right after the course. However, three students who actually answered correctly before the course answered incorrectly afterwards.

#### NOTES

- 1 2005 Annual Report, pp.142-161.
- 2 2005 Annual Report, Recommendation 55(a) - (h), p.173.
- 3 See chapters 2 and 3.
- 4 Three separate intakes of student officers completed the questionnaire.
- 5 Questions 1, 2, 3, 7, 8, 9.

In our 2005 Annual Report, we reported that 10% of police officers we questioned answered the question incorrectly. Amongst the student officers questioned in this exercise, 12% of students answered incorrectly after the lesson. Clearly further work is needed on this issue.

Question 2 concerned discrimination. The presentation to student officers indicated that “permissible differential treatment” is acceptable if “it has a legitimate aim” and is “proportionate”. An example is given of “treating a different religious group differently”. Only 15 of the 49 student officers got this right after the lesson. That is 30%, an improvement on the general responses to the questionnaire last year, but still low.

In their June 2006 Report, the PSNI Consultants stated that “[t]he Student Officer Training Programme has amended all relevant lessons that deal with discrimination to include emphasis on clarification of this Article” [Article 14, European Convention on Human Rights]. We were provided with copies of lesson plans on (i) arrests and cautions, (ii) policing ethics and the role of a constable and (iii) stop and search. While all three amended lesson plans include reference to human rights, in particular Articles 3, 5 and 6 of the European Convention on Human Rights, we are not satisfied that the lesson plans adequately explain the meaning and application of Article 14. Only the lesson on policing ethics and the role of the constable makes reference to the possibility of discrimination being justified and asks student officers to identify and give examples of when people can be treated differently. In our view, further work must be undertaken to ensure that officers are fully aware of their obligations under Article 14 of the European Convention on Human Rights and the circumstances in which different treatment may be justified. We therefore consider Recommendation 55(b) of our 2005 Annual Report only to be partially implemented.

Question 7 concerns the obligation on the police to provide individuals with a reasonable level of protection against the criminal acts of others. The exercise outlined above showed that 47 of the 49 student officers answered correctly following the lesson (an increase of one over the position at the start of the lesson). That is a high percentage and an improvement on the 87% of correct answers in the questionnaire sent out last year.

Questions 3 and 8 concern the use of lethal or potentially lethal force. The results of the exercise outlined above indicated that 27 student officers got question 3 right before and after the class and a further 10 got it right after the class having got it wrong beforehand (making 37 in total). The corresponding figures for question 8 are that 26 student officers answered correctly before and after the class and a further 8 got it right after the class having got it wrong beforehand (making 34 in total). Although these results compare favourably to the results of the questionnaire issued last year, when over 50% of officers answered both questions incorrectly,<sup>6</sup> it is clear that further action is needed.

Question 9 concerned the use of covert human intelligence sources. 44 student officers (90%) answered the question correctly before and after the class. However, four student officers answered correctly before the class and incorrectly afterwards. Whilst the overall result compares favourably to the response to this question last year, when 83% of officers answered the question correctly, the fact that more student officers answered the question incorrectly after the training session suggests further action is required.

These results reinforce the recommendations we made last year, but which remain outstanding. We recommend that the PSNI should implement Recommendations 55(a) to (d) of our 2005 Annual Report as a matter of priority.

**Recommendation 42: The PSNI should implement Recommendations 55(a) to (d) of the Human Rights Annual Report 2005 as a matter of priority.**

#### NOTES

<sup>6</sup> 2005 Annual Report, pp.146 and 151.

## Focus groups

In June 2004 we ran, in conjunction with the PSNI, a number of focus groups to gauge human rights awareness among its officers. The results were analysed and included in our 2005 Annual Report.<sup>7</sup> As with the questionnaire, we made a number of recommendations, again mainly to do with training.<sup>8</sup> The Consultants appointed by the PSNI indicated in June 2006 that the suggestions made by officers regarding the delivery of training would be considered by them as part of their on-going work. We therefore consider Recommendation 56 to be implemented in part and will report further on progress in next year’s human rights annual report.

A more general issue was raised during the focus groups by police officers who were concerned that the general public often do not understand the responsibilities of the police or that they have to adhere to certain codes and regulations. In our 2005 Annual Report, we recommended that the PSNI should review these concerns and seek to address them.<sup>9</sup>

In its Human Rights Programme of Action 2005–2006, the PSNI indicated that its media and public relations department operates a policy of openness and transparency in disseminating information to the public about the work of the police. When giving media briefings, facilitating interviews or issuing written material, the department covers all pertinent issues in relation to decision making and subsequent actions. In cases where codes are relevant, they are raised with the media and explained. The PSNI indicated that these departments will continue to work to ensure that the public has a full understanding of the complexities and constraints involved in providing a policing service. In line with best practice, the PSNI indicated that it keeps this approach under review.<sup>10</sup> We consider that this implements Recommendation 57 of our 2005 Annual Report in full. We will review the effectiveness of the measures taken in next year’s human rights annual report.

In response to the suggestion made by some officers during the focus groups that their voices were not being heard, we made the additional recommendation that the PSNI should indicate how it has incorporated the results of the questionnaire and focus groups to answer this criticism.<sup>11</sup> In its Human Rights Programme of Action 2005-2006, the PSNI indicated that officers are able to raise concerns through supervisors, during training or directly with the PSNI human rights legal adviser or staff in the PSNI Criminal Justice department. In addition, the PSNI intend to add a message board to the current human rights intranet site to allow officers to post any concerns or questions.<sup>12</sup> We therefore consider Recommendation 58 of our 2005 Annual Report to be implemented in full.

Finally, we made a more general recommendation that Training, Education and Development should review how to encourage officers to look at human rights more positively.<sup>13</sup> The Consultants appointed by the PSNI have indicated that they are currently considering this recommendation.<sup>14</sup> We therefore consider that Recommendation 55(h) of our 2005 Annual Report remains outstanding. We will report further on the work of the Consultants to implement this recommendation in next year’s human rights annual report.

## Appraisals

In response to Patten Recommendation 5, which stated that awareness of human rights issues and respect for human rights in the performance of duty should be an important element in the appraisal of individuals in the police service, the PSNI introduced a new appraisal system on 1st April 2003. When we reviewed this system for our 2005 Annual Report, we were not satisfied that it was an effective appraisal process to monitor the human rights performance of individual officers. We therefore recommended that the human rights element of

#### NOTES

<sup>7</sup> 2005 Annual Report, pp.161-164.

<sup>8</sup> 2005 Annual Report, Recommendation 56(a) – (e), p.173.

<sup>9</sup> 2005 Annual Report, Recommendation 57, p.173.

<sup>10</sup> PSNI’s Human Rights Programme of Action 2005-2006, p.36.

<sup>11</sup> 2005 Annual Report, Recommendation 58, p.173.

<sup>12</sup> These will then be researched and responded to by the PSNI’s Criminal Justice Department.

<sup>13</sup> 2005 Annual Report, Recommendation 55(h), p.173.

<sup>14</sup> June 2006 Consultancy Report, *Timelines for completion of outstanding recommendations*, p.12.

the PSNI appraisal process should be reviewed and revised to provide a more productive and effective tool to monitor and assess the human rights performance of individual officers.<sup>15</sup> Moreover, we recommended that the PSNI should reconsider the behavioural statements within each of the competencies formally assessed in both the appraisal process and promotional competitions and amend each to include a human rights component.<sup>16</sup> In the chapter of the 2005 Annual Report dealing with the Code of Ethics, we also recommended that the PSNI should consider including an assessment of individual officers' knowledge of the Code of Ethics as a specific component of the Annual Performance Review.<sup>17</sup>

In its Human Rights Programme of Action 2005 - 2006, the PSNI indicated that a full review of the appraisal system is taking place.<sup>18</sup> In the meantime the human rights aspect of the appraisal system has been reviewed and it has been agreed that the existing assessment of human rights should be removed and replaced by identifying and including the relevant human rights elements/behaviours in the integrated competency framework. The integrated competency framework was reviewed by a working group consisting of the PSNI human rights legal adviser, an occupational psychologist and a police officer representing the PSNI Human Rights Champion. Human rights considerations were identified as relevant in 7 of the 12 competencies. Necessary changes were then made to the appraisal forms.

We met the PSNI Director of Human Resources in May 2006 and reviewed copies of the revised appraisal forms. These are a clear improvement on the previous forms and contain, in Appendix A, a useful set of human rights behavioural indicators. To that extent, we consider Recommendations 59 and 60 of our 2005 Annual Report to be implemented. However, there are deeper problems that need to be addressed. The Director of Human Resources recognises this and has initiated a further review of the appraisal system which, it is hoped, will transform it from a personal development plan to a performance management scheme. Included among the proposed changes are the introduction of positive evidence of human rights compliance from the individual being assessed and making a link between appraisal and promotion. Appraisals currently play no formal part in promotion.

These proposed changes are welcome. When we discussed the appraisal system with District Command Teams during our series of in-depth meetings with 12 DCUs in March and April this year,<sup>19</sup> it very soon became apparent that supervising officers had no confidence in the current appraisal system as an effective way of monitoring the human rights performance of those being appraised. No doubt some of their concerns will be dealt with when the fuller review is completed next year. As we indicated already in chapter 5,<sup>20</sup> we will continue to monitor the PSNI's review of the appraisal system.

As already noted in chapter 5,<sup>21</sup> in response to Recommendation 21 of our 2005 Annual Report, that the PSNI should consider including an assessment of individual officers' knowledge of the Code of Ethics as a specific component of the Annual Performance Review, the PSNI has indicated that the intention of the fuller review of the appraisal system that is now taking place is that those being assessed should provide evidence of their compliance with the Code of Ethics. Again, as indicated in chapter 5, we will report further in next year's human rights annual report on the effectiveness of the PSNI's new appraisal model following its introduction in 2007.

## NOTES

15 2005 Annual Report, Recommendation 59, p.173.

16 2005 Annual Report, Recommendation 60, p.173.

17 2005 Annual Report, Recommendation 21, p.169.

18 PSNI's Human Rights Programme of Action 2005-2006, p.19.

19 Discussed in more detail in chapter 13.

20 At p.31.

21 At p.31.

# CHAPTER 13: POLICING WITH THE COMMUNITY

## CHAPTER 13: POLICING WITH THE COMMUNITY

The concept of policing with the community has been developing as a model of policing over the last 25 years. It implies a style of policing that reflects local community needs. A central plank is police/community engagement, founded on the twin principles of community consent and police accountability. This concept of policing with the community underpins the Patten Report.<sup>1</sup> Patten Recommendation 44 required that “policing with the community should be the core function of the Police Service and the core function of every police station”. This has been reinforced by s.32(5) of the Police (Northern Ireland) Act 2000, which requires police officers “as far as practicable, [to] carry out their functions in co-operation with, and with the aim of securing the support of, the local community”.

Respect for, and protection of, human rights is integral to policing with the community: police should be effective and efficient, representative and accountable within a framework of human rights. In our second year of monitoring the compliance of the PSNI with the Human Rights Act 1998, we have spent time reviewing the PSNI’s policy on policing with the community and conducting an initial audit of the implementation and operation of this policy at the district level. Our findings are set out below.

### PSNI Policy on policing with the community

The PSNI’s policy on policing with the community in Northern Ireland was introduced in April 2002. It states that policing with the community “is the style of policing to be delivered in Northern Ireland to meet the policing requirements of all members of the community”. The policy defines community policing as “...proactive, solution based and community driven. It occurs where the police and law-abiding citizens work together to do four things: prevent crime, inter-agency problem solving, bring offenders to justice, and improve the overall quality of life”. Policing with the community is not perceived to be a specialist form of policing, but rather as a principle that should pervade and inform the entire Police Service. It aims to establish direct accountability between the community and the PSNI at the local level, on the basis of partnership and joint responsibility.

The policing with the community policy emphasises that its realisation is dependent both on the acceptance and commitment by police officers throughout the PSNI that policing with the community is a core function of all policing activity and the acceptance, commitment and support for this style of policing from the communities across Northern Ireland.

The policy refers to elements identified by Patten as contributing to successful community policing projects, including a dedicated policing team for a geographical area with total responsibility for policing that area (sector police teams), respect for people of different backgrounds or political convictions and empowerment of sector police teams to determine policing priorities in partnership with the community. The policy emphasises the need for community policing to be tailor-made for the community in which it will be implemented, envisaging that the selection and tenure of officers reflect the needs of the community in terms of skill and commitment.<sup>2</sup>

Human rights have been identified as central to the PSNI’s policy on policing with the community in Northern Ireland: its policy is to be delivered in furtherance of the statutory duties of police officers and in compliance with a human rights framework informed by the PSNI Code of Ethics.<sup>3</sup> In addition, the PSNI policy indicates that community consultation should identify and address the needs of vulnerable groups such as women, minority ethnic communities, the elderly, children, members of the gay, lesbian and bisexual community and people with disabilities. Reference is also made to the PSNI’s duties under s.75 of the Northern Ireland Act 1998.<sup>4</sup>

#### NOTES

- 1 Patten Recommendations 33 and 44-49 all relate to structural measures to be put in place within the PSNI to implement a policing with the community model.
- 2 The policy envisages that policing with the community will be managed through sector policing. Sector policing involves the division of DCUs into sectors, headed by a sector commander. The division of the DCU into sectors is the responsibility of the DCU Commander.
- 3 PSNI policy on policing with the community, p.2.
- 4 Which promotes equality of opportunity between certain individuals and groups.

The aim of the PSNI's policing with the community policy is the improvement of community safety by reducing crime and the fear of crime and tackling anti-social behaviour. It is based upon five mutually dependent principles,<sup>5</sup> set out below.

### 1. Service Delivery

This principle is based on the premise that the police exist to serve the community and that therefore the various needs of local communities must be taken into account. Three factors are identified as critical to successful service delivery: visibility, accessibility and familiarity.

### 2. Partnership

This principle envisages consultation with communities through the model of consultative forums. The policy refers to the establishment of District Policing Partnerships, community and beat forums. The aim is a consolidation of partnership working (without precluding new partnerships or discontinuing established ones) towards common goals, including the reduction of crime and the fear of crime through such methods as diversionary schemes, victim support and education.

### 3. Problem Solving

This principle is defined as "the process of studying crime and disorder issues, usually in geographically defined areas, so that responses can be identified and implemented to address the causes of those issues". It envisages the use of local information in implementation of an information-led policing strategy. Reference is made to the importance of conducting information gathering in a human rights compliant manner.<sup>6</sup>

### 4. Empowerment

This principle emphasises the importance of creating joint ownership amongst members of the community and the police to address crime and community safety. It envisages a management style that both empowers officers to tackle issues raised locally and offers support and guidance to officers.

### 5. Accountability

This fifth principle is understood as the natural corollary of working with the community: if a police officer is tackling a locally identified problem in partnership with the community, the officer should be held to account for what is or is not done. The policy recognises the important role played by transparency in ensuring greater accountability.<sup>7</sup>

The implementation plan for the PSNI's policing with the community policy sets out the organisational model for policing with the community.<sup>8</sup> ACC Urban and ACC Rural are responsible for ensuring internal accountability for policing with the community. District Commanders are responsible for the delivery of a high quality policing service to their local community within the framework of the policy. DCUs are further subdivided into sector areas.<sup>9</sup> Sector Commanders are responsible for service delivery and community safety within their sector, managing and planning the use of resources to meet local community needs.

## Implementation of policing with the community at the district level

As part of this year's monitoring work, in March and April this year we undertook a series of intensive meetings with District Command Teams across Northern Ireland to investigate the implementation of PSNI's policy on policing with the community at the district level. A range of DCUs were selected to achieve a balance between PSNI Urban and Rural Regions and as wide as possible a geographical spread across Northern Ireland. In all, we visited twelve DCUs, as set out below.

#### NOTES

<sup>5</sup> PSNI policy on policing with the community, pp.6-12.

<sup>6</sup> Thus requiring a legal basis and a legitimate aim that are proportionate, necessary, accountable and able to withstand scrutiny.

<sup>7</sup> It also recognises the need to balance the respect for private life under the European Convention on Human Rights and the obligation to publish information under the Freedom of Information Act 2000.

<sup>8</sup> PSNI Policing with the Community Implementation Plan, pp.6 -10.

<sup>9</sup> A sector is a geographical area within the DCU, headed by a sector commander usually at the rank of Inspector.

## District Command Units visited, March-April 2006

Urban Region	Rural Region
East Belfast	Armagh
North Belfast	Ballymena
South Belfast	Craigavon
West Belfast	Dungannon & South Tyrone
Newtownabbey	Fermanagh
	Foyle
	Newry & Mourne

During our meetings with the District Command Teams, we discussed a range of issues, including district level training, access to human rights legal information, use of the PSNI human rights legal adviser, local strategies to tackle domestic violence and hate crime incidents, crime reporting and statistics and local PSNI community outreach and consultation initiatives. We discuss in detail in chapter 10 our findings regarding local strategies to tackle domestic violence and hate crime incidents, as well as PSNI initiatives to support victims of these crimes. In the remainder of this chapter, we discuss first the integration of human rights at the district level and then PSNI community outreach and partnership initiatives at the district level.

## Integration of human rights at the district level

We examined the integration of human rights at the district level in terms of training, reference and access to the PSNI human rights legal adviser and use of and referral to the PSNI Code of Ethics.

### District level training

Each district develops a training schedule that incorporates training initiated at Headquarters by Training, Education and Development (TED). This training is applicable to the Service as a whole, whilst district-led training is prompted by the needs of officers at the local level. Our meetings with District Command Teams suggested that the majority of district training schedules are devoted to centrally initiated training, with the result that local issues and needs in relation to training are overlooked or sidelined on account of resource and/or time constraints. Sometimes delays in notification about centrally driven training programmes can make it difficult for district trainers to properly plan their training schedule.

Current shift patterns of neighbourhood or sector officers also place a restraint on the amount of training that can be undertaken at the district level. Training programmes often have to be run during overtime hours. Districts have faced additional difficulties with the requirement that trainers must be accredited. This prohibits additional skills training by and to local district officers. As a result, some training at district level is delivered by external specialist sources.<sup>10</sup>

A number of the District Command Teams we met expressed concerns about the standards of training given to student officers. We were informed that when probationers arrive in the district, some display basic skill shortages. A number of districts were concerned that probationers were not fully equipped in the basic skills of every day policing. Where probationer officers display skill shortages, the burden falls on the district to ensure that the officers are properly trained. Some DCUs have referred these concerns directly to TED. Against that background, we recommend that the PSNI should review the training provided to probationers and ensure that the concerns raised by the District Command Teams are adequately addressed.

#### NOTES

<sup>10</sup> Several District Command Teams indicated to us that they had financed the delivery of training from specialist organisations such as The Rainbow Project and Women's Aid: see chapter 10 for further details.

**Recommendation 43: The PSNI should review the training provided to probationers and ensure that the concerns raised by the District Command Teams are adequately addressed.**

Our meetings with District Commanders confirmed that there has not been specific human rights training at the district level since the *Course for All*. However, where relevant, references to the Human Rights Act 1998 and the PSNI Code of Ethics are now incorporated into district level lesson plans. We discuss the need for human rights refresher training in detail in chapter 2.

**Reference to human rights legal information**

Our meetings with District Command Teams suggested that officers responsible for the planning and preparation of large scale or complex operations, in particular operations relating to parades, readily and frequently contact the PSNI human rights legal adviser for advice and guidance. In addition, the PSNI human rights legal adviser attends planning meetings and reviews planning material. The PSNI human rights legal adviser's advice is also sought in relation to applications under the Regulation of Investigatory Powers Act 2000 and the Police and Criminal Evidence (Northern Ireland) Order 1989. Many of the District Command Teams we met informed us that referral to the PSNI human rights legal adviser led to enhanced confidence in the decisions they made. We were informed that lower ranking officers refer to their supervisors as a first point of contact in relation to human rights questions or concerns. District Command Teams considered that reference by officers to their human rights aide memoire or online human rights information was sporadic and *ad hoc*.

We are satisfied that the PSNI human rights legal adviser is accessible and used appropriately at district level. As noted in chapter 1,<sup>11</sup> we remind the PSNI of the importance of not only maintaining this level of recourse to the PSNI human rights legal adviser, but of developing and enhancing it.

**Referral to the PSNI Code of Ethics**

In our meetings with District Command Teams, we were informed that officers do not routinely refer to the PSNI Code of Ethics. The Code is referenced on an *ad hoc* basis in relation to informal disciplinary matters and in district training, but there is no consistent approach across districts. As a result, knowledge of human rights and the general principles behind the Code of Ethics is general and not detailed. This endorses the recommendation that we make in chapter 5<sup>12</sup> that the PSNI should provide further evidence of the effectiveness of the Code of Ethics.

**PSNI community outreach and partnership at the district level**

A major objective of the PSNI's policy on policing with the community is to establish active partnerships between the police, the community and other relevant bodies to find and implement solutions at the local level to strengthen both PSNI service delivery and police partnerships. Community relations are to be developed and facilitated through consultative forums.<sup>13</sup> The PSNI policing with the community implementation plan sets out the role of the police in community outreach projects. The objectives of community outreach are to:

- (a) consult with and listen to the views of the community on local policing issues;
- (b) take the views of the local community into account;
- (c) foster a greater understanding in the community of the problems associated with policing;
- (d) encourage the community to assist the police;
- (e) improve the knowledge of local communities on the role of the police; and
- (f) be as open and frank as possible.

**NOTES**

<sup>11</sup> At p.3.

<sup>12</sup> At p.32.

<sup>13</sup> PSNI policy on policing with the community, p.6.

The PSNI policing with the community policy requires District Commanders to examine the existing consultation structures within their DCUs and make arrangements to ensure that consultative forums are inclusive, mirror sector boundaries and are reflective of the multiple communities within each district.

We define below the various types of consultative forums which currently operate at the district level.

**Beat forums:** undertaken at beat sector level between a PSNI neighbourhood team member of Constable/Sergeant rank and local residents and/or business owners to discuss local issues and areas of concern. Beat forums may relate to a particular housing estate or business complex.

**Community/consultative forums:** may be partnership or consultation based, i.e. DCU officers will work with local community groups to tackle local policing issues or the DCU will consult with the local community to ascertain their views on a particular policing issue. Community forums may be directed towards a particular issue or theme, for example race hate crime or domestic violence, or towards a particular group, for example the older population. A PSNI officer at Inspector level will standardly attend community or consultative forums.

**Community Police Liaison Committees (CPLCs):** operate at sector or neighbourhood level. The CPLCs are made up of representatives from the local community and representatives from voluntary and statutory agencies.

**Community Safety Partnerships (CSPs):** consist of representatives from the voluntary, statutory, private and community sectors. The partnerships operate at District Council level. CSPs work to improve the lives of people in the community through heightening awareness of issues such as fire safety, consumer rights, personal safety and crime prevention.

The PSNI's policing with the community policy explicitly recognises community involvement in local policing strategies and delivery. Respect for, and protection of, human rights is a central component to community engagement and outreach. In line with the policing with the community policy, DCUs are routinely divided into policing sectors and further subdivided into beat sectors. Neighbourhood or sector policing teams are responsible for engaging with the communities in their particular sectors. Beat officers are responsible for engaging with the community in their particular beat areas.

During our meetings with District Command Teams, we examined the approach and style adopted by different districts to engaging with their particular communities and the level of community involvement in informing policing strategies. Whilst we identified many similarities in formal consultation structures, e.g. the engagement of District Command Teams with DPPs and CPLCs, consultation at the more informal, local level is diverse in both approach and structure. We set out our findings below.

**East Belfast DCU**

Each beat officer in the district runs approximately 10 consultative forums in their beat area per month. Representatives of the District Command Team regularly attend the following consultative forums: two district CPLCs, the Inner East Forum, two community groups devoted to new neighbours and minority ethnic matters, the Good Neighbour Project, the East Belfast Area Youth Project Meeting, meetings with tenants of the Odyssey complex; meetings with users and employees of the local bus depot and airport and numerous residents and tenants associations.

**North Belfast DCU**

The DCU is involved in a wide range of community forums. Whether the forum is consultative or based on partnership and the level of engagement with the District Command Team necessarily depends on the nature of the sector or neighbourhood area. Prior to June 2005,<sup>14</sup> the DCU engaged with numerous residents groups and community associations in the Greater Shankill and Upper Crumlin areas. The DCU now has more limited engagement with these groups. The DCU officers are currently involved in consultative forums in the York Road, Greencastle and Old Park/Antrim Road areas. In addition, officers are involved in a Lower North Belfast Community Consultative Group, which has been specifically arranged to discuss poor police/community relations, as well as the Mount Vernon Project which is aimed at improving relationships between police and young people.

**South Belfast DCU**

South Belfast DCU attends CSPs and CPLCs. The District Command Team has established beat forums and five neighbourhood watch schemes. The DCU also engages in a community consultation exercise on the Local Policing Plan every two years. Through its participation in the South Belfast Ethnic Minority Forum, the District Command Team engages with several groups representing the minority ethnic communities in the district.

**West Belfast DCU**

The District Command Team drafts the local policing plan and provides it to statutory and voluntary bodies for their views. The DPP is actively involved in the formulation of the plan and conducts its own consultation exercise. Officers from the DCU engage with the Lower Falls Residents' Group, senior citizens groups and schools. The DCU is represented on the CSP.

**Newtownabbey DCU**

The District Command Team is engaged in a number of cross-community forums in the main housing estates in the area, as well as attending the district's equivalent to CPLCs. Each DCU sector has its own community consultative forum. These are supplemented with numerous residents' associations and six neighbourhood watch schemes. The DCU officers attend CSPs, the Newtownabbey Senior Citizens Forum, Whiteabbey Creating Common Ground Consortium, the Anti-Social Behaviour Panel, the Ethnic Minority Liaison Working Group and the District Housing Community Network. In addition, officers regularly engage with 27 out of the 40 schools in the district.

**Armagh DCU**

Local DCU officers attend each of the four CPLCs. The District Command Team attends and finances a Schools Forum which has been convened in response to sectarian incidents between local children. In addition, the DCU has established an Independent Advisory Group on policing with youth. The District Command Team engage with the West Armagh Consortium, REACT,<sup>15</sup> a Bands Forum (which has provided training for parade marshals) and numerous residents' groups. The District Command Team has noted an increasing demand for police consultative forums from both communities within the district.

**Ballymena DCU**

The DCU is involved with a host of community organisations and groups, including Ballymena Inter Ethnic Forum, Ballymena Inter Agency Support Group, a Minority Ethnic Advisory Group, the Safe School Transport Project, Bonfire Safety Project and Parade Marshalling training and financial assistance, CSPs, Youth Forum and Ballymena Retailers Against Crime. The District Command Team work closely with the DPP and DPP members attend the District Commander's Tasking & Coordinating Group meetings, as well as Gold and Silver parades strategy meetings.

**Craigavon DCU**

The District Command Team indicated that there is a level of engagement with all community associations, regardless of formal title. Secretarial support has been provided by the DCU to some community groups. In addition, the District Command Team and the DPP have links with the CPLCs. There are currently five Community Safety Forums operating in the district. The District Command Team also conducts meetings with the seven residents groups in the district on a bi-monthly basis. It convenes bi-monthly meetings with local school principals in the district. The District Command Team invites the DPP Parades Sub Committee to attend all planning meetings relating to parades in the district.

**Dungannon & South Tyrone DCU**

The District Command Team has established relationships with the South Tyrone Empowerment Project and the Polish Welfare Association to tackle hate crime in the district and engage with the minority ethnic population. The DCU's Community Involvement Team works with local schools and various other groups in an effort to reassure and interact with all residents of the area. Officers also engage with the local CSP. The District Command Team has a good relationship with the DPP and DPP members are given the opportunity to input into the development of the local policing plan.

**Fermanagh DCU**

The District Command Team engages on a regular basis with the NI Housing Executive, Department of Social Services, most schools in the district, Victim Support, Fermanagh Cultural Diversity Collective, Enniskillen Community Safety Partnership and the Enniskillen/Lisnakea Community Forum. Recently, the DCU carried out a community consultation exercise on the proposed closure of stations in the district. As a result, a number of service level agreements have been agreed between the DCU and the community in relation to the closures.

**Foyle DCU**

There are ten community forums operating within the district, spread across the eight DCU sector areas. District beat officers meet with community groups on an informal basis. Engagement with all communities within the district is increasing, with requests for additional forums to engage with the District Command Team. The level of police involvement in forums depends upon the nature of the forum and the area in which it is held. The DCU is a central supporter of at least half of the consultative forums operating within the district. The DPP is actively involved in drawing up the local policing plan. DPP members also attend local community forums.

**NOTES**

<sup>14</sup> Community relations deteriorated following controversy around the Parades Commission's determination for the Whiterock Parade in June 2005.

<sup>15</sup> Reconciliation Education and Community Training.



**Newry and Mourne DCU**

The District Command Team participates in CSPs and has established beat forums, neighbourhood watch schemes and consultative forums. The District Command Team recently ran a community consultation day to discuss local issues. A new forum has been convened with residents from a local nationalist housing estate, the NI Housing Executive and the Police Ombudsman. The District Commander has one private meeting with the DPP annually. The DPP contributes to the DCU's community outreach work.

In March 2006, we attended a number of community consultative forums in DCUs in the Urban Region. The forums we visited included two consultative forums with the business community and a community safety roadshow in North Belfast and a residents' forum in East Belfast. These were productive forums which demonstrated first hand the PSNI working in partnership with the community and joint problem solving.

We consider the use of consultative forums to be an essential element not only in the implementation of the PSNI's policing with the community policy, but also in building and fostering productive PSNI/community relationships. We urge the PSNI to provide the necessary support and resources to develop this important outreach work at the district level.

**Accountability at the district level**

Patten Recommendation 78 requires ACC Rural and ACC Urban to ensure "internal accountability for Policing with the Community by actively challenging District Commanders on their performance against policing plans and targets". ACC Rural and ACC Urban hold Accountability Meetings in each DCU within their respective regions on a six-monthly basis.

As part of our monitoring work this year, we attended Accountability Meetings in both Urban and Rural Regions.<sup>16</sup> We set out our analysis of those meetings below.

**Focus groups**

Each Accountability meeting is prefaced with a focus group comprising PSNI civilian personnel, constables or sergeants. ACC Rural prefaced his Accountability Meetings in November/December 2005 with a focus group constituted of sergeants. The purpose of the focus group was to discuss the treatment of victims of crime and to highlight the importance of keeping victims informed of the conduct of investigations. ACC Urban prefaced his Accountability Meetings in April/May 2006 with a focus group constituted of civilian personnel. The purpose of this focus group was to discuss the integration and contribution of civilian members within the PSNI and their level of involvement in problem solving for the PSNI.

The focus group model facilitates an open exchange of views. The genuine engagement at ACC level with civilian staff and front line police officers has mutual benefits for both senior command and junior ranks in terms of internal transparency and accountability. It is a positive way to endorse the contribution made by civilian staff and front line officers.

**Accountability Meetings**

Accountability Meetings are comprehensive, typically lasting five to six hours. They take a relatively standard format - the ACC sets the context and then hands over to the District Commander who makes a presentation on the district's performance in the last six months. Members of the District Command Team contribute and/or

answer questions raised by the ACC. District Commanders and their Command Teams are questioned by the ACC about the district's compliance with its annual policing plan, district crime statistics, investigation and detection of crime,<sup>17</sup> district strategies to tackle violent crime and hate crime incidents, custody figures and submission of files to the Public Prosecution Service, district trending and tracking of complaints against officers, officer attendance at firearms training, officer and civilian sickness levels and financial and human resource issues. Invitations to Accountability Meetings are issued by ACC Urban and ACC Rural to members of the Policing Board and DPPs.

We consider the Accountability Meetings to be a critical mechanism for internal accountability. We will continue to observe these meetings as part of our on-going monitoring work.

**District Policing Partnerships**

District Policing Partnerships (DPPs) are partnerships of elected and independent local representatives tasked with monitoring the effectiveness of policing in the local area. The DPP acts as a forum for discussion on policing issues with the ultimate objective of facilitating dialogue between the local community and the police. Members of the public are invited to attend at least six meetings every year. The District Commander produces a report to the DPP which details how the District Command Team is complying with its local policing plan. DPP Members and members of the public are invited to question the District Commander on the report.

In May 2005, the Committee on the Administration of Justice (CAJ) published a report on DPPs.<sup>18</sup> The CAJ report included an analysis of the relationship between DPPs and the PSNI. The report indicated that DPP Members' opinions of their relationship with the PSNI were mixed. Several DPP Members suggested that the information provided to them by the PSNI at their meetings was insufficient to enable them effectively to carry out their monitoring role. Similar concerns were raised with us during the series of meetings we held with representatives of all DPPs in March and April of this year. The CAJ report emphasised the importance that the DPP and PSNI work together to ensure effective accountability at the district level.<sup>19</sup> We endorse this conclusion.

**PSNI review of policing with the community policy**

At the end of 2004, a Steering Group chaired by the Deputy Chief Constable was established to lead a review at strategic level to 'reinvigorate' the PSNI's approach to policing with the community and to advance a proactive and practical programme of work "looking at how each part of the organisation can ensure that policing with the community is the core philosophy and means of service delivery".<sup>20</sup> The Steering Group has identified eight work strands to be addressed to strengthen the PSNI policing with the community model. This work is currently on-going. In addition, the PSNI has established a fund supervised by the Deputy Chief Constable aimed at stimulating innovative approaches to partnership working and problem solving by the PSNI and its partners. This fund has facilitated the establishment of a number of imaginative community projects.

**Craigavon DCU policing with the community model**

In April 2005, the PSNI Steering Group on policing with the community commissioned consultants to complete an evaluation of the policing with the community model implemented by Craigavon DCU.<sup>21</sup> Craigavon DCU implemented the PSNI policing with the community policy by changing in January 2005 from a response and sector policing model to a purely sector approach. This change entailed the standing down of the district's centralised response function, an amalgamation of all response officers and neighbourhood officers into three sector teams headed by sector commanders and the allocation of specific beat areas to all sector officers.

**NOTES**

<sup>16</sup> We attended Accountability Meetings held by ACC Rural at Armagh DCU on 1st December 2005 and by ACC Urban at West Belfast DCU on 25th May 2006.

**NOTES**

<sup>17</sup> Including drugs, violent crime, crime and migrant workers, sex related crime, anti-social behaviour and promoting public safety.  
<sup>18</sup> CAJ *Commentary on District Policing Partnerships*, May 2005. The report was produced following consultation with DPP Members at a conference hosted by CAJ on policing with the community held in June 2004.  
<sup>19</sup> *Ibid.* at p.15.  
<sup>20</sup> PSNI policing with the community draft strategy, September 2005.  
<sup>21</sup> Deloitte *Evaluation of the Craigavon Policing with the Community Model Final Report*, May 2006. The model was evaluated through assessment of PSNI monitoring data, community and officer surveys and consultations regarding the five policing with the community principles.

The evaluation indicated that the public believed that the change in approach in Craigavon DCU has had a positive impact on crime levels. However, the District Command Team expressed concern about the lack of officer capacity at key response times, e.g. the weekend. The evaluation also indicated that officers considered policing with the community to be effective in increasing public feelings of safety. This was due mainly to the presence of more police on patrol. Officers felt that they could engage more constructively with the community on most areas of their beat and increased local knowledge had led to the receipt of intelligence reports and greater success in solving crime in the district.<sup>22</sup> However, although engagement with the general public was reported as having increased under Craigavon DCU's model, the evaluation indicated that levels of engagement remained "relatively superficial".<sup>23</sup>

The PSNI's efforts to strengthen its policing with the community strategy are extremely important. We will report further on the work of the PSNI Steering Group on policing with the community in our next human rights annual report and will continue to monitor and evaluate the PSNI's implementation of its policing with the community policy as part of our on-going monitoring work.

#### NOTES

<sup>22</sup> However, the evaluation also indicated that there had been only a marginal increase in the amount of time police were actually engaged in proactive policing and some officers felt that much of their time was still spent on response policing, with little actual involvement in the community.

<sup>23</sup> Only 5% of those consulted had had contact with the PSNI other than in relation to a crime during the evaluation period. One tenth of officers questioned, related that they had no contact with the public over the course of a four day shift. Consultation with members of the public indicated that in general the community considers there to be still too few police on the street.

# CHAPTER 14: PRIVACY AND DATA PROTECTION

## CHAPTER 14: PRIVACY AND DATA PROTECTION

In our Monitoring Framework 2003, we proposed to expand our monitoring work following publication of our first human rights annual report to include both privacy and data protection. These matters are now highly regulated by the Data Protection Act 1998 and the Freedom of Information Act 2000. The Data Protection Act 1998 makes provision for the regulation of the processing of information relating to individuals, including the obtaining, holding, use or disclosure of such information. The Freedom of Information Act 2000 created two general rights in relation to recorded information held by public authorities. First, the right to be told whether or not the information requested is held and, second, the right to be given that information within 20 days. Both the Data Protection Act 1998 and the Freedom of Information Act 2000 have exemptions.

As part of our work on privacy and data protection, we have conducted an audit of the PSNI's policies, procedures and practices surrounding the holding, management and provision of personal data and information, examining compliance with the Data Protection Act 1998 and the Freedom of Information Act 2000. We have also had extensive discussions with representatives of the PSNI's Access to Information Team, which has the primary responsibility for ensuring the effective implementation of the PSNI's duties under the Data Protection Act and the Freedom of Information Act. The Team is led by the Head of Corporate Information and comprises a Data Protection Unit and a Freedom of Information Unit. We discuss PSNI policy and procedure in relation to data protection and freedom of information and the work of the two specialist units below.

### PSNI policies on data protection

The PSNI has issued three policies relating to data protection. Its General Order on the Data Protection Act<sup>1</sup> provides instruction and guidance on the Data Protection Act, summarising the main provisions of the Act, including definitions of the main terms, the process of notification, the powers of the Information Commissioner, available exemptions and the criminal offences created by the Act.

The PSNI's second policy on data protection is the General Order on the Sharing of Personal Data Policy and the Data Protection Act.<sup>2</sup> The Personal Data Policy is based on the ACPO Data Protection Code of Practice and outlines the procedure for disclosing personal information. Specific reference is made to the need for disclosure to be in accordance with the eight principles of data protection, the Human Rights Act 1998 and the common law duty of confidence. The policy outlines the possible exemptions that the PSNI may rely on to deny a request for personal information, but notes the exemptions do not provide a blanket exemption. The PSNI has developed a standard agreement for the sharing of personal information with other agencies which is attached to the policy. This agreement requires that both parties ensure that there is full compliance with the Data Protection Act 1998, the Human Rights Act 1998 and the common law duty of confidence in relation to the information exchange between them.<sup>3</sup>

A third policy on subject access procedures, is currently being revised by the Data Protection Unit. The draft policy provides specific guidance on s.7 of the Data Protection Act 1998 which is concerned with rights of access to data.

### PSNI Data Protection Unit

The Head of Corporate Information oversees the functions of the PSNI Data Protection Unit and reports directly to the Head of Corporate Development. The sergeant managing the Data Protection Unit (the Data Protection Officer) reports regularly to the Corporate Information Manager. PSNI Heads of Department are required to ensure compliance with the PSNI's data protection policy within their respective departments. This is co-ordinated by the Data Protection Officer.

#### NOTES

- 1 General Order 50/2000.
- 2 General Order 61/2002.
- 3 The agreement further requires that both parties ensure that ethical standards are maintained, a mechanism exists whereby the exchange and disclosure of information can be controlled, appropriate training is provided for employees involved in the process of information exchange and adequate arrangements exist to test adherence to the agreement.

The PSNI has a five year audit strategy in place whereby all major information systems are risk assessed and audited to ensure that personal information is accurate, relevant and adequate.<sup>4</sup> This system is required by both HMIC and ACPO. Specially trained personnel within the Data Protection Unit carry out the auditing process.

In light of the significant amount of personal information held by the PSNI, it is vital that the processes and structures put in place by the PSNI are sufficiently robust to ensure compliance with the Data Protection Act 1998. We therefore intend as part of next year's monitoring work to review more closely PSNI's records management processes as well as its procedures to ensure that information distributed to other agencies (nationally and internationally) is adequately protected, as required by the Data Protection Act.

### Data protection training

All members of staff, both police and support staff, are expected to complete IT training on data protection, freedom of information, records management and information security. The Data Protection Unit gives awareness training to all student officers and support staff on induction. Completion of this training is monitored by the Policing College. We have reviewed the power-point presentation<sup>5</sup> given to student officers and support staff. The presentation defines the work of the Access to Information Team, sets out the background to the Data Protection Act, explains the eight principles of data protection, refers to the offences and penalties that arise from failure to comply and instructs officers how to respond properly to requests for information. We are satisfied that this training provides student officers and new support staff with a basic introduction to the core principles of the Data Protection Act. The Data Protection Unit also carries out training for specialist groups, for example controllers and crime analysts.

An online training package is available to all other members of staff, both police and civilian. However there is no requirement that all staff complete this course. No training is currently provided to temporary civilian staff.

No doubt most data protection issues can be dealt with by the Data Protection Unit, but some issues will crop up and have to be dealt with in other departments by staff, both police and civilian. It is therefore important that all those likely to deal with data protection issues should be properly trained. We therefore recommend that the PSNI should consider whether its on-line training should be made compulsory for some staff.

**Recommendation 44: The PSNI should consider whether its on-line data protection training should be made compulsory for some staff.**

The PSNI published a guide to data protection legislation that was distributed to all officers and civilian staff in 2001. The guide sets out PSNI duties under the Data Protection Act and gives examples of occasions where PSNI may be found liable for holding of inaccurate information. We welcome PSNI's initiative to distribute this guide.

### Requests for personal data

Between 1st January and 31st December 2005, the Data Protection Unit received 4,695 requests for personal data.<sup>6</sup>

From July 2005, requests for personal data have been logged on a case management system. In the period 1st July 2005 to 31st December 2005, 2,251 requests were received and logged as set out in Table 1 below.

#### NOTES

- 4 Letter from the Data Protection Unit to NIPB's human rights advisors dated 10th April 2006.  
5 Keeping Information Secure.  
6 PSNI Data Protection Unit statistics (undated).

**Table 1: Requests for personal data, July – December 2005**

Outcome of request	No. of requests
Information does not exist	21
Existence of information neither confirmed nor denied	3
No criminal record	1,569
Criminal record disclosed	427
All requested information disclosed	148
No information held	0
Information excluded from disclosure	3
Information exempt from disclosure	12
Police National Computer only	9
Unable to process	2
Abandoned by the applicant	3
<b>Total</b>	<b>2,251</b>

As the information shows, the PSNI refused to supply personal information on the basis of exemptions under the Data Protection Act in only 12 of the 2,251 requests over the period. In these cases, the exemptions applied were national security,<sup>7</sup> crime and taxation<sup>8</sup> and regulatory activity.<sup>9</sup>

### Data protection complaints

A total of six complaints were made against the PSNI regarding the disclosure or non-disclosure of personal data in the period 1st January to 31st December 2005. Five of these complaints were made directly to the Information Commissioner. None of the complaints were upheld and no enforcement action was taken or recommended.

The number of complaints upheld against the PSNI in relation to data protection indicates that, in general, the PSNI is meeting its obligations under the Data Protection Act 1998. We will continue to monitor the PSNI's procedures and practices relating to the provision of personal data and the number and types of complaints received as part of our on-going work.

### PSNI freedom of information policy

The PSNI's freedom of information policy was published in October 2004.<sup>10</sup> The policy is based on the ACPO Manual of Guidance on the Freedom of Information Act. The PSNI human rights legal adviser was consulted on the drafting of the policy. The policy sets out in detail the procedure by which freedom of information requests are to be processed. It recognises the need to protect the confidence and privacy of third parties and requires the consent and views of a third party to be obtained, where appropriate, prior to the release of information. An information sharing protocol has been agreed between the PSNI and other public authorities to ensure that inter-agency freedom of information requests are dealt with effectively. Changes in PSNI procedures regarding freedom of information<sup>11</sup> are notified to PSNI personnel by way of email.

#### NOTES

- 7 Data Protection Act 1998, s. 28.  
8 Data Protection Act 1998, s. 29.  
9 Data Protection Act 1998, s. 31.  
10 Policy Directive No. 03/04 Freedom of Information Policy.  
11 In light of ACPO guidance, case law developments and decisions by the Information Commissioner.

## PSNI publication scheme

The Freedom of Information Act 2000 requires public authorities to produce a publication scheme.<sup>12</sup> The scheme must specify:

- a) the classes of information that the public authority publishes/intends to publish;
- b) the manner in which the information of each class is to be published; and
- c) whether the material is intended to be available to the public.

The PSNI follows an ACPO model publication scheme, which has been approved by the Information Commissioner. It is available on the PSNI website free of charge. Currently, there are eight classes of information on the publication scheme.<sup>13</sup>

The Freedom of Information Act requires public authorities to review their publication schemes from time to time.<sup>14</sup> The PSNI's freedom of information policy states that the Publication Scheme Manager will review the PSNI publication scheme regularly.<sup>15</sup> However, to date, the PSNI's publication scheme has not been reviewed. This is a concern and we recommend that the PSNI should review its publication scheme within three months of the publication of this Human Rights Annual Report.

**Recommendation 45: The PSNI should review its publication scheme within three months of the publication of this Human Rights Annual Report.**

## Freedom of information training

An external trainer currently provides training on the Freedom of Information Act. Only those personnel who are involved in the freedom of information process<sup>16</sup> are trained. All other personnel have access to a computer based training package that provides a general level of awareness on freedom of information. The Freedom of Information Unit has attempted to increase awareness of the Freedom of Information Act among all staff through a series of conferences, workshops and seminars. The PSNI intranet is used to provide up-to-date information and posters have been produced and placed in all operational and support areas in police stations across all DCUs. An on-going series of presentations is provided at senior management level in DCUs and at PSNI headquarters.<sup>17</sup>

As with the PSNI's approach to data protection, we are satisfied that the PSNI's freedom of information policy provides a firm foundation for ensuring compliance with the Freedom of Information Act 2000. The policy gives appropriate attention to balancing the requirements of Article 8 of the European Convention on Human Rights at the same time as moving towards greater openness and transparency.

## Requests for information

Any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds the information and, if so, to have that information disclosed unless the information is subject to an exemption under the Freedom of Information Act 2000.<sup>18</sup>

The PSNI's freedom of information policy requires all information requests to be communicated to the Freedom of Information Unit. The Freedom of Information Unit will consider and identify the PSNI personnel who may

hold or have access to the relevant information, consult with such personnel<sup>19</sup> and establish whether compliance with the information request and/or redaction requirements exceed the statutory fee limits.<sup>20</sup> Where a request is made which is too broad or uncertain, the applicant is given assistance to clarify and refine the request. A response to all information requests must be made within 20 days under the Act.<sup>21</sup>

In the period 1st January 2005 to 26th January 2006, the PSNI received 613 requests under the Freedom of Information Act. Of those, 493 requests (80%) were dealt with within 20 days and 81 requests (13%) were not.<sup>22</sup> The types of request relate to PSNI budgets, finance and procurement, policies and procedures, operational issues, high profile events, criminal investigations, job selection, and proposed organisational changes.

Of the requests received in the period 1st January 2005 to 31st December 2005, 144 were refused. The reasons for refusal included that an absolute exemption applied or that the case exceeded the statutory fee limit.<sup>23</sup> Exemptions from publication were applied in 80 cases. The most frequently used exemptions were law enforcement,<sup>24</sup> health and safety<sup>25</sup> and personal information.<sup>26</sup>

In the period 1st January 2005 to 31st December 2005, no charges were levied by the PSNI for information provided in response to a freedom of information request.

## Freedom of information complaints

The PSNI's freedom of information policy states that whenever a complaint is received, details must be recorded on the freedom of information tracking system and a reviewer appointed.<sup>27</sup> The Freedom of Information Manager (who is independent of the decision-making process) deals with complaints relating to the Freedom of Information Unit. Where the complaint involves a matter of operational significance, complexity or public interest, the Freedom of Information Manager may refer the complaint directly to an appeals panel comprising two or three senior PSNI officers. Complaints regarding Crime Operations and Internal Investigation Branch are also referred to an appeals panel.

The PSNI's Freedom of Information Unit received 31 complaints in 2005 expressing discontent with the nature of the PSNI's response to a request for information or the withholding of information. Of those complaints, 29 were processed<sup>28</sup> and two are the subject of on-going investigation. Of the complaints made in 2005, 25 of the PSNI's original responses were upheld, three were upheld in part, with further information being released, and one was overturned completely. Three complaints were referred to the Information Commissioner. In general, these complaints related to the non-release of information. The Information Commissioner made recommendations with regard to PSNI procedures in one case and upheld the PSNI's original response in the second case. The third complaint remains pending.

The PSNI has informed us that when a case is reviewed and poor procedure highlighted, internal procedures will be examined to avoid the repetition of similar incidents in the future. ACPO has recently conducted a review of the PSNI freedom of information structures and procedures. When that review is published, we will follow up any recommendations with the PSNI.

### NOTES

<sup>12</sup> Freedom of Information Act 2000, s. 19.

<sup>13</sup> Including Who's Who and Where, Aims, Objectives and Plans, Chief Constables Annual Report, Executive Decision Meetings, Policies, How are we doing?, Chief Officers Expenses and Significant Public Interest Category.

<sup>14</sup> Freedom of Information Act 2000, s. 19(c).

<sup>15</sup> The review requirements include an audit of all information held under the publication scheme to ensure accuracy and currency and an evaluation of the scheme every six months to ensure that it reflects the information being requested and includes any new classes of information.

<sup>16</sup> Including record owners, liaison officers, appeals officers and staff working in the Freedom of Information Unit.

<sup>17</sup> Letter from Freedom of Information Unit to NIPB's human rights advisors (undated).

<sup>18</sup> Freedom of Information Act 2000, ss. 1(1)(a) and (b).

### NOTES

<sup>19</sup> The PSNI department holding the information is given the opportunity to comment on the request and the impact of passing the information into the public domain.

<sup>20</sup> The PSNI may impose charges for providing information in compliance with the National Fees Regulations published by ACPO. If the cost of dealing with a request exceeds the appropriate limit, the applicant is given the opportunity to refine the request. Otherwise the request may be refused.

<sup>21</sup> Freedom of Information Act 2000, s. 10.

<sup>22</sup> Of the cases in which an extended time frame was agreed with the requester, 24 were closed within the time frame and 15 were closed outside the timeframe. In instances where the timescale was exceeded, the reasons tended to be the application of the public interest test, a requirement to consult with other parties or the need to seek legal advice.

<sup>23</sup> Under the Act, a public authority is not obliged to comply with a request for information where the request is vexatious (defined under s. 14(1) as repetitious, vague in content, unreasonable or focused on a trivial matter or aggressive or threatening in tone). During the period 1st January to 31st December 2005, no requests were classified by the PSNI as vexatious.

<sup>24</sup> Freedom of Information Act 2000, s. 31.

<sup>25</sup> Freedom of Information Act 2000, s. 38.

<sup>26</sup> Freedom of Information Act 2000, s. 40.

<sup>27</sup> The reviewer should consider, amongst other factors, adherence to time limits, communication with the applicant, manner and type of response and information transferred and evaluate whether the correct procedure was followed.

<sup>28</sup> 19 within the ACPO recommended three month time limit.

## HUMAN RIGHTS ANNUAL REPORT RECOMMENDATIONS 2005

### Status of Implementation

	Full	Part	Outs.	Adj.	W/D
<b>CHAPTER 1: THE PSNI PROGRAMME OF ACTION</b>					
1 The PSNI should treat Patten Recommendation 1 as an obligation to put in place and maintain an overall framework for human rights compliance and periodically review that framework to ensure its effectiveness.	X				
2 The PSNI should review the progress of the initiatives set out in its Human Rights Programme of Action against the performance indicators set by the Oversight Commissioner. In particular, the PSNI should:	X				
a. Devise a schedule for achieving the performance indicators set by the Oversight Commissioner where its Human Rights Programme of Action indicates that they have not yet been achieved.	X				
b. Set timelines for the achievements of the initiatives set out in its Human Rights Programme of Action that go beyond Patten Recommendations.	X				
c. The PSNI should draw up a specific programme of action on an annual basis to respond to the Policing Board's recommendations in respect of the PSNI's duty to comply with the Human Rights Act.	X				
d. The PSNI should assign responsibility internally for reviewing the Human Rights Programme of Action and for drawing up its programme responding to the Policing Board's recommendations in respect of the PSNI's duty to comply with the Human Rights Act.	X				
<b>CHAPTER 2: TRAINING</b>					
3 The PSNI should closely monitor and evaluate how well human rights training has been integrated into every level of its training to ensure consistency in standards and approach. In particular, the PSNI should:					
a. Revise its Student Officer Training Programme materials as a matter of urgency to include proper training on positional asphyxia.	X				
b. Revise the course material on training in the use of force and the use of firearms as a matter of priority, with full reference being made to the requirements of Article 2 of the European Convention on Human Rights, together with an explanation of the relevant legal tests for the use of force.		X			
c. Conclude its training in the use of force and the use of firearms with individual assessments of participating officers' knowledge of the Code of Ethics and relevant human rights provision, in particular, the relevant legal tests for the use of force and the application of Article 2 of the European Convention. The results of these assessments should inform the development of basic and refresher training courses in the use of force and the use of firearms.		X			
d. Introduce a strict monitoring system to ensure that all officers attend and satisfactorily complete firearms refresher training at appropriate intervals as required by the PSNI Policy on the Use of Firearms.	X				
e. Consider whether there remains a need for some form of human rights specific refresher training.	X				

# APPENDIX 1: 2005 RECOMMENDATIONS

	Full	Part	Outs.	Adj.	W/D
4 The PSNI should conduct a thorough audit of all PSNI training materials within the next six months and thereafter on a bi-annual basis to ensure that human rights principles are effectively integrated and developments in human rights law and practice incorporated.			X		
5 The PSNI should closely monitor and evaluate the quality and effectiveness of its human rights training for trainers.			X		
6 The PSNI should set timelines for its Human Rights Audit and Observation Project Team to conduct a comprehensive evaluation of human rights training delivery.		X			
7 The PSNI should put in place a scheme for the expert and comprehensive external evaluation of the delivery of PSNI training on human rights. In the event that the PSNI does not put in place such a scheme, the Policing Board should do so.			X		
<b>CHAPTER 3: POLICY</b>					
8 The PSNI should review all the material currently constituting 'policy' in the loose sense of the word and classify it as policy, procedure or guidance according to the definition in the General Order on Policy, Procedure and Guidance.			X		
9 All PSNI policy should be reviewed using the General Order on Policy, Procedure and Guidance within twelve months of this report.			X		
10 The PSNI should: <ul style="list-style-type: none"> <li>devise a system for ensuring that all policies available on the PSNI intranet are effectively updated when changes are made to them;</li> <li>review how those policies considered too sensitive to be generally available on the PSNI intranet site are to be indexed, updated and kept.</li> </ul>	X		X		
11 The PSNI should consider whether some or most of its policies can be made available to the public, either on the PSNI website or by some other means.		X			
12 The policy writers' human rights training course should be redesigned based on the policy template in the General Order on Policy, Procedure and Guidance. The course should be compulsory for all PSNI policy writers.			X		
13 The PSNI should review all policies and protocols on PSNI relations with the military and/or bodies exercising policing powers. In particular, the PSNI should formulate, in collaboration with the military, a policy setting out (i) its relationship with the military and (ii) the agreed liaison procedures in place for joint operations between the PSNI and the military.	X				
14 The Policing Board should commit itself to a further audit of PSNI policies once the review of policies under the General Order on Policy, Procedure and Guidance has been completed by the PSNI.			X		

	Full	Part	Outs.	Adj.	W/D
<b>CHAPTER 4: OPERATIONS</b>					
15 Relevant PSNI operational policies, particularly those relating to public order, should give clearer advice to PSNI officers about when they should refer matters to the PSNI legal services department.	X				
16 The PSNI should establish a formal 'on-call' system within the PSNI legal services department and ensure that all offices who require legal advice in the run up to, and during, operations are aware of this system.	X				
17 The Policing Board and the PSNI should make arrangements for the more effective monitoring of the PSNI's performance in complying with the Human Rights Act in relation to the planning and execution of policing operations.	X				
18 The PSNI should supply the Policing Board with data collated by PSNI Central Statistics on stops and searches under Police and Criminal Evidence and terrorism legislation on a six-monthly basis. That data should identify any District Command Unit where there has been a significant increase in stops and searches and provide detail of action taken by the PSNI to investigate the reasons for any such increases.	X (on going)				
19 The PSNI should develop its policy on integrity testing as a matter of priority and track the effectiveness of its integrity tests. The PSNI should supply the Policing Board with aggregated data regarding its integrity testing procedures on a six-monthly basis.	X (on going)				
<b>CHAPTER 5: ADHERENCE TO CODE OF ETHICS</b>					
20 The Policing Board should require the PSNI to provide evidence of the effectiveness of the Code of Ethics, and then assess that evidence. In particular, the Policing Board should require the Chief Constable to set out what further steps he intends to take to ensure that all officers have read and understood the Code of Ethics.		X			
21 The PSNI should consider including an assessment of individual officers' knowledge of the Code of Ethics as a specific component of the Annual Performance Review.	X				
22 The results of the part of the human rights questionnaire dealing with discrimination should be carefully studied by the PSNI and consideration given to revision or clarification of this Article of the Code of Ethics.			X		
<b>CHAPTER 6: COMPLAINTS, DISCIPLINE AND CIVIL ACTIONS</b>					
23 The Policing Board should request that the Police Ombudsman supply summary details of those cases in which a recommendation for prosecution is made.					X
24 In addition to considering each Regulation 20 report as it arises, the Policing Board should track all of the issues raised by the Police Ombudsman on a yearly basis and analyse any trends that emerge.	X (on going)				

	Full	Part	Outs.	Adj.	W/D
25 The PSNI should provide to the Policing Board, on a quarterly basis, a schedule setting out the number of Regulation 20 reports received in the previous quarter, a summary of all substantive issues raised in the reports, PSNI action in response to those issues and to any recommendations made and details of any internal research or reviews instigated.	X (on going)				
26 The PSNI should in future correlate its statistics on disciplinary matters against specific articles in the Code of Ethics. The Policing Board should track breaches of the Code of Ethics disclosed in this way and track any discernable trends.	X (on going)				
27 The PSNI should supply the Policing Board with the following additional information regarding complaints and disciplinary action: a. Summary details of all cases that resulted in formal disciplinary hearings on a six-monthly basis. b. Details of all conduct leading to a Superintendents' written warning, also on a six-monthly basis. c. Details (anonymised if appropriate) of the number of police officers in respect of whom there have been three or more complaints in a rolling twelve-month period, along with details of the type of complaint made. d. Details of those cases where disciplinary proceedings are either not commenced or not concluded because the officer in question retires or otherwise leaves the PSNI before that stage is reached. e. Reports on a quarterly basis in relation to the current investigations of misconduct being conducted by the Internal Investigation Branch and disciplinary action arising as a result of completed investigations. f. Details of all judicial review cases brought against the PSNI on a six-monthly basis, indicating which cases were won, which were lost and the terms of any agreement under which any of them were settled. g. Details of any action taken or proposed in response to any judicial review cases brought against the PSNI, which the Policing Board should track and analyse for any discernible trends. h. Details of any action taken by District Commanders under the PSNI Trending and Tracking Policy.	X (on going) X (on going) X (on going) X (on going) X (on going) X (on going) X (on going) X (on going)				
28 The Policing board should review how best to collate details of the conduct that led to the giving of advice and guidance in twelve months time when the new PSNI case management system is up and running.	X			X	
29 The Policing Board should review whether any data on human rights compliance can be obtained from cases which are informally resolved by the Police Ombudsman or closed by her as a result of complainant non-cooperation and, if so, how best to collate that data. Further, the Policing board should review the Police Ombudsman's new category of 'Substantiated Other' in twelve months.					X
30 The PSNI should review the arrangements in place regarding severance or retirement of officers and consider whether these should be amended to take into account on-going disciplinary proceedings against individual officers.	X				
31 The PSNI should review all civil cases that are either lost or settled with a view to bringing disciplinary proceedings where it is appropriate to do so and should provide the Policing Board with details of this review on a quarterly basis.	X (on going)				

	Full	Part	Outs.	Adj.	W/D
<b>CHAPTER 7: PUBLIC ORDER</b>					
32 The PSNI should review its arrangements with the Parades Commission and agreed protocols for effective communication between itself and the Parades Commission as a matter of priority.	X				
33 The PSNI should review the arrangements in place for joint public order operations between itself and the military and make such amendments as it considers necessary. In particular, the PSNI should formulate, in collaboration with the military a policy setting out its relationship with the military and the agreed liaison procedures in place for joint operations.	X				
34 The PSNI should conduct an internal after-the-event audit of a random selection of public order operations as part of its annual debrief process. In particular, the PSNI should include consideration of community responses and parade organisers' and participants' views on the policing of parades over the marching season as part of its annual debrief process.	X				
35 The PSNI should review and revise its General Orders on public order as follows: a. Human Rights Policy in relation to Public Events: include (i) a summary of the relevant provisions of the European Convention on Human Rights, (ii) a short commentary on the application of these provisions in the public order context, and (iii) some guidance on factors likely to be relevant in balancing human rights in the public order context. b. Policy on the Public Processions (Northern Ireland) Act 1998 and the Parades Commission: review the policy in so far as it relates to the arrangements between the PSNI and the Parades Commission and ensure that all officers know and understand (i) the basis upon which the Parades Commission issues its determinations and (ii) the agreed protocols for communication between the PSNI and the Parades Commission. c. Public Order Tactical Advisors Policy: include explanations of the key concepts of legality, necessity and proportionality.	X  X  X		X		
<b>CHAPTER 8: USE OF FORCE</b>					
36 The PSNI should provide statistics collated on the use of force to the Policing Board on a quarterly basis.			X		
37 The PSNI should review and revise its General Orders on public order as follows: a. Policy on the Use of Force: (i) include reference to Article 2 of the European Convention and set out explicitly both tests on the use of force; (ii) set out the requirement for an effective official investigation when an individual is killed as a result of the use of force and/or when it is arguable that there has been a breach of Article 2 or Article 3 of the European Convention and outline the requirements for such an investigation (cross-referring to the General Order on Post-Incident Procedures); (iii) cross-refer to the PSNI Code of Ethics, particularly Article 4; (iv) insert a review date into the policy. b. Policy on the Use of Firearms: cross-refer to the Code of Ethics, particularly Article 4, and insert a review date into the policy.	X  X X		X  X		



	Full	Part	Outs.	Adj.	W/D
c. PSNI Policy on Firearms Tactical Advisers: set out the relevant human rights obligations in, and cross-refer to, the policy on public order tactical advisers and insert a review date into the policy.			X		
d. Policy on Use of Forced Entry Techniques: set out the requirements of the Articles of the European Convention identified as relevant to the policy and cross-refer to the relevant provisions of the PSNI Code of Ethics.	X				
e. Policy on Baton Rounds: (i) set out the requirements of Article 2 of the European Convention for officers to consider before baton guns are deployed and used; (ii) define concepts, such as lawful and proportionate, on the face of the policy; (iii) explain the application of the relevant Articles of the European Convention in the particular context; (iv) review the policy in light of the recent policies on other alternatives to use of lethal force, in particular the water cannon and CS Spray policies issued in 2004, with appropriate cross-referencing.	X				
f. Policy on the Deployment and Use of Vehicle Mounted Water Cannon; (i) revise the policy's recording procedure to include a requirement that officers record the justification for the deployment of the water cannon, the objective to be achieved through deployment and use, the mode of use, the consequences of use and the effectiveness of achieving the stated objective; (ii) include a requirement of a post-event review of each deployment and use of water cannons by the relevant District Command Unit Commander to determine whether the use of water cannons was justified, the objective of deployment was achieved and to identify improvements that could be made in future deployment and use.	X				
g. Policy on CS Incapacitant Spray: (i) underline that CS spray is not intended for large scale public order use but rather is for use in individual incidents of disorder, in line with the ACPO Guidance; (ii) include a requirement that each use of CS spray be reviewed by the relevant District Command Unit Commander.	X				
h. Policy on Discharge of Firearms by Police – Post Incident Procedures: (i) set out explicitly the requirements of investigations into deaths howsoever caused; (ii) refer to victims and victims' families and require police officers to notify relatives/close friends of an injured or affected person at the earliest opportunity (in compliance with the Code of Ethics Article 4.3 (iv)); (iii) set out the rights of police officers who are the subject of investigation following a death.		X			
i. The PSNI should submit PB2s to the Policing Board within 7 days following every incident of serious public disorder.		X			
38 The PSNI should provide reports to the Policing Board on a quarterly basis of all incidents where water cannons have been deployed and used, setting out details of the incident, including the location, time and date, a summary of events, the authority for deployment and use and details of injuries sustained and/or damage to property.			X	X	
39 The PSNI should assign responsibility internally for reviewing, on a six-monthly basis, all instances where water cannons have been deployed and used and for issuing guidelines on best practice to PSNI senior command further to these internal reviews. Further, the PSNI should provide the Policing Board with a summary of the conclusions of this six-monthly internal review.	X (on going)			X	
40 The PSNI should revise their Training in the Deployment and Use of Water Cannon as follows:					

	Full	Part	Outs.	Adj.	W/D
a. The legal basis section in the human rights and use of force element should be amended to include reference to Article 2 of the European Convention on Human Rights and the absolute necessity test applied where lethal or potentially lethal force is used. Officers should be reminded that water cannons, like all applications of force, have the potential for unintended serious injury or loss of life.	X				
b. The competency form should be amended to include a competency assessing the officer's knowledge of the law on the use of force and human rights as a core course competency.	X				
c. The lesson plans for the commanders' course should be amended to explicitly include human rights and the use of force as core components. The commanders' course should include the human rights knowledge check included within the water cannon cannoneers' course as a tool to assess officers' knowledge on the law relating to the use of force, including the European Convention on Human Rights and the Code of Ethics.	X				
d. The competency form for the water cannon commanders' course should be amended to include a competency assessing the officer's knowledge of the law on the use of force and human rights as a core course competency.	X				
41 The PSNI should provide reports to the Policing Board on a quarterly basis of all incidents involving the deployment and discharge of CS spray, setting out details of the incident, including the location, time and date, a summary of events, the authority for deployment and details of injuries sustained and/or damage to property.			X (to be re-visited)		
42 The PSNI should assign responsibility internally for reviewing on a six-monthly basis all uses of CS spray and for issuing guidelines on best-practice to police officers further to these internal reviews. Further, the PSNI should provide the Policing Board with a summary of the conclusions of this six-monthly internal review.	X (on going)				
<b>CHAPTER 9: COVERT POLICING</b>					
43 The PSNI and the Policing Board should agree a protocol for the disclosure to the Chairman and Vice-Chairman of the Policing Board of an effective summary of the Surveillance Commissioner's reports, including recommendations made by the Commissioner and the PSNI's response thereto.	X				
44 Consideration should be given by the PSNI and the Policing Board to the possibility of the Surveillance Commissioner meeting the Chairman and Vice-Chairman of the Policing Board on at least an annual basis.	X				
45 The PSNI should continue to make available to the Policing Board's human rights advisors the Surveillance Commissioner's reports and the PSNI responses to those reports.	X				
46 The PSNI should review the effectiveness of its recent policies on covert policing in 12 months from this report.		X			
47 The PSNI policies on covert policing should continue to be made available to the Policing Board's human rights advisors.	X				
48 The Policing Board's human rights advisors should provide a detailed briefing to the Chairman and Vice-Chairman of the Policing Board setting out any specific concerns they have about the PSNI's response to the Chief Surveillance Commissioner's recommendations and/or PSNI policies on Covert Policing.	X				

	Full	Part	Outs.	Adj.	W/D
49 The PSNI should make available to the Policing Board's human rights advisors unredacted (so far as possible) copies of its covert policing training material.	X				
50 The PSNI should consider how best to evaluate the actual delivery of covert policing training.	X				
<b>CHAPTER 10: VICTIMS RIGHTS</b>					
51 The PSNI should formulate a policy on victims providing a standard approach across the PSNI to the treatment of victims. In particular, the policy should:	X				
a. Establish clear procedures for communicating with (i) victims and/or their families and (ii) voluntary and statutory agencies working with victims.	X				
b. Provide guidance on the need to treat victims according to their particular needs, both as victims (i.e. identifying vulnerable victims) and as individuals (with particular cultural, racial, sexual identifies).	X				
c. Reflect the new role of victims following changes in the youth justice system as regards restorative justice schemes.	X				
52 The PSNI should develop, in conjunction with Victim Support and other relevant agencies, training on the treatment of victims to be integrated as a core component of the Student Officer Training Programme.		X			
53 As part of the development of this area of the Policing Board's monitoring programme in year two, the Policing Board should:	X				
a. Review PSNI policies and procedures relating to the investigation of crimes committed against particular victim groups, such as domestic violence, homophobic crime and racist crime.	X				
b. Review the adequacy of the training of officers on the treatment of victims.	X				
c. Investigate the adequacy of the numbers of specialist officers appointed to support victims of specific crimes and the specialist training they receive.	X				
d. Conduct an audit of the work of the Child Abuse and Rape Enquiry Units, Domestic Violence Officers, Minority Liaison Officers, Family Liaison Officers and Youth Diversion Officers.	X				
<b>CHAPTER 11: TREATMENT OF SUSPECTS</b>					
54 The Policing Board should ensure that the targets set for each of the custody visiting teams in 2004/2005 are met. In particular, the Policing Board should set targets for a higher number of visits by the custody visiting teams to take place at weekends.	X				
<b>CHAPTER 12: HUMAN RIGHTS AWARENESS IN THE PSNI</b>					
55 The results of the Human Rights Questionnaire should be carefully considered by Training, Education and Development. In particular:					
a. The results of Question 1 should be reviewed by those responsible for the Student Office Training Programme and amendments made where necessary to remedy the identified gap in knowledge.			X		
b. The results of Question 2 should be carefully studied and consideration given to revision or clarification of Article 6 of the Code of Ethics.		X			
c. The failings identified in Question 3 and 8 regarding police officers' knowledge on the test for the use of lethal force should be remedied by PSNI Training, Education and Development through a comprehensive audit of training (materials and delivery) on the use of force.			X		

	Full	Part	Outs.	Adj.	W/D
d. The results of Question 9 should be carefully considered by those responsible for the Student Officer Training Programme and for training and policy drafting on the use of informants/covert human intelligence sources. Amendments should be made, where necessary, to ensure that all officers fully comprehend that informants/covert human intelligence sources can be used only if they do not incite criminal offences.			X		
e. The results of Questions 11-14 should be analysed by Training, Education and Development and factored in to its design and development of training programmes and materials in the future.			X		
f. The results of Question 15 should be considered by those responsible for formulating the PSNI's policy on victims.	X				
g. The PSNI should disseminate human rights information to officers using the specified channels identified (whilst being sensitive to the volume of information disseminated to officers). Specifically, officers should be kept up to date on human rights developments and provided with updates on changes in legislation.			X		
h. Training, Education and Development should review how to encourage officers to look at human rights more positively.			X		
56 Training, Education and Development should incorporate the suggestions made by officers regarding the delivery of training. In particular:					
a. Training should be more interactive and relevant to officers' duties, ranks and roles.		X			
b. More scenario-based case studies should be included in training materials and programmes.		X			
c. The Code of Ethics should be taught by using practical examples.		X			
d. Officers' confusion regarding the right to life should be clarified.		X			
e. Officers should be taught how human rights legislation protects them.		X			
57 The PSNI should carefully review the concerns raised by officers that the general public often do not understand the responsibilities of the police, or that they have to adhere to certain codes and regulations, and consider how best to educate the public as to the PSNI's role and responsibilities.	X				
58 The PSNI should indicate how it has incorporated the results of the questionnaire and focus groups in its next programme of action in answer to the criticism that officers felt their voices were not being heard.	X				
59 The human rights element of the PSNI appraisal process should be reviewed and revised to provide a more productive and effective tool to monitor and assess the human rights performance of individual officers.		X			
60 The PSNI should reconsider the behavioural statements within each of the competencies formally assessed in both the appraisal process and promotional competitions and amend each to include a human rights component.		X			
<b>TOTALS</b>	<b>68</b>	<b>17</b>	<b>22</b>	<b>3</b>	<b>2</b>

**Key to status of recommendations**

<b>Full</b>	Recommendation implemented in full
<b>Part</b>	Recommendation implemented in part
<b>Outs.</b>	Recommendation outstanding
<b>Adj.</b>	Recommendation adjusted
<b>W/D</b>	Recommendation withdrawn

## HUMAN RIGHTS ANNUAL REPORT RECOMMENDATIONS 2006

### CHAPTER 1: THE PSNI PROGRAMME OF ACTION

- 1 The PSNI should aim to publish its annual Human Rights Programme of Action within three months of this Human Rights Annual Report.

### CHAPTER 2: TRAINING

- 2 The PSNI should conduct a thorough audit of all PSNI training materials within six months of this Human Rights Annual Report and thereafter on a bi-annual basis to ensure that human rights principles are effectively integrated and developments in human rights law and practice incorporated.
- 3 The PSNI should recruit a Human Rights Adviser to Training, Education and Development without delay.
- 4 The PSNI should revise its handout on positional asphyxia as a matter of urgency.
- 5 The PSNI should revise the course material on training in the use of force and the use of firearms, forthwith.
- 6 The PSNI should complete the introduction of individual assessments of human rights knowledge of officers participating in training on the use of force and use of firearms, adapting the amendments suggested by the PSNI's Consultants.
- 7 The PSNI should include reference to the Code of Ethics in the individual assessments of officers participating in training on the use of force and the use of firearms and indicate how these assessments will inform the development of basic and refresher training courses in the use of force and the use of firearms.
- 8 The PSNI should introduce within the next 12 months a programme of human rights specific refresher training, which should be offered in a strategic and targeted way and include 'bespoke' scenarios tailored to the operational roles of officers.
- 9 Each PSNI District Command Team should devise its own approach to district level human rights refresher training.
- 10 The PSNI should closely monitor and evaluate the quality and effectiveness of its human rights training for trainers.
- 11 The PSNI should devise an effective system for the internal evaluation of the delivery of human rights training as soon as possible.
- 12 The PSNI should put in place a scheme for the expert and comprehensive evaluation of the delivery of PSNI training on human rights by December 2006.

### CHAPTER 3: POLICY

- 13 The PSNI should complete the exercise of verifying all existing policies, forthwith.
- 14 The PSNI should complete its substantive review of all existing PSNI policies for compliance with the General Order on Policy, Procedure and Guidance by March 2007.
- 15 The PSNI should complete its review of how policies considered too sensitive to be generally available on the PSNI intranet site are to be indexed, updated and kept, forthwith.
- 16 The PSNI should speed up the process of making more of its policies available to the public.
- 17 The PSNI should redesign the policy writers' human rights training course based on the policy template in the General Order on Policy, Procedure and Guidance, forthwith.
- 18 The PSNI should make the policy writers' human rights training course compulsory for all PSNI policy writers, forthwith.

# APPENDIX 2: 2006 RECOMMENDATIONS

## CHAPTER 4: OPERATIONS

- 19** The PSNI should examine and evaluate its use of stop and search powers to ensure that these powers are not being exercised disproportionately.

## CHAPTER 5: CODE OF ETHICS

- 20** The PSNI should review the types of behaviour causing breaches of the Code of Ethics in all disciplinary cases on a six-monthly basis and consider whether any particular response might be appropriate.
- 21** The PSNI should provide further evidence of the effectiveness of the Code of Ethics that can be assessed by the Policing Board.

## CHAPTER 6: COMPLAINTS, DISCIPLINE AND CIVIL ACTIONS

- 22** The PSNI should provide the Policing Board with evidence of the effectiveness of section 6.3 of its voluntary early retirement and severance scheme.

## CHAPTER 7: PUBLIC ORDER

- 23** The PSNI should review its guidelines to officers relating to the aims and limits of consultation with interested parties in respect of sensitive parades and seek to establish a protocol with the Parades Commission about the purpose and limits of the consultation process.

## CHAPTER 8: USE OF FORCE

- 24** The PSNI should review the list of general orders to be incorporated within the Use of Force Directive to ensure it achieves its purpose of becoming the cohesive overarching standard on PSNI use of force.
- 25** The PSNI human rights legal adviser should review the legal basis section of the Use of Force Directive to ensure clear and straightforward guidance is available to officers.
- 26** The PSNI should review and revise its Use of Force Directive to set out the requirement for an effective official investigation when it is arguable that there has been a breach of Article 2 or Article 3 of the European Convention on Human Rights (cross-referring to the General Order on Post-Incident Procedures).
- 27** The PSNI should consider the suggestion by the Joint Committee on Human Rights that guidance on the use of AEP impact rounds make clear that AEP impact rounds should only be used in circumstances where live fire could otherwise be used.
- 28** The PSNI should provide reports to the Policing Board on a six-monthly basis of all incidents where water cannon have been deployed and used, setting out details of the incident, including the location, time and date, a summary of events, the authority for deployment and use and details of injuries sustained and/or damage to property.
- 29** The PSNI and the Policing Board should revisit Recommendation 41 of the 2005 Annual Report and agree how further information can be supplied to the Policing Board to allow it to monitor more effectively the use of CS spray for compliance with the Human Rights Act 1998.
- 30** The PSNI should submit reports on serious public disorder to the Policing Board within seven days of such incidents.

## CHAPTER 9: COVERT POLICING

- 31** Following completion of the authorising officers' training programme in September 2006, only those officers who have completed the course should be eligible as authorising officers.
- 32** The PSNI should consider how best to provide further specialist advice and guidance on human rights issues in the course of its surveillance, intelligence and armed response training.
- 33** The PSNI should further review the effectiveness of its policies on covert policing within twelve months of this Human Rights Annual Report.
- 34** Before the transfer of responsibility for national security intelligence work in Northern Ireland takes effect, the PSNI and the Policing Board should devise a framework to ensure that the transfer does not affect the compliance of the PSNI with the Human Rights Act 1998 or the Policing Board's ability to monitor such compliance.

## CHAPTER 10: VICTIMS

- 35** The PSNI should consider adopting the Foyle Protocol as a template of good practice for tackling domestic violence and distribute it to all DCU Command Teams.
- 36** The PSNI should develop and strengthen its relationships with the minority ethnic, lesbian, gay, bisexual and transgender and Traveller communities and work with the groups representing them.
- 37** The PSNI should consider whether it needs to develop a corporate policy on the training of officers on the treatment of victims and the training of specialist officers appointed to support particular victim groups, or to adopt particular models of good practice.

## CHAPTER 11: TREATMENT OF SUSPECTS

- 38** The Policing Board, in liaison with the PSNI and the Northern Ireland Office, should address the question of how gaps in the protection of terrorist suspects detained by the PSNI caused by the abolition of the post of Independent Commissioner for Detained Terrorist Suspects can be filled.
- 39** The PSNI should consider establishing a policy that all District Commanders meet their respective custody visiting teams on an annual basis to discuss concerns regarding treatment of persons in custody.
- 40** The PSNI should remind its custody officers, in particular custody sergeants, of the role and responsibilities of the custody visiting teams, and the need to facilitate custody visits as a matter of standard practice.
- 41** The Policing Board should review its targets for visits by custody visiting teams between midnight and 6.00am.

## CHAPTER 12: HUMAN RIGHTS AWARENESS IN THE PSNI

- 42** The PSNI should implement Recommendations 55(a) to (d) of the Human Rights Annual Report 2005 as a matter of priority.

## CHAPTER 13: POLICING WITH THE COMMUNITY

- 43** The PSNI should review the training provided to probationers and ensure that the concerns raised by the District Command Teams are adequately addressed.

## CHAPTER 14: PRIVACY AND DATA PROTECTION

- 44** The PSNI should consider whether its on-line data protection training should be made compulsory for some staff.
- 45** The PSNI should review its publication scheme within three months of the publication of this Human Rights Annual Report.







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