



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

HUMAN RIGHTS

ANNUAL REPORT 2007

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Introduction

The Human Rights Act 1998, which marked a turning point in the protection of human rights in the UK, 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 (ECHR).

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. The position for the Police Service of Northern Ireland (PSNI), however, is different. The Police (Northern Ireland) Act 2000 specifically mandates the Policing Board in Northern Ireland to monitor the performance of the PSNI in complying with the Human Rights Act 1998. We were appointed in February 2003 to advise the Policing Board how to meet this statutory duty. Since then we have published four reports: two Human Rights Annual Reports (2005 and 2006) and two Special Reports, the first on the policing of the Ardoyne parades 12th July 2004, the second on the policing of the Ardoyne parades 12th July 2005 and the Whiterock parade 10th September 2005. We have also published detailed advice on the PSNI's proposal to introduce Taser for use in Northern Ireland (May 2007).

This is our third Human Rights Annual Report. It formally covers the period from August 2006 to July 2007, but includes some developments up until the end of August 2007 where that has been possible. In it we plot the PSNI's progress in implementing the recommendations made in our 2005 and 2006 Annual Reports. We also examine the PSNI's work in a new area, Children and Young People, bringing to 15 the total number of areas of PSNI work that we have monitored this year (each corresponding to a chapter in this report). As in previous years, we have spent a great deal of time talking to those responsible for the PSNI's work on human rights across the service, examining numerous documents and observing events and incidents both as they happened and after-the-event. In the course of preparing this annual report, we have observed operational decision-making in PSNI Command suites and on the ground and reviewed operational documentation and records. We also spent a great deal of time with those affected by the PSNI's work and consulted interested parties regularly on a wide range of matters.

As in previous years, we have not been refused access to any officer, or to any incident or event that we have wanted to observe. We have been given unrestricted access to any documentation we asked to inspect. In our view this has now become the hallmark of the PSNI commitment to human rights compliance. We are also encouraged by the remarks of the Chief Constable, Sir Hugh Orde, in the PSNI's Programme of Action 2006-2007 drawn up in response to our 2006 Annual Report, where he described the relationship between the PSNI and ourselves as "transparent and professional" and recorded his belief that the positive dialogue that now exists between us would assist his officers to improve the service that they provide to the community.

In our 2006 Annual Report, we made 45 new recommendations and restated a number of outstanding recommendations from 2005 (making a total of 80 recommendations). Progress in implementing those recommendations this year has been mixed. On a positive note we are pleased to record that 52 recommendations have been implemented in full, with 14 recommendations implemented in part. In some areas, e.g. complaints, discipline, public order and covert policing, this is the second year running that there has been a high level of compliance with our recommendations and we recognise the hard work that has been undertaken to achieve this. In other areas, e.g. training, considerable work has been undertaken in the last twelve months to fulfil our recommendations. That this has largely been achieved signals a real turning point for the PSNI in this important area. That is very positive development.

Also positive is the review of the PSNI Code of Ethics, which took place between February 2006 and July 2007. A revised Code of Ethics will be laid before Parliament and then issued to all PSNI officers later in 2007. Equally positive is the work that has been done to implement our recommendations about firearms refresher training.

On a less positive note, a total of 12 recommendations made in our 2006 Annual Report remain outstanding (two others having been formally withdrawn). While this number is low when compared to the number of recommendations implemented, it is nevertheless significant. In particular, for the second year running there remain a high number of outstanding recommendations in relation to policy. This causes us real concern. 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. Despite clear recommendations in our 2005 and 2006 Human Rights Annual Reports, we are not satisfied that this has yet been achieved. Progress on reviewing PSNI policies has been slow and insufficiently robust. As a result, the quality of some PSNI policies remains poor. This needs urgent action and we have taken the unprecedented step this year of requiring the PSNI to formally report to the Policing Board on progress within three months of the publication of this report.

This annual report also highlights our concerns about the lack of any effective monitoring and review of the use of CS Spray and the need to put in place clear and robust policy, guidance and training to ensure that any use of Taser in Northern Ireland fully complies with the requirements of the European Convention on Human Rights.

These less positive aspects of this annual report reinforce 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, who should ensure that there is a system in place for resolving matters in a timely and efficient way where difficulties or delays occur in implementing our recommendations.

However, sight of the bigger picture should not be lost. The Final Report of the Office of the Oversight Commissioner in May 2007 recorded that:

“It is our view after almost seven years of monitoring the Police Service’s responses to the challenge of the Independent Commission that a consciousness of human rights has taken root in a way that is unique among police services... This is a remarkable achievement which the Police Service and the people of Northern Ireland should be proud of.”

We endorse these remarks and emphasise, like the Office of the Oversight Commissioner, that the creation of a culture of human rights is not something that is achieved once and then endures without further attention. It requires continued monitoring, assessment, adjustment and reinvigoration. This will be the on-going responsibility of the PSNI and the Policing Board.

This year, we make a total of 44 recommendations. This reflects our satisfaction in the areas where real progress has been made and a renewed focus on areas where further progress is needed. As was the case last year, most of our new recommendations relate to issues that have arisen during the course of our work this year. However, some relate to outstanding matters from last year. Again, we will assess the PSNI’s success in implementing each of them in next year’s human rights annual report.

Keir Starmer QC
Jane Gordon
25 September 2007

Chapter 1: THE PSNI PROGRAMME OF ACTION

In our 2005 Annual Report, we recommended that the PSNI should adopt a specific Programme of Action on an annual basis to respond to the Policing Board's recommendations in relation to the PSNI's duty to comply with the Human Rights Act 1998. The PSNI agreed to this recommendation and has now produced two Programmes of Action. In our 2006 Annual Report, we recommended that the PSNI should aim to publish its annual Human Rights Programme of Action within three months of our report.¹

1. 2006 Annual Report, Recommendation 1, p.160

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2. PSNI's Human Rights Programme of Action 2006-2007, p.9.

3. Letter from ACC Harris to Policing Board's human rights advisors dated 8th May 2007.

4. PSNI's Human Rights Programme of Action 2006-2007, p.3.

5. Office of the Oversight Commissioner, *Report 19*, May 2007, p.23.

The PSNI published its second Human Rights Programme of Action on the PSNI website on 5th December 2006,² satisfying our recommendation. The PSNI followed this with the production of a hard copy of the report, which was distributed to the Policing Board, specific officers within the PSNI and the Oversight Commissioner.³

We are pleased to note, in the foreword to the PSNI's Programme of Action, the Chief Constable, Sir Hugh Orde stated "[o]ur relationship with the Board's Advisers has been transparent and professional. Their [2006] report containing 45 recommendations is a challenge for us, but one which we are working hard to meet. I firmly believe that this dialogue will assist my officers to improve the service we provide to the community. As a Service we have repeatedly shown ourselves to be open to change. We welcome constructive criticism".⁴

We note the observation of the Oversight Commissioner in his final report, "[t]his is a development that goes beyond what the Independent Commission recommended, in effect making a human-rights implementation plan a continuing obligation of the police service".⁵

In our view this validates and endorses the approach that we have taken and we therefore recommend that the obligation on the PSNI to draw up and publish an annual Human Rights Programme of Action within three months of our human rights annual reports be treated as ongoing.

RECOMMENDATION 1:

The PSNI should draw up and publish an annual Human Rights Programme of Action within three months of our human rights annual reports on an ongoing basis.

Chapter 2: TRAINING

Effective training on human rights principles and practice is fundamental to any organisation committed to compliance with the Human Rights Act 1998. In our 2006 Annual Report, we reported our concerns about the PSNI's progress in implementing the recommendations we made in our 2005 Annual Report. The PSNI has undertaken a considerable amount of work in this area. We consider the PSNI's response to the recommendations in our 2006 Annual Report in detail below.

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Before doing so, we note that earlier this year, the PSNI consolidated titles and responsibilities relating to training. The Northern Ireland Police College (the Police College) formally replaces the PSNI Training, Education and Development branch (TED) and all references in this report reflect this change. In addition, the post of Head of the Police College has been expanded to Head of Training and Development, with responsibilities for training wider than the Police College.

APPOINTMENT OF HUMAN RIGHTS TRAINING ADVISER

In our 2006 Annual Report, we recommended that the PSNI should recruit a human rights training adviser without delay.¹ The PSNI accepted our recommendation and the Police College appointed a human rights training adviser on 16th October 2006.² The first human rights training adviser left the PSNI in August 2007. The Police College is currently recruiting a new human rights training adviser. We consider Recommendation 3 of our 2006 Annual Report to be implemented in full.

PSNI AUDIT OF TRAINING MATERIALS

In our 2006 Annual Report, we recommended that the PSNI should conduct a thorough audit of all PSNI training materials within six months of the 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 accepted our recommendation. In its Human Rights Programme of Action 2006/2007, it indicated that the new human rights training adviser and the PSNI's human rights legal adviser would carry out an audit of training materials.⁴ The audit was conducted by the Police College during 2006/2007 in two stages. In Stage 1, trainers were responsible for conducting an initial screening of all training materials, setting out the human rights standards and principles incorporated within the training materials. The reason for the initial screening stage was to establish the exact nature of the human rights element within the training course, which was not always discernible on a simple reading of the lesson plan. The Police College's human rights training adviser devised the initial human rights screening tool for use by trainers, and held a training exercise on the purpose and objectives of the human rights audit and the application of the screening tool between 18th and 22nd December 2006. We attended this training to observe the introduction of the first stage of the audit process. The training was straightforward and gave trainers the opportunity to raise questions about the audit process and to feel comfortable about using the human rights screening tool. Stage 1 of the human

1. 2006 Annual Report, Recommendation 3, p.160.

2. PSNI's Human Rights Programme of Action 2006-2007, p.9.

3. 2006 Annual Report, Recommendation 2, p.160.

4. Meeting between Policing Board's human rights advisors and the Police College on 5th October 2006.

rights audit was completed between December 2006 and January 2007. All Police College training materials and training materials devised by other PSNI departments⁵ were screened at Stage 1.

Stage 2 of the audit was conducted between January and April 2007. The human rights training adviser was again responsible for overseeing this part of the audit process and devised a human rights audit tool for this purpose. Two consultants⁶ used the completed initial screening tools to assess the quality of the training materials. The screening document, lesson plans and supporting material were evaluated for all courses delivered by the Police College. The consultants completed the human rights audit tool for each course⁷ which recorded the extent to which relevant human rights standards and principles had been properly incorporated into the training course. Specifically, the audit tool required the consultants to identify the following:

- (a)** a brief description of the course;
- (b)** the human rights standards and principles relevant to the particular training course;
- (c)** the level of human rights integration into the course;
- (d)** the human rights references which should be deleted from the course materials;
- (e)** the human rights standards which should be inserted into the course materials; and
- (f)** remedial action to be taken by the trainer following the audit.

In April 2007, we inspected the results of Stage 2 of the Police College's internal audit of training materials. Taking a random selection of audited lesson plans and training material, we examined the human rights content of the lesson prior to audit, the remedial action identified as necessary by the consultants (i.e. what trainers should insert or delete from the training materials) and considered whether any relevant human rights references had been omitted by the consultants. We were impressed by the approach adopted by the Police College. It was evident that the Police College had invested time and effort to ensure that the audit was conducted in a thorough and systematic manner. However, examination of some of

5. Including Diversity, Health and Safety, Professional Standards and Operational Command Units.

6. Two consultants were contracted through the Police Rehabilitation and Retraining Trust. Both consultants came from a policing background with relevant experience in training, human rights and quality assurance.

7. Or for each individual lesson plan where a course consisted of diverse lessons raising different human rights issues.

the audit forms indicated that on a number of occasions, relevant Articles of the European Convention on Human Rights and the PSNI Code of Ethics, as well as key pieces of legislation and PSNI policy and guidance, had not been included by the consultants as requiring incorporation into the training materials. We also found a small number of examples where the consultants had recommended trainers include Articles of the European Convention in lessons where they were not necessarily relevant or appropriate. We raised our concerns with the Police College's human rights training adviser and Human Rights Compliance Officer. In response to the concerns we highlighted, the human rights training adviser commenced her own review of the completed audit forms.

Following completion of Stage 2 of the human rights audit, the human rights training adviser produced a report setting out the main outcomes and trends emerging from the audit, together with a number of general recommendations. The human rights training adviser made a number of observations. In general she concluded that there was a high level of human rights integration in all training areas, with some excellent examples of trainers making great efforts to incorporate human rights learning into the main body of the training course.

However, the human rights training adviser identified a number of areas where there was room for improvement. We set out her observations below.

- 1.** Lack of substance in lesson plans, with the result that trainers are given little direction or guidance on learning objectives and key content for particular training courses.
- 2.** Inconsistent referencing of the Code of Ethics, a core PSNI document with which all officers should be familiar.
- 3.** Lack of reference to Article 14 (non-discrimination) of the European Convention on Human Rights and diversity.
- 4.** Lack of reference to specific international human rights instruments and obligations, such as the European Convention on the Prevention of Torture or the UN Convention on the Rights of the Child.

5. Lack of cross-referencing to relevant PSNI policy directives and general orders.
6. Confusion between the European Convention on Human Rights and the Human Rights Act 1998 and use of incorrect terminology demonstrating confusion in use of terms such as “engagement”, “interference” and “violation” of a human right.
7. Failure to adopt a contextual approach to the integration of human rights training: officers’ understanding of human rights will primarily come into play when they have to make decisions. It is therefore their understanding of the application of human rights principles in specific policing contexts that is critical, not whether they can recall the text of a particular Convention Article.
8. Over-referencing of human rights: some courses included a reference to human rights in every lesson plan as a matter of course, whether relevant or not. This has the twin danger of producing confusion and fuelling hostility to human rights in general.

The human rights training adviser made ten recommendations to remedy the deficiencies in training materials which had been identified during the human rights audit process. She also noted a number of points of good practice. The recommendations are intended to inform the amendments to training materials by trainers. The human rights training adviser’s report has now been disseminated to all trainers, along with the individual Stage 2 human rights audit forms identifying remedial action to be completed for each training course. Trainers must make the appropriate amendments to their training materials which will then be reviewed by their respective Head of Training Programme. The human rights training adviser indicated that the amended training materials must be submitted to the Police College’s Quality Assurance Unit for review by 31st August 2007.

We have closely monitored the PSNI’s internal human rights audit of training materials over the last year. We consider that the audit process methodology was carefully designed and met the core objectives behind Recommendation 2 of our 2006 Annual Report. We congratulate the Police College on its dedicated effort to meet this recommendation and its serious engagement with developing a human rights based approach to training.

8. Every two years.

9. Meeting between Policing Board's human rights advisors and the Police College on 20th November 2006.

We endorse the recommendations and points of good practice made by the human rights training adviser in her report on the audit. We intend to ask the Police College for evidence of the adoption and implementation of these recommendations and points of good practice by trainers in their training materials following completion of the quality assurance review this autumn. We will then conduct a dip sample of training materials. Once we are satisfied that the recommendations and points of good practice have been met and that the training materials demonstrate the effective integration of human rights principles, we will be in a position to treat Recommendation 2 of our 2006 Annual Report as implemented in full. In the meantime, we consider Recommendation 2 to be implemented in part. We have been informed that the Police College intends to develop a mechanism for auditing PSNI training materials on a biannual basis.⁸ The Police College has indicated this may be integrated within its quality assurance process already undertaken on an annual basis.⁹ We will report further on the format of this auditing mechanism in next year's annual report.

District training materials

The Police College adopted a different approach to the human rights audit of district training materials. The Head of Training and Development does not have direct responsibility for district training. District Commanders are responsible for trainers and training delivered in their respective District Command Units (DCUs). A training manager within the Police College acts as a liaison point between the College and DCUs. This arrangement is not ideal and has significantly impacted on the human rights auditing of district training materials. District trainers were requested by the human rights training adviser to submit their training materials for audit. Only a small number of materials were received which resulted in a total of ten individual lessons completing Stages 1 and 2 of the Police College's internal human rights audit.

It is important to acknowledge that the nature of district training is different to training delivered centrally. District trainers often develop and deliver 'one-off' training sessions at short notice. As such, materials are often not systematically generated or designed. The Police College has therefore adopted the following methodology to auditing district training materials:

- (a)** In February 2007, district trainers were requested to submit materials in relation to training which they had delivered over the previous three months to be held by the Police College as a record of the type of training delivered.
- (b)** At the same time, district trainers were requested to send a list of their training priorities for the next three months to the Police College's human rights training adviser. The human rights training adviser then highlighted the human rights elements that should be incorporated into the particular training areas.
- (c)** As district trainers devise new training materials, they will now submit these materials to the Police College as a matter of standard practice.
- (d)** The Police College will conduct a human rights audit of these training materials according to the two stage audit process completed in relation to all Police College training materials.
- (e)** The individual Stage 2 audit forms indicating remedial action to be taken in relation to the training materials will be sent to each district trainer and appropriate amendments made.

We welcome the work that the Police College has recently commenced to audit district training materials for integration of human rights standards and principles. However, we are critical of the lack of any systematic or strategic approach to date to the design of district training, the lack of central support provided to district trainers and the PSNI's failure at any level to monitor or quality assure the content of this training. We are aware, however, that the PSNI plans to introduce new arrangements for the oversight of district training. Following the internal re-structuring of the PSNI into 8 District Command Units earlier this year, the PSNI intends shortly to establish Professional Development Units within each of the eight DCUs to provide a co-ordinated approach to professional development, including relevant bespoke training, at the district level. In tandem, the Police College intends to create a small team based at Garnerville to devise relevant lesson plans centrally for district trainers to deliver at district level. The objective is to ensure consistency and corporacy of training and provide support and guidance to district trainers. Service level agreements between

10. 2006 Annual Report, Recommendation 4, p.160.

11. PSNI's Human rights Programme of Action 2006-2007, p.9.

12. Letter from the Police College to Policing Board's human rights advisors, dated 13th February 2007.

the Police College and the eight DCUs will reflect these structural changes and ensure continued co-operation in the provision of training.

We welcome these necessary and long overdue initiatives relating to district training, but consider that impetus must be given to this area of PSNI training. We therefore make the following recommendations:

RECOMMENDATION 2:

The PSNI should produce a report in March 2008 setting out the outcomes and findings to date of the audit of district training materials.

RECOMMENDATION 3:

The PSNI should report in January 2008 on its progress in establishing the Professional Development Units within each of its eight DCUs and the establishment of a central team based within the Police College at Garnerville to assist and support district trainers in the provision of training at district level.

TRAINING ON POSITIONAL ASPHYXIA

In our 2006 Annual Report, we recommended that the PSNI should revise its handout on positional asphyxia as a matter of urgency.¹⁰

The PSNI's Human Rights Programme of Action 2006-2007 indicated that the PSNI had developed a handout on positional asphyxia.¹¹ However, following publication of the Programme of Action, we received a letter from the Police College indicating that the position stated in the Programme of Action was incorrect. Rather than developing a handout on positional asphyxia, all student officers undertaking the Personal Safety Programme (PSP) are given an assignment on positional asphyxia to be completed during their first eight weeks of training. Risk factors relating to positional asphyxia are further emphasised in the training environment during PSP and first aid training.¹²

We have reviewed the assignment on positional asphyxia.

The assignment requires student officers to research and prepare a report on positional asphyxia, including how symptoms can be recognised, problems which may be encountered and any actions required of the officer. This is a useful exercise which requires student officers to personally research and reflect on the risks of positional asphyxia and actions officers should take to prevent such risks.

In addition, in July 2007 the PSNI developed a handout for officers on positional asphyxia and excited delirium. We reviewed a draft of the handout and suggested a number of amendments which the PSNI accepted. The PSNI intends to issue the handout to officers in due course.

As part of our evaluation of the PSNI's training on positional asphyxia, we also attended a number of training sessions for (i) student officers, delivered as part of the Foundation Training Programme, and (ii) operational officers, delivered by PSNI Operational Command Unit.

Student officer personal safety programme

During the first quarter of 2007, we attended a number of lessons included within the student officer personal safety programme.¹³ Relevant human rights standards and the medical implications of restraint and takedown techniques, including positional asphyxia, are integrated throughout the lesson. The risk of positional asphyxia is given particular emphasis. Student officers are required to complete a period of physical exercise immediately prior to practicing the techniques to demonstrate the effect the restraint and takedown techniques have on breathing and highlight that incorrect use of such techniques could lead to positional asphyxia and death. Student officers are instructed to look for signs of positional asphyxia¹⁴ and to be aware of the risk of excited delirium.¹⁵ Positional asphyxia is also explicitly referred to in other lessons throughout the PSP course as well as in first aid training.

We attended the final assessment of the PSP. The assessment requires student officers to react to four different scenarios in the simulated environment of a night club. Actors play the respective roles of an aggressor, an injured party and a passive prisoner.¹⁶ As student officers progress through each scenario,

13. Delivered to student officers in week seven of their training programme.

14. Including gasping for air, broken conversation and the subject's face colour.

15. Students were instructed to be aware that a subject's capacity to struggle is not indicative of their wellbeing and that those under greatest distress will often struggle more.

16. The actors are instructed to vary their level of threat and aggression in order to test the student officer's self-control and reaction skills.

17. One scenario may require the officer to address an immediate threat posed by a potentially armed aggressor and the next may require the officer to give first aid and sympathy to an injured party whilst attempting to gain information as to the whereabouts of the offender.

18. The assessment is marked on a pass or fail basis. Student officers failing to complete the assessment successfully must repeat the exercise and face dismissal if unsuccessful.

they must show the ability to confront and adapt to changing circumstances,¹⁷ demonstrate skills of negotiation, conflict management and empathy and show confident and appropriate use of equipment such as batons, CS spray and handcuffs. An external assessor evaluates each student officer's performance in terms of health and safety awareness, verbal communication and non-verbal communication, legality, necessity and proportionality of force used, medical attention, use of equipment and tactical considerations.¹⁸ We were impressed by the rigor of the final assessment of student officers following completion of the PSP. The simulation of an actual crime scene provides a definitive assessment of the student officers' skills, self-control and appropriate use of individual police issued equipment within a realistic, practical environment.

Operational officer personal safety training - initial

In March 2007, we attended personal safety programme initial training for operational officers who had not received such training as student officers. The purpose of the training is to update officers on personal safety techniques and to inform them of the policy and legal restraints on use of force. The training is delivered to officers in a two-day course. Prior to practical training, officers are given a presentation on conflict management and the use of force which instructs officers that any use of force must be proportionate, legal, accountable and necessary. The presentation makes reference to and highlights risks associated with positional asphyxia, excited delirium and sickle cell anaemia. The presentation also requires officers to consider relevant impact factors relating to both the officer and any potential subject, such as size, age, strength, skill level etc.

Following the presentation, officers are given practical instruction on restraint and takedown techniques, use of handcuffs and use of CS spray. Human rights considerations are integrated throughout each lesson, with officers instructed to consider the proportionality and necessity of any use of force. During the lesson on handcuffs, officers are referred to Article 3 of the European Convention on Human Rights. Officers are again warned of the risks of positional asphyxia.

Operational officer personal safety training - refresher

In April 2007, we attended refresher personal officer safety training for operational officers in Urban Region delivered by PSNI Operational Command Unit. Officers are required to attend such refresher training sessions twice yearly.¹⁹ Training includes a short introduction to relevant human rights standards, lessons on blocking²⁰ and striking²¹ techniques and a lesson on dealing with edged weapons.²² Applicable human rights standards are emphasised throughout the lessons. The medical implications of the use of force are also highlighted and illustrated by reference to case studies. Overall, we are satisfied that the refresher personal safety course successfully combines instruction on practical blocking and striking techniques, with guidance on the legal and medical implications of the use of force.

Observations

Our observation of the personal safety training programmes indicated that Foundation trainers and Operational Command Unit trainers employ slightly differing approaches. At least one of the techniques demonstrated by Operational Command Unit trainers - the ballistic push - was not included in the student officer PSP. We raised this point directly with the Police College and have been informed that an internal Personal Safety Programme Practitioners Committee has now been established. The Committee brings together trainers from Foundation Training, Operational Command Units and Combined Operational Training to ensure that PSP training is delivered consistently by PSNI trainers throughout an officer's training programme. We welcome this initiative and will report further on the work of the Committee in next year's annual report.

Overall, we were impressed by the student officer and operational officer personal safety training we observed. However, we had some minor reservations regarding the adequacy of the integration of human rights principles in the practical aspects of the personal safety training courses. While our reservations are not strong enough to warrant a recommendation, we suggest that the PSNI's internal evaluation team²³ consider this point as part of its human rights audit of training delivery. We will report further on the findings of the internal evaluation team in next year's annual report.

19. A record of an officer's attendance is entered on the PSNI Human Resources electronic database and sent to the officer's DCU.

20. This lesson aims to refresh students in the methods of managing a physical attack through a system of blocks and counter strikes.

21. This lesson introduces students to approved strike areas, striking methods and the medical implications of the use of strike techniques.

22. This lesson aims to give officers knowledge and skills to deal with a subject who confronts them with an edged weapon.

23. Discussed later in this chapter.

24. 2006 Annual Report, Recommendation 43, p.162.

25. Also known as the foundation training programme.

26. Foundation training has established a full time project team which is responsible for updating and revising the student officer training programme.

27. PSNI's Human Rights Programme of Action 2006-2007, p.13.

STUDENT OFFICER TRAINING

In our 2006 Annual Report, we recommended that the PSNI should review the training provided to probationers and ensure that the concerns raised by District Command teams are adequately addressed.²⁴ In its Human Rights Programme of Action 2006-2007, the PSNI indicated that it considered that this recommendation had already been addressed. It stated that a review of the student officer training programme²⁵ had been undertaken in 2006 and a revised programme introduced in August 2006. The Police College considers that the revision of the student officer programme (which is ongoing to reflect legislative and procedural developments),²⁶ together with the further training and professional development that is provided over the remainder of an officer's probationary period, satisfies the concerns voiced to us by District Command teams and meets Recommendation 43 of our 2006 Annual Report.²⁷

In January 2007, the Police College outlined to us in writing the changes to the student officer training programme and provided further details of the training provided to probationers. We set out this information in some detail below.

Student Officer Training Programme

The student officer training programme is a 21-week initial police training course delivered by Foundation Training. It is designed to provide students with foundational knowledge of primary policing legislation, police procedures and police powers. The main learning outcomes of the programme include knowledge and understanding of:

- (a) police powers in accordance with legislation, codes of practice and PSNI policy;
- (b) principle sources of human rights standards and the consequences of human rights violations;
- (c) the operation of the criminal justice system in Northern Ireland;
- (d) principles of investigation of offences;
- (e) PSNI policy on preparation and submission of prosecution files;

- (f) the main features of crime prevention (pro-active policing);
- (g) the needs of victims and the importance of partnership working.²⁸

Following the review of the student officer training programme in 2006, a number of changes were made to the programme. We set these out below.

Paperwork and case preparation

Satisfactory completion of paperwork (written statements, notebook entries and reports) and preparation of prosecution files for submission to the Public Prosecution Service (PPS) were identified by districts as areas requiring improvement.

The student officer training programme now includes assessments on a minimum of ten written statements, ten notebook entries and five reports, including four prosecution files. The Police College is also taking steps to increase the number of cognitive interviews to improve the recording of statements from witnesses. Following consultation with the PPS, the Police Ombudsman and PSNI Professional Standards, a standard policy has been adopted by the PSNI on the completion of police notebooks. Notebooks are reviewed on a weekly basis during the student officer training programme in addition to the ten formally assessed entries.

Foundation Training has developed prosecution case file preparation in accordance with the PSNI interim case preparation system. Each student officer must complete a minimum of four electronic prosecution files in the PPS format during training.²⁹ Each of these files is generated from simulated scenarios which the officer has dealt with during training and include:

- (i) one PPS charge file relating to possession of an offensive weapon;
- (ii) one PPS charge file relating to possession of an offensive weapon;
- (iii) one collision report form and PPS file relating to an injury.³⁰

28. Letter from the Police College to Policing Board's human rights advisors dated 11th January 2007.

29. The PSNI has recently changed its electronic file preparation system from the interim PPS format to the new NICHE format. From October 2007, new recruits completing the student officer training programme will be trained in the new NICHE system. As a consequence of this change, student officers will complete an increased number of files during their foundation training: letter from the Police College to Policing Board's human rights advisors dated 24th August 2007.

30. Letter from the Police College to Policing Board's human rights advisors dated 11th January 2007.

31. Letter from the Police College to Policing Board's human rights advisors dated 11th January 2007.

32. Further forensic training and assessment is provided during the ten-week Operational Development Programme and Stage 3 probation training at Maydown.

IT Training

A training need was identified in relation to IT training. The Police College now requires all student officers to undertake an IT assessment in their first week of training and, if they are unsuccessful, they must undergo additional IT training after which they must pass a further IT assessment.

Integration of Level 1 Professionalising Investigation Programme

Foundation Training has adapted the student officer training programme to integrate Level 1 of the Professionalising Investigation Programme (PIP). PIP Level I training places emphasis on a police officer's role in conducting investigations and interviewing victims, witnesses and suspects. The training introduces students to the process of investigation, instructing students on their responsibilities during an investigation, and training them on crime scene preservation.

A five day programme in crime scene preservation has been introduced, together with training on the National Model of Investigative Interviewing.³¹ The dedicated training in crime scene preservation instructs student officers on the importance of crime scene preservation for evidential purposes and teaches them how to deal with and handle exhibits.³²

Assessment

A variety of assessment methods are used to evaluate student progress, including a professional development portfolio, skill assessed exercises, five multiple choice examinations and written exercises. Students are formally assessed on 11 practical scenarios throughout the training programme. Following each scenario, students must provide an element of police evidence, such as a statement, notebook entry or PPS prosecution file in relation to the scenario, which is also assessed. Officers who are deemed to be underperforming are identified and action taken to remedy inadequacies in performance. If there is no subsequent improvement, an officer may face dismissal.

Probationer Training

Following completion of the student officer training programme, probationers complete a ten week Operational Development Programme, which focuses on practical policing and skills training, including first aid, tactics, search, firearms, fire safety, driver training and small team tactics. This programme is subject to continuous review to ensure it is current and reflects both PSNI policy and legislative developments. On completion of the Operational Development Programme, probationer constables undertake operational duties. However, their training continues through the Tutor Constable Scheme (administered at district level) and the Probationer Development Unit at Maydown.³³

The initial period of the probationers' operational duty is a ten-week tutorship. During this period, probationers shadow experienced officers on duty and then progress to carrying out operational duties under supervision of trained tutor constables.³⁴ Probationers receive an additional four weeks' classroom - based training at the Probationer Development Unit at Maydown throughout the remainder of their probation.

Observations

We are satisfied that the current student officer training programme and the probationer training provided by the PSNI meets the intentions behind Recommendation 43 of our 2006 Annual Report which we consider to be implemented in full. We will however continue to discuss the perceived adequacy of this training with District Commanders as part of our monitoring work next year.

USE OF FORCE AND FIREARMS TRAINING

In our 2006 Annual Report, we made the following recommendations in respect of the PSNI's training on the use of force and firearms:

- The PSNI should revise the course material on training in the use of force and the use of firearms, forthwith.³⁵
- 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

33. Letter from the Police College to Policing Board's human rights advisors, dated 11th January 2007.

34. Tutor constables are trained by Foundation Programmes at Garnerville, but report to District Commanders.

35. 2006 Annual Report, Recommendation 5, p.160.

36. 2006 Annual Report, Recommendation 6, p.160.

37. 2006 Annual Report, Recommendation 7, p.160.

38. The knowledge check on human rights and the Code of Ethics and facilitated discussion has replaced the previous didactic powerpoint presentation on use of force and human rights.

39. A two officer debrief will take place during the eight-hour training session. The four-hour training session will involve a plenary debrief.

of firearms, adapting the amendments suggested by the PSNI's Consultants.³⁶

- 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.³⁷

In its Human Rights Programme of Action 2006-2007, the PSNI accepted our recommendations, indicating that the recommendations would be taken together for purposes of implementation.

The Police College is currently in the process of introducing a new firearms refresher training programme from two annual four-hour sessions to an annual eight-hour and four-hour training package consisting of the following elements:

- (a) knowledge check with facilitated discussion;³⁸
- (b) safe handling lesson;
- (c) judgmental and tactical training using a firearms simulator (FATS), with debrief;³⁹
- (d) classification shoot.

We endorse the PSNI's new approach to firearms refresher training. The new knowledge check allows trainers to focus the discussion on relevant areas to clarify any confusion and/or address deficient knowledge prior to students completing the judgmental element of the firearms training.

In July 2007, we observed the revised human rights and use of force element of the PSNI's firearms refresher training. The lesson lasts approximately two hours and is delivered at the beginning of the firearms refresher training course. It commences with officers completing a knowledge check on human rights and police use of force and firearms. Each question in the knowledge check is discussed with the class. Throughout the discussion, the trainer expands on points raised in the knowledge check, providing illustrative case studies, referring to ACPO guidelines, PSNI policy on firearms and the use of force and European and

international human rights. During the discussion, the trainer provides detailed guidance on the legal tests for the use of force under common law, the Criminal Law (Northern Ireland) Act 1967 and Article 2 of the European Convention on Human Rights.

The second part of the lesson involves a case study of police use of firearms. Two officers assume the role of the officers attending the scene of the incident. These officers are required to respond to the events as they are presented, indicating what tactics they would deploy and the decisions they would take. The other officers in the class discuss the officers' decisions and tactics. During the case study, the trainer emphasises the positive duty on police under Article 2. The case study also addresses, the requirement to conduct an effective investigation according to Article 2 of the European Convention on Human Rights and post incident procedures and the need to secure medical aid under Article 4 of the Code of Ethics.

We were impressed by the PSNI's revised human rights and use of force element of firearms refresher training. Human rights principles and standards were integrated throughout the lesson. The knowledge check at the beginning of the lesson is rigorous and officers found it challenging. The discussion that follows provides officers with clear and comprehensive guidance on the human rights standards applicable to the use of force and PSNI policy on the use of firearms. The trainer's intention to review knowledge checks to inform the development of the training is welcome. The case study is a creative method of presenting tactical and human rights implications of the use of firearms. However, we note that the PSNI will need to develop a set of case studies to ensure that officers do not become overly familiar with a particular case.

We observed a demonstration of the firearms simulator in November 2006. The simulator requires paired officers to respond to fictional live time scenarios depicted on a large video screen. We observed three different scenarios. Officers are given a background briefing on the scenario. They must then decide whether, and when, to use a laser firearm in response to the developing incident. Following completion of the exercise, a trainer debriefs the officers, questioning them

on their response, making them identify the intended target, explain their understanding of the circumstances of the case and justify their decision to shoot or not to shoot. The scenario is then replayed back to the officers, highlighting the point at which the officers fired the laser gun and the location of the shots fired.

The firearms simulator is a very useful, practical method of preparing officers to be able to deal with real firearms situations. The various scenarios test an officer's ability to adapt to changing circumstances, make rapid and lawful decisions, and show awareness of their surroundings. The debrief is significant in ensuring officers can justify their decisions to use lethal or potentially lethal force in terms of legality and absolute necessity. The scenarios we observed also emphasised the need for officers to show restraint in their resort to the use of firearms.

Against this background, we consider that the new PSNI firearms refresher training package implements in full Recommendations 3(b) and (c) of our 2005 Annual Report and Recommendations 5, 6 and 7 of our 2006 Annual Report. We make the new recommendation that the PSNI internal evaluation team evaluate the effectiveness of the human rights and use of force element of the firearms refresher training within nine months of this report.

RECOMMENDATION 4:

The PSNI internal evaluation team should evaluate the effectiveness of the human rights and use of force element of the firearms refresher training within nine months of this report.

Monitoring attendance at firearms refresher training

In our 2005 Annual Report, we recommended that the PSNI should introduce a strict monitoring system to ensure that all officers regularly attend firearms refresher training and in our 2006 Annual Report, we reported on a number of initiatives introduced by the PSNI to monitor officer attendance and indicated that we would report further on these in our third human rights annual report.

ACC Urban and ACC Rural monitor attendance at firearms refresher training at their six monthly accountability meetings

with each of their respective DCUs. Combined Operational Training regularly informs the regional ACCs of levels of attendance at firearms refresher training across their respective Regions.⁴⁰

In the 12 months since July 2006, Rural Region has offered 7,492 firearms training places to officers, with 5,628 officers attending. This constitutes a 75% attendance rate.⁴¹ Urban Region offered 7,340 places, with 5,555 officers attending. This constitutes a 76% attendance rate.⁴²

Urban Region has recently introduced an email reminder system whereby a reminder is sent to individual officers and their DCU Operational Planning department when they are six weeks away from their refresher firearms due date. The PSNI intends to extend this facility across the PSNI.⁴³

HUMAN RIGHTS REFRESHER TRAINING

Human rights specific refresher training

In our 2006 Annual Report, we recommended that 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.⁴⁴ The final report of the Oversight Commissioner endorsed this recommendation and indicated that all police personnel should periodically receive refresher training in human rights. Specifically, the Oversight Commissioner suggested that as human rights training is most effective in operational contexts, district trainers should be encouraged to take advantage of human rights issues arising on a day-to-day basis to provide focused, relevant and on-the-spot training.⁴⁵

Initially the PSNI did not accept this recommendation. In its Human Rights Programme of Action 2006-2007, the PSNI stated that it considered a programme of human rights specific refresher training would place an extensive and unacceptable demand on resources. However, it indicated that in partial implementation of the recommendation, PSNI Criminal Justice would recruit a (civilian) researcher to meet officers in each DCU to identify human rights difficulties and concerns. The PSNI intends to link

40. Letter from ACC Rural to Policing Board's human rights advisors dated 15th September 2006.

41. Letter from ACC Rural to Policing Board's human rights advisors dated 6th July 2007.

42. Letter from ACC Urban to Policing Board's human rights advisors dated 6th July 2007.

43. Letter from ACC Urban to Policing Board's human rights advisors dated 6th July 2007.

44. 2006 Annual Report, Recommendation 8, p.160.

45. Office of the Oversight Commissioner, *Report 19*, May 2007, p.25.

46. Letter from ACC Criminal Justice to Policing Board's human rights advisors dated 8th May 2007.

47. Personnel will be selected to reflect the variety of roles of operational officers within PSNI.

48. 2006 Annual Report, Recommendation 9, p.160.

such action with activities in its response to Recommendation 9 (discussed further below) that relate to the development of distinct approaches to human rights refresher training.

In May 2007, ACC Criminal Justice updated us on his department's progress in implementing Recommendation 8 of our 2006 Annual Report. A human rights researcher was appointed in July 2007 to work alongside PSNI Criminal Justice to identify the current requirements of officers in terms of human rights training at district level.⁴⁶ A project team comprising representatives of PSNI Criminal Justice and the Police College has been established and a project methodology agreed. The human rights researcher will initially conduct desk research which will focus on the following areas:

- (a)** complaints received (internal and public);
- (b)** public reports;
- (c)** forthcoming events with the potential to engage human rights;
- (d)** information on controversial policing operations; and
- (e)** information relating to vulnerable groups/communities.

The human rights researcher will then consult with operational personnel⁴⁷ in each DCU through structured focus groups to identify human rights issues faced by officers and areas of difficulty and/or concern. These concerns will be addressed through local briefings, officer supervision, or if a training need or gap is highlighted, details will be referred to the Police College to initiate an appropriate training response.

District level human rights refresher training

In our 2006 Annual Report, we recommended that each PSNI District Command team should devise its own approach to district level human rights refresher training.⁴⁸ In its Human Rights Programme of Action 2006-2007, the PSNI accepted our recommendation. The Police College held a workshop for all district trainers on 24th November 2006. At the workshop, trainers discussed the human rights training needs of their district and shared examples of good practice. Following this meeting, the Police College sent a list of optional mechanisms for human rights training to District Commanders for consideration. In consultation with district trainers, the Police College intends

to develop a bank of human rights training materials appropriate and relevant in design and content for training at district level. District trainers will be free to draw on the training materials as appropriate.⁴⁹

Additionally, in March 2007, the Police College wrote to all District Commanders requesting them to identify the areas of human rights law and practice on which they considered their officers required additional training or guidance.⁵⁰ We outline the responses of the District Commanders (by district) in Table 1 below.

Table 1:
Areas of human rights law and practice identified
by District Commanders as requiring further training

District	Areas requiring more human rights training
A	Use of force, lawful gathering of evidence, issues around parades and protest, discrimination.
B	Arrest and detention, powers to stop and search, issues around parades and protests.
C	Anti-social behaviour orders, car crime, powers to stop and search, missing persons.
D	Articles 8, 9, 10 and 11 of the European Convention on Human Rights.
E	Police response activity, changes to PACE, issues around parades and protests, failure to investigate.
F	Police response activity, use of force issues, lawful gathering of evidence, keeping victims informed.
G	Issues around parades and protests and police response activity.
H	Assaults and unlawful imprisonments, keeping victims informed.
OCU Urban	Powers to stop and search, use of force, public order powers.
OCU Rural	Powers to stop and search, use of force, public order powers, dealing with road traffic offenders.

49. Meeting between Policing Board's human rights advisors and the Police College on 22nd February 2007.

50. Letter from ACC Urban to Policing Board's human rights advisors dated 18th May 2007.

51. We have been provided with copies of the information briefing sheets.

52. Video clips from the BBC television programme 'Life on Mars' will be drawn on to contrast a human rights based and non human rights based approach to policing.

53. 2006 Annual Report, Recommendation 10, p.160.

54. Letter from the Police College to Policing Board's human rights advisors dated 24th August 2007.

As the table demonstrates, several District Commanders indicated that officers would benefit from further human rights training in relation to police response activities and police powers to stop and search. In general, District Commanders considered that training should be provided by means of short briefings, posters or aide memoirs that were contextualised to everyday policing scenarios.

In response to this consultation process, the Police College has commenced work on a number of projects. These include a ten minute training package on qualified rights for use by district trainers; information briefing sheets for sergeants on parades, investigations, unlawful imprisonment, night time policing, and victims which will be disseminated Service wide;⁵¹ new posters on the Human Rights Act and European Convention on Human Rights; a human rights training DVD;⁵² and an updated human rights intranet site. We have been provided with copies of the information briefing sheets.

PSNI has adopted a creative and practical approach to meeting Recommendations 8 and 9 of our 2006 Annual Report. We consider both recommendations implemented in part. We will report further on the PSNI's progress towards implementation of these projects in next year's annual report.

HUMAN RIGHTS TRAINING FOR TRAINERS

In our 2006 Annual Report, we recommended that the PSNI should closely monitor and evaluate the quality and effectiveness of its human rights training for trainers.⁵³ In its Human Rights Programme of Action 2006-2007, the PSNI accepted our recommendation. Currently, PSNI personnel must attend a five week training course to become trainers. The training course has recently been reviewed to ensure that human rights are integrated effectively and appropriately throughout. The human rights training adviser delivers a two-day human rights component. In addition, student trainers attend an external one day human rights module delivered by the University of Ulster. Student trainers are also required to prepare and deliver a human rights presentation and the Police College is currently developing a human rights workbook which will be introduced as part of the training course later this year.⁵⁴

In late 2006, the human rights training adviser designed a one day human rights refresher course for specialist trainers. The course includes a basic outline and update on human rights principles and practice and a workshop on the delivery of human rights training, which provides guidance on the use of discussion and participatory tools. The course is adapted according to the particular policing specialism of the relevant trainers.⁵⁵ Three of these refresher courses were held by the human rights training adviser between December 2006 and July 2007.⁵⁶ While the Police College intends that all of its trainers will be provided with such specialist human rights refresher training, it has yet to consider the provision of refresher human rights training for district trainers. In the interim, all district trainers have been invited to attend the 'Introduction to human rights' programme delivered to student officers.⁵⁷

In addition to the internal human rights training for trainers, in early 2007 the Police College commissioned a bespoke short course on human rights for PSNI trainers delivered by the Transitional Justice Institute of the University of Ulster. The five day programme aimed to provide trainers with an increased awareness of human rights standards and their applicability to police training systems, policies and practices.⁵⁸ Eighteen PSNI trainers attended the short course run in two parts in March and June 2007. We have been provided with an outline of the course, a copy of the pre-course questionnaire,⁵⁹ a PSNI internal report on module one of the course and copies of evaluation forms completed by the trainers who attended the course. Whilst there was some negative responses to the first module of the course,⁶⁰ all of the trainers who completed the course evaluation form indicated that the course expanded their knowledge of human rights and provided a deeper awareness of how and why human rights needs to be integrated further within training. A number of the trainers also indicated that this was the first dedicated human rights training they had received. The majority of the trainers who attended the course suggested that other trainers would benefit from attending the course, and that this would both improve human rights knowledge throughout the Police College and assist the development of a corporate approach to training.

We commend the PSNI's introduction of this short human rights course for trainers, which was clearly a necessary step to remedy

55. Meeting between Policing Board's human rights advisors and the Police College on 20th November 2006.

56. The first course was designed for all Police College trainers, the second for trainees from Combined Operational Training and the third for Crime Trainers.

57. Meeting between Policing Board's human rights advisors and the Police College on 20th November 2006.

58. Transitional Justice Institute draft programme document, *Developing Enhanced Human Rights Training Practice*.

59. Which included questions on current human rights knowledge and understanding, subject areas most relevant to include, current training strengths and key challenges.

60. Attendance at, and subsequent discussion of, a film on Sinn Féin and Policing and a photographic exhibition of 40 years of press reporting in Northern Ireland.

61. 2006 Annual Report, Recommendation 11, p.160.

62. Although we note that the PSNI human rights legal adviser and the Police College's human rights training adviser have reviewed aspects of Special Operations Branch training and will continue to do so: letter from the Police College to Policing Board's human rights advisors dated 24th August 2007.

a gap in training for trainers. We consider these internal and external initiatives, taken together, implement Recommendation 5 of our 2005 Annual Report and Recommendation 10 of our 2006 Annual Report in full.

During the course of 2007, the Police College indicated to us that it was considering appointing a human rights champion within each of its specialist training teams who would be able to provide human rights expertise and support to other trainers within their team and act as a liaison point for the human rights training adviser for purposes of updating on human rights law and practice. We endorse this proposal and recommend that the PSNI should appoint human rights champions within each of its specialist training teams and make a mandatory requirement of the role that all human rights champions complete the human rights short course in the first year of their appointment.

RECOMMENDATION 5:

The PSNI should appoint human rights champions within each of its specialist training teams, and make a mandatory requirement of the role that all human rights champions complete the human rights short course in the first year of their appointment.

INTERNAL EVALUATION OF HUMAN RIGHTS TRAINING AND DELIVERY

In our 2006 Annual Report, we recommended that the PSNI should devise an effective system for the internal evaluation of the delivery of human rights training as soon as possible.⁶¹ In its Human Rights Programme of Action 2006-2007, the PSNI accepted our recommendation. The PSNI has established an internal evaluation team chaired by the PSNI human rights legal adviser to evaluate the delivery of the human rights aspects of all training, with the exception of Special Operations Branch.⁶² The aims of the evaluation team include the following:

- (a) to determine the extent to which training delivered by the PSNI incorporates human rights principles and standards into practical and theory-based lessons;
- (b) to evaluate delivery of human rights;

- (c) to evaluate students' understanding of human rights; and
- (d) to highlight areas for improvement and identify and promote good practice.⁶³

The first meeting of the team took place in June 2007 when a working methodology was agreed. All PSNI training courses that will be subject to evaluation have been categorised into fifteen business areas, and a lead evaluator appointed from within the evaluation team for each of these business areas. The team has set an objective of completing 65 training evaluations in the first six months, with each business area being evaluated at least twice in that time. Evaluators will observe lessons and discuss with students the human rights aspects of the training received. Evaluators will provide trainers with direct feedback on the human rights aspects of the training at the end of the lesson.⁶⁴ A human rights audit tool has been developed for evaluators, together with evaluation guidelines. We have reviewed both of these documents. The audit tool is comprehensive and practical in its design. The guidelines clearly set out the purposes and stages of the evaluation process.

The evaluation team completed five evaluations in July 2007.⁶⁵ We consider the establishment of the internal evaluation team to implement Recommendation 11 of our 2006 Annual Report in full.⁶⁶ However, we remind the PSNI of the continuing nature of this recommendation. We will monitor the work of the PSNI internal evaluation team as part of our ongoing monitoring work.

EXTERNAL EVALUATION OF DELIVERY OF HUMAN RIGHTS TRAINING

In our 2006 Annual Report, we recommended that 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 2006.⁶⁷ In its Human Rights Programme of Action 2006-2007, the PSNI accepted our recommendation. A tendering exercise took place in early 2007.⁶⁸ An external training evaluator has now been appointed⁶⁹ and terms of reference agreed. We met with the external evaluator in July 2007.

We agreed with the Police College that as we will ourselves review PSNI Special Operations Branch training as part of our

63. PSNI protocols for the internal evaluation of the delivery of human rights training.

64. Ibid.

65. Update from PSNI human rights legal adviser, 3rd August 2007.

66. As a result of the establishment of the PSNI internal evaluation team, we withdraw Recommendation 6 of our 2005 Annual Report.

67. 2006 Annual Report, Recommendation 12, p.160.

68. Meeting between Policing Board's human rights advisors and the Police College on 5th October 2006.

69. The International Human Rights Network.

70. Training Strategy Steering Group, Terms of Reference.

71. Her Majesty's Inspectorate of Constabulary, *Baseline Assessment Police Service of Northern Ireland*, October 2006.

monitoring work in relation to Operation Ballast, it was not necessary to include this training within the remit of the current external evaluation, given the obvious issues of sensitivity and confidentiality.

The external evaluator intends to submit a final report to the PSNI in October 2007. We must await completion of this report and the PSNI's response to it before assessing whether this process satisfies the intention behind Recommendation 12 of our 2006 Annual Report and Recommendation 7 of our 2005 Annual Report. We therefore consider these recommendations to be implemented only in part.

OTHER INITIATIVES

Finally, in this chapter, we report on a number of other training initiatives introduced by the PSNI in the last year.

Training Strategy Steering Group

In October 2006, the PSNI established a Training Strategy Steering Group. The purpose of the Group is to consider training and development issues at a strategic level. The Group will develop the PSNI Training Strategy and Annual Training Plan, identify training needs and future skill requirements at all levels, provide a forum for discussion of national and Service initiatives, including sharing examples of good practice, and feed into the creation and amendment of policy and procedure. The Group is chaired by ACC Urban and meets on a quarterly basis.⁷⁰ An official of the Policing Board attends each meeting and reports to the Board. In April 2007, HMIC published its *Baseline Assessment of the PSNI in 2006*.⁷¹ It identified the Steering Group as a good initiative which the PSNI could develop further. We suggest that the PSNI adopt the HMIC recommendations in developing the role and function of the Steering Group.

PSNI Quality Assurance Scheme

The PSNI's Quality Assurance Unit is in the process of gaining National Police Improvement Agency accreditation for its Quality Assurance Framework. A monthly evaluation report has been developed to facilitate the referral of issues emerging from the quality assurance process to relevant PSNI Heads of Department for remedial action.

PSNI Supervisors' Development Programme

The Police College has recently established a project panel to lead on the introduction of a first line supervisors' development programme for police officers and civilian support staff.⁷² The course will include the mandatory completion of a number of national Core Leadership Development Programme modules.⁷³ It is hoped that this course will be ready by October 2007 and followed by the introduction of a similar course for Inspectors in 2008.

72. It is intended that the development programme will include three components: a pre-read and assessment stage, a softer skills course and a developmental action plan.

73. Developed by the National Police Improvement Agency.

Chapter 3: POLICY

It is fundamental that all of 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. If all PSNI policies are human rights compliant, decision-making, action and training taken according to those policies ought itself to be human rights compliant.

03

The PSNI has chosen to achieve this end by adopting a General Order on Policy, Procedure and Guidance which is intended to ensure uniformity in PSNI policies and procedures, and compliance with the requirements of the Human Rights Act 1998. As we have noted in the past, the General Order on Policy, Procedure and Guidance is an excellent initiative.

PSNI POLICY AUDIT

In our 2005 Annual Report, we conducted a detailed audit of PSNI policies including general orders and service procedures in twelve randomly selected areas: (i) deaths in custody, (ii) investigations into unexplained deaths, (iii) bail and arrests, (iv) disclosure, (v) relations with the military, (vi) complaints, (vii) transparency, (viii) equality, (ix) children, (x) victims, (xi) the role of defence lawyers, and (xii) operational briefing. We made several general observations about the policies, which we found to be, in the main, informative and detailed. However, we also observed that a number of policies made only cursory reference to human rights standards and principles, without providing a great deal of guidance to police officers about the applicability of human rights in the context of the particular subject area of the policy. Our findings highlighted the need for all policies to be reviewed.¹

In our 2006 Annual Report, we reported that the PSNI had not commenced its review of all existing policies for compliance with the General Order on Policy, Procedure and Guidance. The PSNI was, at that time, in the process of verifying each of its 700 General Orders and sections of the Service Code to ensure they remained current. We indicated that the PSNI's delay in implementing our recommendation precluded the Policing Board from complying with the separate recommendation - Recommendation 14 of our 2005 Annual Report - that it should complete a further audit of PSNI policies.

In our 2006 Annual Report, we therefore recommended that the PSNI should complete the exercise of verifying all existing policies, forthwith.² We also recommended that the PSNI review its policies according to its General Order on Policy, Procedure and Guidance within 12 months of the publication of our human rights annual report.³ The Policing Board would then be in a position to complete a further audit of PSNI policies in satisfaction of our 2005 recommendation.⁴

The PSNI stated in its Human Rights Programme of Action 2006-2007 that it accepted our recommendations in principle and its process of implementation was ongoing. The PSNI acknowledged that compliance with the recommendation would require a significant commitment of resources from all PSNI departments.⁵

1. 2005 Annual Report, Recommendations 8 and 9, p.168.

2. 2006 Annual Report, Recommendation 13, p.160.

3. 2006 Annual Report, Recommendation 14, p.160.

4. 2005 Annual Report, Recommendation 14, p.169.

5. PSNI's Human Rights Programme of Action 2006-2007, p.18.

In March 2007, we wrote to ACC Operational Support to request an update on the PSNI's review and verification process. In April 2007, ACC Operational Support confirmed that the PSNI has now reviewed and verified all its policies.⁶ The PSNI also indicated that it had reviewed most of its service procedures:⁷ of which 1,159 have now been reviewed, leaving 67 pending.⁸ Following a further request by us for an update in June 2007, the PSNI informed us by a letter dated 27th July 2007 that the review was "now 95% complete".⁹ Policy owners are responsible for reviewing policies and service procedures on an annual basis.¹⁰ We consider that the verification exercise implements Recommendation 8 of our 2005 Annual Report in full.

By way of monitoring the PSNI's policy review exercise, we implemented Recommendation 14 of our 2005 Annual Report, ie. we carried out a further audit of PSNI policies.¹¹ We carried out that audit in July 2007 and therefore consider Recommendation 14 of our 2005 Annual Report to be implemented in full.

The 2007 audit

To implement Recommendation 14 of our 2005 Annual Report, we asked the PSNI for the "most up to date versions" of the policies relating to deaths in custody, investigations into unexplained deaths, bail and arrests, disclosure, relations with the military, complaints, transparency, equality, the role of defence lawyers, and operational briefing. Subsequently we checked these against the versions currently posted and available on the PSNI intranet. We set out our findings below.

Deaths in custody

In our 2005 audit, we reported that the PSNI issued a policy setting out guidelines for dealing with deaths in police custody in September 2001.¹² The policy outlines the initial action to be taken by the senior officer on duty, the role of the District Commander for the area where the death occurred and the evidence to be gathered at the post mortem. Our audit of this policy in July 2007 indicates that the PSNI has not yet updated this policy. While we recognise that a review of a policy will not necessarily result in substantive changes where the policy is found to be current and accurate, we are concerned that the absence of any change to this policy suggests that

6. PSNI policies are statements of principle which define expected organisational behaviour. Policy is the framework from which procedure or guidance flows.

7. When issued separately from a policy document, procedure and guidance is disseminated by means of a service procedure. Procedure is defined as a course of actions, tasks or steps to be followed. Guidance sets minimum standards as a suggested course of action.

8. Letter from ACC Operational Support to Policing Board's human rights advisors dated 16th April 2007.

9. Letter from ACC Operational Support to Policing Board's human rights advisors dated 27th July 2007.

10. Letter from ACC Operational Support to Policing Board's human rights advisors dated 23rd August 2007.

11. 2005 Annual Report, Recommendation 14, p.169.

12. General Order No: 55/01 Interim guidelines for dealing with deaths in police custody.

13. Letter from ACC Operational Support to Policing Board's human rights advisors dated 23rd August 2007.

14. Procedures for dealing with deaths following police contact.

15. General Order No: 30/04 Police investigations into unexpected, unexplained or suspicious deaths.

16. General Order 51/03 Criminal Justice (Northern Ireland) Order 2003 Commencement of Articles 3-6 Bail and Articles 28-30 Public Order, General Order 16/07 Bail under Part V of Police and Criminal Evidence (Northern Ireland) Order 1989 and associated amendments to the Magistrates Courts (Northern Ireland) Order 1981 and General Order 28/00 Retention/Disposal of Forms PACE 12 and 127 Prisoner Arrest Forms.

17. General Order 4/05 Street Bail and General Order 42/04 Bail Applications.

it has not been reviewed. We consider that the policy could be enhanced by including reference to Articles 2 and 6 of the European Convention on Human Rights and to relevant Articles of the Code of Ethics, as well as cross-referring to other PSNI policies and including a notification telephone number for the Police Ombudsman. We were recently informed that the PSNI commenced a review of this policy in December 2006 and sent a revised version of the policy to the Police Ombudsman for consideration in June 2007.¹³ We understand that following agreement with the Police Ombudsman, a new policy¹⁴ will be issued.

Investigations into unexplained deaths

We reported in our 2005 Annual Report that the PSNI's policy on police investigations into unexpected, unexplained or suspicious deaths¹⁵ accurately and properly set out officers' obligations under Article 2 of the European Convention on Human Rights to carry out an effective investigation, reminding officers that an investigation will only be considered effective where the authorities can demonstrate they took all reasonable steps to secure evidence concerning the incident. The PSNI amended and reissued this policy in July and November 2006 and again in January 2007. The PSNI's updated policy outlines changes to the procedure for appointing investigating officers to investigations of unexpected, unexplained or suspicious deaths. We welcome the PSNI's commitment to ensuring this important policy is kept up to date and reflects current practice and procedure.

Bail and arrests

In our 2005 audit of PSNI policies, we reviewed policies instructing police officers both on the content of legislation relating to bail and arrests¹⁶ and more generally, on practice and procedure relating to bail and arrests.¹⁷ Our audit this year indicates that while several of the policies - generally those instructing officers on practice and procedure rather than merely informing of relevant legislation - include references to relevant human rights standards and principles, including Article 5 of the European Convention on Human Rights and Article 10 of the PSNI Code of Ethics, a number of the policies have not been reviewed or reissued since our initial policy audit in 2005. In

particular, we found that the PSNI's policy on bail applications has not been revised to reflect legislative developments, including the repeal of section 67(3) Terrorism Act 2000 by the Terrorism (Northern Ireland) Act 2006 s.5(2)(3).

Disclosure

Mirroring our 2005 audit of PSNI disclosure policies, we reviewed all relevant policies, including those relating to the meaning and application of the Criminal Procedure and Investigations Act 1996 and the Code of Practice issued under section 23 of the Act.¹⁸ Our audit this year suggests that there has been no review or updating of policies on disclosure by the PSNI since our 2005 audit. None of the PSNI's policies take into account amendments to the Criminal Procedure and Investigations Act 1996 introduced by the Criminal Justice Act 2003. Further, the policy outlining the Attorney General's guidelines on police investigations and disclosure includes an out-of-date version of the Attorney General's guidelines and fails to take into account the changes introduced by the Criminal Justice Act 2003. The policies we reviewed did not make consistent reference to human rights standards and principles. Many of the policies predate the Human Rights Act 1998 and therefore make no reference to the Act or the PSNI Code of Ethics.

Relations with the military

Following our review of policies relating to the PSNI's relations with the military in 2005, we recommended that the PSNI review all its policies and protocols on PSNI relations with the military 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.¹⁹ In our 2006 Annual Report, we reviewed PSNI Urban and Rural Regions' protocols for the conduct of operations between the PSNI and the military and the PSNI's policy on duties of police officers in joint military patrols and reported that we were satisfied with the PSNI's implementation of this recommendation.²⁰ In June 2006, the PSNI issued a policy on the organisation and role of the Royal Military Police in Northern Ireland.²¹ We are satisfied that these policies and protocols are current and apply relevant human rights standards.

18. General Order 49/01 Disclosure of information in criminal proceedings under the Criminal Procedure and Investigations Act 1996: Attorney General's guidelines, General Order 101/97 Disclosure - Form 38/65 Rights and duties of accused persons, General Order 100/97 Disclosure of previous convictions and cautions of prosecution witnesses, General Order 97/97 Criminal Procedure and Investigations Act 1996 - Disclosure of material under Code of Practice, section 23, General Order 5/95 Disclosure of material from IIB files, General Order 99/97 Procedure for identification and disclosure of disciplinary findings of guilt and criminal convictions of police officers and General Order 98/97 Disclosure of unused material under Criminal Procedure and Investigations Act 1996: Guidance for Police Prosecutors.

19. 2005 Annual Report, Recommendation 13, p.169.

20. 2006 Annual Report, p.22.

21. General Order 28/06 Organisation and role of the Royal Military Police in Northern Ireland.

22. General Order 42/06 (formerly 38/04) Tracking and trending of complaints against the police and General Order 27/04 Notification of complaints received by the Police Ombudsman for Northern Ireland.

23. General Order 30/06 Guidance on the handling of complaints relating to the 'direction and control' of the police service.

24. At pp.85-86.

25. At pp.85-86.

26. General Order 63/02 Equality duties - s.75 and Schedule 9 of Northern Ireland Act 1998 and General Order 71/99 The Fair Employment Act 1989.

Complaints

As part of our 2005 policy audit, we reviewed policies on trending and tracking of complaints against the police and the notification of complaints received by the Police Ombudsman.²² Our review this year indicates that both policies had been reviewed and reissued by the PSNI. The trending and tracking of complaints policy was reissued in October 2006. We set out a summary of this policy in chapter 6 of this report.²³ The PSNI's policy on the notification of complaints received by the Police Ombudsman was amended and reissued in January 2007. The policy advises officers of the manner in which they will be notified when a complaint is made against them. The policy cross refers to the PSNI's trending and tracking policy and is subject to annual review by PSNI Professional Standards. This year, we also reviewed the PSNI's policy on the handling of complaints relating to the direction and control of the PSNI which was issued in July 2006.²⁴ We set out our analysis of this policy in chapter 6.²⁵ We are satisfied that the PSNI's policies on complaints are subject to regular review, reflect current practice and include reference to relevant human rights standards.

Transparency

As we noted in our 2005 policy audit, the PSNI issued its transparency policy in June 2003. The aim of the policy is to outline how the PSNI can move towards becoming a more open and transparent organisation. The policy reminds officers that applications for disclosure of information engage Article 6 of the European Convention on Human Rights and provides guidance on circumstances when it may be necessary to withhold certain information from the public in protection of others' Article 2 and 8 rights. Our review of the policy this year indicates that it has not been reviewed or updated since our initial audit in 2005. We found several examples where terminology used in the policy was out-of-date.

Equality

As part of our 2005 policy audit, we reviewed PSNI policies on equality duties under section 75 and Schedule 9 of the Northern Ireland Act 1998 and the Fair Employment Act 1989.²⁶ Both policies provide guidance to officers on the legislation and its impact on the PSNI. Neither policy has been revised since

our audit in 2005. While we recognise that there may not be a need to update policies that reproduce relevant sections of legislation, we consider that these policies should nonetheless be subject to review. Otherwise, the PSNI risks providing out of date information to its officers. We are most concerned that the PSNI has failed to cancel its policy on the Fair Employment Act 1989 following repeal of the Act by the Fair Employment and Treatment (Northern Ireland) Order 1998.

As part of our audit this year, we also reviewed the PSNI's policy on equal opportunities which was issued in May 2006. The purpose of this policy is to ensure that during the course of their employment, no police officer or member of police staff receives less favourable treatment or is discriminated against on any of the nine grounds of discrimination under Section 75 of the Northern Ireland Act 1998. The PSNI's policy contains general references to the PSNI Code of Ethics and the Human Rights Act 1998 as requiring equal treatment. However, it does not refer to specific Articles of the Code or the European Convention on Human Rights or provide further clarification or explanation as to the applicability of either the Code of Ethics or the European Convention.

The role of defence lawyers

As we noted in our 2005 policy audit, the PSNI issued a policy on the role of defence lawyers in April 2002.²⁷ The policy explains the importance of the role of defence lawyers and highlights the need for a professional relationship between the police and lawyers. The policy refers to the European Convention on Human Rights, highlighting the relevance of Articles 6 and 14. The policy also makes explicit reference to relevant Articles of the UN Basic Principles on the Role of Lawyers. However this policy does not appear to have been amended or reissued since 2002.

Operational briefing

In 2005, we reviewed the PSNI's policy on operational briefing²⁸ which requires officers delivering operational briefings to draw attention to Articles of the European Convention on Human Rights most likely to be engaged by the policing operation and provide justification for police action by reference to the tests of legality, necessity and proportionality. The PSNI issued a new

27. General Order No: 23/02 Role of defence lawyers.

28. General Order No: 49/02 IIRMAC - A standard briefing system.

29. General Order No: 38/05 IIRMACH - A standard briefing system. The addition of 'H' to the mnemonic denotes the inclusion of human rights as one of the seven strands of operational briefings.

30. 2005 Annual Report, Recommendation 9, p.168.

policy on operational briefing in November 2005.²⁹ The PSNI's current policy builds on the human rights based approach to operational briefings outlined in its original policy by requiring explicit reference to human rights as one of the seven strands of operational briefings. This puts human rights at the core of operational briefings and is to be commended.

General observations

From this, our second audit of PSNI policies carried out to implement Recommendation 14 of our 2005 Annual Report, we are able to make a number of general findings.

First, it is clear from our review that several policies have not been reviewed or reissued since our initial policy audit in 2005. This means that some of the policies we reviewed are out of date and do not take legislative developments into account. This causes us significant concern.

Second, and of equal concern, a number of policies that predate the Human Rights Act 1998 have still not been revised to contain references to the Act and there is no reference to relevant Articles of the European Convention on Human Rights or the PSNI Code of Ethics. This is not acceptable.

Third, while a number of current PSNI policies (particularly those issued more recently) include explicit reference to human rights principles and standards which are integrated appropriately within the policy document, other policies do not include any, or make only cursory reference to, human rights and the Code of Ethics. There is thus inconsistency and confusion.

These findings are troubling. If the review of PSNI policy has been fully completed and the review of service procedures is 95% complete, leaving only 67 to complete, as the PSNI has indicated, that review would appear to have failed fundamentally to address the concerns that led us to make the recommendation back in 2005 that the PSNI review its policies according to its General Order on Policy, Procedure and Guidance within 12 months of the publication of that report.³⁰ To verify these findings, we spent some time in August 2007 examining the PSNI intranet to review other policies and service procedures not covered in our 2007 audit. We set out our findings below.

Examination of the PSNI intranet

The PSNI intranet has posted on it, and makes available to PSNI officers, PSNI policy directives (which contain PSNI policy) and service procedures (which outline how to implement PSNI policy). Our examination revealed that there are 11 policy directives currently posted and available on the PSNI intranet dated 2007, 14 dated 2006 and 11 dated 2005. Our examination also revealed that there are 652 service procedures currently posted and available on the PSNI intranet.

We scrolled through all 652 service procedures currently posted and available on the PSNI intranet and examined a number of them. From this examination, we are able to make a number of findings that appear to corroborate the findings we made following the 2007 audit.

First, a great many service procedures do not appear to have been reviewed or reissued for many years. Some are hopelessly out of date and we found several examples of service procedures making reference to and giving guidance on legislation that has been repealed (e.g. the Prevention of Terrorism (Temporary Provisions) Act 1989). We also found service procedures dealing with surveillance that predated the Regulation of Investigatory Powers Act 2000 and made no reference to it. Equally we found service procedures giving out of date advice on matters such as disclosure and the role of the (now abolished) post of Director of Public Prosecutions.

Second, as with our 2007 audit, a number of service procedures that predate the Human Rights Act 1998 have not been revised to contain references to the Act and there is no reference to relevant Articles of the European Convention on Human Rights or the PSNI Code of Ethics.

Thirdly, and again as with our 2007 audit, there is inconsistency and confusion in a number of service procedures in the references to the Human Rights Act 1998, the European Convention on Human Rights and the PSNI Code of Ethics.

It is now two years since we first recommended that the PSNI review its policies according to its General Order on Policy, Procedure and Guidance, yet our 2007 audit of a number of

31. 2006 Annual Report, Recommendation 15, p.160.

32. PSNI's Human Rights Programme of Action 2006-2007, p.18.

33. 2006 Annual Report, chapter 3, p.19.

policies and our examination of the PSNI intranet shows that very few of the fundamental concerns that we set out two years ago have been dealt with. This situation cannot be allowed to persist and calls for urgent remedial action. Rather than simply repeating for a third year running the recommendations that we have made on this subject, Recommendation 9 of our 2005 Annual Report and Recommendations 13 and 14 of our 2006 Annual Report must be treated as outstanding and we recommend that the PSNI formally report to the Policing Board on its policy review within three months, explaining the situation and detailing the methodology adopted for the review with a strict and detailed timetable for completion of the policy review exercise.

RECOMMENDATION 6:

The PSNI should formally report to the Policing Board within three months on its policy review explaining the situation and detailing the methodology adopted for the review so far with a strict and detailed timetable for completion of the policy review exercise.

In our 2006 Annual Report, we recommended that 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.³¹ In its Human Rights Programme of Action 2006-2007, the PSNI accepted our recommendation.³² However, we have not been provided with adequate evidence that this review has been completed. We therefore consider Recommendation 10 of our 2005 Annual Report and Recommendation 15 of our 2006 Annual Report to remain outstanding. We will pursue this with PSNI Operational Support and PSNI Crime Operations and report further in next year's annual report.

TIME LAGS IN MAKING POLICIES AVAILABLE TO PSNI OFFICERS

In our 2006 Annual Report, we identified a time-lag in the PSNI's procedure for up-loading policies onto the PSNI intranet site following approval by the Chief Constable's Forum.³³ In April 2007, ACC Operational Support reported to us that the time lag is due to the process of updating, quality assurance and reformatting of policies prior to posting on the PSNI intranet site.

While the PSNI does not conduct comprehensive monitoring of the time taken to complete this process, it considers that it is necessary to facilitate the quality assurance process.³⁴

REFERENCE TO PSNI POLICIES

While communicating policies to officers by way of email or via the PSNI intranet may be an efficient way to keep officers informed and up-to-date, it will only be truly effective if officers all have ready access to computers and actually access and read the policy documents. It has come to our attention that PSNI officers do not routinely do this. In March 2007, we wrote to ACC Operational Support to request information on how, if at all, the PSNI monitors the level of access or reference to policies by officers via email or the PSNI intranet and what other steps are taken by PSNI Operational Support department to highlight the introduction of new or amended policies to officers. ACC Operational Support indicated that there is no central monitoring of the extent to which emails highlighting new or updated policies are read. The PSNI does not consider that such monitoring would ensure policies are read by officers. It believes that more effective monitoring can be conducted by line managers to ensure important policies are read and understood.³⁵

In light of our findings above in relation to our 2007 audit and our examination of the PSNI intranet, we consider that it is necessary for the PSNI to monitor how police officers access and make reference to PSNI policies and what steps are taken by PSNI Operational Support department to highlight the introduction of new or amended policies to officers.

RECOMMENDATION 7:

The PSNI should monitor how police officers access and make reference to PSNI policies and what steps are taken by PSNI Operational Support department to highlight the introduction of new or amended policies to officers.

34. Letter from ACC Operational Support to Policing Board's human rights advisors dated 16th April 2007.

35. Ibid.

36. 2006 Annual Report, Recommendation 16, p.160.

37. PSNI's Human Rights Programme of Action 2006-2007, p.18.

38. 2006 Annual Report, Recommendation 17, p.160.

39. PSNI's Human Rights Programme of Action 2006-2007, p.12.

MAKING POLICIES AVAILABLE TO THE PUBLIC

In our 2006 Annual Report, we recommended that the PSNI should speed up the process of making more of its policies available to the public.³⁶

The PSNI accepted our recommendation and indicated that its implementation is ongoing. In its Human Rights Programme of Action 2006-2007, the PSNI indicated that on completion of its review of PSNI policy (in April 2007) a greater number of PSNI policies will be publicly available.³⁷

As we have already indicated, the PSNI review of policy is very far from complete and this inevitably impacts on its ability to comply with our recommendation that the PSNI should speed up the process of making more of its policies available to the public. Our examination of the PSNI website shows that 45 policies are currently available to the public. Since 38 policies were available in 2006, that is a modest increase. Furthermore, of the 45 policies currently available one is an updated version of another policy still showing on the website and two have been cancelled but remain on the PSNI website. We consider that Recommendation 11 of our 2005 Annual Report remains implemented only in part. This situation needs to be remedied and against that background, we have no option but to reiterate Recommendation 16 of our 2006 Annual Report that the PSNI should speed up the process of making more of its policies available to the public.

RECOMMENDATION 8:

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

THE POLICY WRITERS' COURSE

In our 2006 Annual Report, we recommended that 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.³⁸

In its Human Rights Programme of Action 2006-2007, the PSNI accepted our recommendation.³⁹ The Policing College and PSNI Corporate Development, Policy and Planning have developed

a policy writers' workshop. The first workshop was delivered at the end of July 2007. The PSNI intends that the workshop will run on a monthly basis.⁴⁰ We intend to observe the policy writers' workshop as part of next year's monitoring work but consider Recommendation 12 of our 2005 Annual Report and Recommendation 17 of our 2006 Annual Report to be implemented in full.

In our 2006 Annual Report, we also recommended that the PSNI should make the policy writers' human rights training course compulsory for all PSNI policy writers, forthwith.⁴¹ The PSNI accepted our recommendation. In future, all policy writers will be required to complete the policy writers' workshop. Again, we intend to observe the policy writer's workshop as part of next year's monitoring work but consider Recommendation 18 of our 2006 Annual Report to be implemented in full.

RETENTION OF DNA

In 2006/2007, the Northern Ireland Commissioner for Children and Young People and the Pat Finucane Centre raised concerns about the PSNI's retention of DNA samples and fingerprints of individuals, including young children, who were not subsequently charged with any offence.⁴² In response, the Policing Board requested that we provide advice on the human rights implications of the PSNI's policy on the retention of DNA samples and fingerprints.

The PSNI's policy is based on the statutory framework laid down in the Criminal Justice and Police Act 2001, the Criminal Justice Act 2003 and ACPO guidance.⁴³ The Criminal Justice and Police Act 2001 and Criminal Justice Act 2003 removed the requirement to destroy DNA samples and fingerprints relating to persons following acquittal at court or other discontinuance of a case and provided the police with an additional power to take DNA samples and fingerprints, without consent, from any person detained at a police station who has been arrested for an offence which carries a custodial sentence. This power applies even where an arrest results in no further action being taken against the individual. ACPO guidance sets out the procedure for removal of DNA samples and fingerprints from the Police National Computer and gives Chief Officers the discretion to authorise

40. Meeting between Policing Board's human rights advisors and the Police College on 11th July 2007.

41. 2006 Annual Report, Recommendation 18, p.160.

42. One case involved an 11 year girl who was arrested on suspicion of criminal damage. The girl was not charged with an offence, but photographic, DNA and fingerprint records were put on the PSNI database. Following a public outcry, the PSNI agreed to destroy all the girl's records.

43. ACPO, *Retention Guidelines for Nominal Records on the Police National Computer. Incorporating the Step Down Model*, March 2006.

44. For example “circumstances which could justify destruction are where the fingerprints [or sample] were taken in error or under a misapprehension as to who the donor was”.

45. *R. v. Chief Constable of South Yorkshire Police (Respondent) ex parte LS (by his mother and litigation friend JB)(FC)(Appellant) and R. v. Chief Constable of South Yorkshire Police (Respondent) ex parte Marper (FC) (Appellant) (Consolidated Appeals)* [2004] UKHL 39.

46. Human Rights Advisors to the Northern Ireland Policing Board, *Note on PSNI Retention of DNA*, October 2006.

47. S. 18(A)(3) of the Criminal Procedure (Scotland) Act 1995 provides that the sample must be destroyed no later than three years following the conclusion of criminal proceedings or on a later date, should the relevant sheriff so decide, following an application by the relevant chief constable (on reasonable grounds) for an extension of the destruction date, but in any event, no later than two years after the previous destruction date.

the deletion of such data ‘owned’ by them in exceptional circumstances.⁴⁴

In 2004, the House of Lords considered, in two conjoined test cases, whether the retention of DNA samples and fingerprints from individuals who had been arrested but not charged was lawful.⁴⁵ One of the cases related to an 11 year old boy. The House of Lords held that retention in such cases was lawful. The discretion given by ACPO guidance to delete records in exceptional circumstances and the purpose for which the information was retained i.e. in the prevention or detection of crime, investigation of an offence or conduct of a prosecution, rendered retention justified and proportionate and therefore compatible with the European Convention on Human Rights.

On this basis, we advised the Board that, in according with the statutory framework and ACPO guidance, the PSNI’s policy on the retention of DNA samples and fingerprints was lawful, justified and proportionate and therefore compatible with the European Convention on Human Rights.⁴⁶

Following the submission of our advice, the Board requested that we provide further advice on the Scottish model of DNA retention and its compatibility with the European Convention on Human Rights. The Scottish model differs to that adopted in England, Wales and Northern Ireland in that it applies only where criminal proceedings are instituted against an individual and the individual is charged with a relevant sexual or violent assault. Section 18A of the Criminal Procedure (Scotland) Act 1995 (inserted by s. 83 of the Police, Public Order and Criminal Justice Act 2006) permits the police to retain any sample taken under s. 18 of the 1995 Act or information derived from such a sample in circumstances where criminal proceedings in response of a relevant sexual offence or a relevant violence offence were instituted against the person from whom the sample was taken, but those proceedings concluded otherwise than with a conviction or an order for admonition or absolute discharge. The Scottish model also requires samples to be destroyed no later than three years following the conclusion of criminal proceedings if the proceedings did not result in a conviction.⁴⁷ We advised the Board that the Scottish model would be considered less intrusive than legislation in England and Wales in terms of its impact on

Article 8 of the European Convention on Human Rights. However, we further advised that it would be pre-emptory for the Board to advocate adoption of the Scottish model due to ongoing litigation on the human rights compatibility of the English and Welsh policy and the possibility that the European Court of Human Rights might overturn the decision of the House of Lords.⁴⁸

On the outcome of the European Court's decision, we suggest that the PSNI review its policy on the retention of DNA samples and fingerprints.

48. The case has now been referred to the Grand Chamber of the European Court of Human Rights.

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 raise human rights issues. Articles 2 and 3 of the European Convention on Human Rights are engaged in any operation requiring the use of force and Article 8 is engaged in operations involving the use of surveillance.

04

This year, we have monitored two operations: one live operation and one after the event audit. We outline our findings below.

MONITORING OF LIVE OPERATIONS

In previous years, our monitoring of police operations has focused on large scale operations, primarily relating to public order. This year, we expanded our monitoring of PSNI operations to include smaller scale, routine operations associated with volume crime. To this end, we monitored an operation in North Belfast DCU against anti-social behaviour and youths causing annoyance. Our monitoring of the operation included examination of PSNI operational documents and attendance at an operational pre-briefing. We also accompanied police response officers as they conducted the operation on the night of 27th April 2007.

1. Section 23(a) Public Order (Northern Ireland) Order 1987.

2. Section 23(b) Public Order (Northern Ireland) Order 1987.

3. Section 1 Confiscation of Alcohol (Young Persons) Act 1997.

The objectives of the operation were to provide a deterrent to anti-social behaviour, address underage drinking and drinking in public places, search and detain persons in possession of offensive weapons, prevent criminal damage, provide reassurance and enforce the law by detecting and arresting offenders.

The operational order included a human rights statement which referred to Article 2 of the European Convention on Human Rights and the PSNI policy on police use of firearms. The order outlined the responsibilities of officers, including the need to minimise interference with human rights, exercise restraint and act proportionately, minimise damage and injury and ensure that medical aid is secured at the earliest opportunity for persons requiring it. The order also outlined police officers' statutory powers to require the removal of items to conceal identity,¹ to stop and search in anticipation of violence² and to confiscate alcohol.³ While we welcome the integration of human rights into the operational planning document, in light of the nature of the policing activities involved in the operation, (i.e., confiscation of property, stop and search), and the low levels of force entailed, we consider it would have been appropriate to include explicit reference to Articles 3, 8 and Article 1 of Protocol 1 of the European Convention on Human Rights in the operational order or as an element of the operation pre-briefing.

The operation commenced at approximately 8pm on 27th April 2007 and consisted of two phases. The first phase, conducted between 8pm and 11pm, involved officers reacting to anti-social behaviour in hotspot areas in North Belfast. Officer activity included the confiscation of alcohol and the moving on of groups of youths congregating in the streets and causing annoyance.

The second phase of the operation, from 11pm to 3am, required officers to respond to public disorder and assaults, including domestic incidents.

4. At pp.295-299.

At an early stage of the operation, officers were called to respond to complaints from members of the public that passing cars were being stoned by youths in the Oldpark area. In response, the Duty Sergeant called a mini-briefing and officers were deployed in police land rovers to disperse the crowd.

We considered that the officers maintained a difficult balance between ensuring the safety of the youths and officers whilst achieving the intended objectives of dispersing the crowd, halting the stoning of cars and causing the least possible disruption to the local community.

On a number of occasions during the course of the operation, for example, when officers were exercising a power of arrest and entering premises, officers consulted a supervisor on decisions regarding proposed action and on the existence and lawful exercise of police powers.

While there was no explicit reference by officers to human rights law and practice during the operation, adherence to principles of proportionality, legality and necessity was demonstrated during the course of the operation in the decision-making of the officers. In light of the active and dynamic nature of the operation, it is not feasible to expect officers to continuously refer to relevant Articles of the European Convention, nor is it necessary. What is more important is that the human rights principles are evidenced in officers' decision-making and reaction to events on the ground. Of the police activity we observed that night, we are satisfied that officers displayed proportionality in planning the operation and responding to public disorder.

Our examination of this operation has highlighted the impact of the approach adopted by response officers to the PSNI's relationship with children and young people. In chapter 15 of our report, we refer to our consultation with Include Youth and the findings and recommendations of the Policing Board's research into the attitudes to policing of young people in North Belfast.⁴ We remind officers that they should deal with children and young

5. From April 2007 part of 'H' District.

6. See chapter 10.

people in a way which appropriately reflects their vulnerability and with an awareness of the issues they face. We also recommend that the PSNI should include reference to the rights, vulnerabilities and issues faced by children and young people in operational briefings relating to anti-social behaviour, youths causing annoyance and other operations involving children and young people.

RECOMMENDATION 9:

The PSNI should include reference to the rights, vulnerabilities and issues faced by children and young people in operational briefings relating to anti-social behaviour, youths causing annoyance and other operations involving children and young people.

MONITORING PAST OPERATIONS

In our 2006 Annual Report, we recorded that when we consulted with representatives of the Rainbow Project in June 2006, they expressed concerns about an operation conducted in 2005 by officers in Coleraine DCU⁵ in relation to reported unlawful public sexual activity.⁶ In response to the concerns raised with us, we undertook an after-the-event audit of the 2005 operation as part of our operational monitoring work this year. We met with officers directly involved in the operation and a senior officer who had been tasked to internally review the operation post-event. We reviewed intelligence documents, the policy and deployment log for the operation and all applications for directed surveillance. We report our findings below.

The aim of the operation was to investigate reports by members of the public of unlawful sexual activity at an identified location in Coleraine and halt any such unlawful activity. The operation involved liaison with Coleraine Borough Council and PSNI Child and Rape Enquiry (CARE) personnel.

The operation was conducted in different stages between June 2005 and January 2006. The operation commenced with overt physical presence of uniformed officers in the location of the alleged criminal activity and subsequently developed to different levels of directed surveillance. At each stage of the operation, the proportionality and necessity of the proposed police action

was assessed. A decision log was maintained throughout the operation. We are satisfied from our review of the operational documentation and our meeting with the police officers involved in the operation that human rights considerations were taken into account in the planning of the operation.

Coleraine DCU has formulated a detailed policy and deployment log for operations. The policy and deployment log provides an auditable record of police decisions and actions taken in relation to the operation, setting out details of the agreed objectives and targets for the operation, participants, internal meetings, tasking and consultation with other agencies, the overt deployment of resources, community impact considerations and media strategy, human rights considerations and the rationale for and use of covert surveillance. Specifically, the policy and deployment record requires that human rights considerations are articulated when setting out the aims and objectives of the operation. The record provides a step by step account of the operation and each decision is signed and dated.

We are aware that the Surveillance Commissioner has identified Coleraine DCU's adoption of a policy and deployment log as an example of good practice.⁷ We share this view and recommend that the PSNI should consider adopting this more comprehensive policy and deployment log as its standard operational planning log.

RECOMMENDATION 10:

The PSNI should consider adopting Coleraine DCU's policy and deployment log as its standard operational planning log.

PSNI policy on policing unlawful public sexual activity

In May 2006, the PSNI issued a policy on policing unlawful public sexual activity.⁸ The aim of the policy is to provide information to officers to ensure a consistent response to complaints from members of the public about unlawful public sexual activity. The PSNI's policy states that all unlawful sexual activity should be treated as unacceptable, whether it is between heterosexual or homosexual couples. However, the policy recognises that the majority of complaints received by police relate to unlawful public sexual activity between men.

7. Report of the Chief Surveillance Commissioner 2007.

8. General Order No: 19/06 Policing unlawful public sexual activity.

The PSNI's policy refers to the duty to promote equality of opportunity under s. 75 of the Northern Ireland Act 1998 and its non-discrimination obligation under Article 14 of the European Convention on Human Rights, stating that Convention rights must be secured without discrimination and that police officers in responding to unlawful public sexual activity must not treat individuals differently on the basis of any of the grounds set out in Article 14. The policy also refers to Article 8 of the European Convention on Human Rights, requiring that police officers respect the Article 8 rights of suspects and witnesses and ensure that any interference with the right to private life is lawful, proportionate and necessary.

The PSNI's policy advocates a graduated response to the policing of unlawful public sexual activity. It recognises that officers witnessing or responding to reports of unlawful public sexual activity will be required to take immediate action for the purposes of gathering evidence and investigating the alleged criminal activity, including interviewing the suspect. The policy states that the police response should be fair, necessary, proportionate, legally accountable and non-discriminating on the basis of the sexual orientation of the suspect(s). Where appropriate, a multi-agency approach should be developed and contact made with community groups, including those representing the lesbian, gay, bisexual and trans gender (LGBT) community.

Once the extent of the unlawful public sexual activity has been established, the PSNI policy indicates that uniformed officers should be deployed in the location in an attempt to halt such activity. If this response is unsuccessful, recourse may be made to the use of directed surveillance or covert human intelligence sources. The PSNI's policy outlines the factors that should be considered in moving to a covert policing operation, stating that any such operation should be necessary, proportionate and for a legitimate purpose. Officers are referred to PSNI policy on the Regulation of Investigatory Powers Act for further guidance.

Finally, the PSNI's policy provides guidance on the arrest and reporting of suspects of unlawful public sexual activity. The policy makes explicit reference to Article 8 of the European Convention on Human Rights and the potential for public disclosure of information, such as an individual's identity or sexual orientation,

to interfere with the individual's right to respect for his or her private life. The PSNI policy states that an interference can only be justified if legal, necessary, proportionate and in pursuit of a legitimate aim under Article 8(2). The PSNI's policy refers to cases where individuals have committed suicide following interviews by police about unlawful public sexual activity and recommends that police officers provide individuals with details of counselling and support organisations.

Overall, the PSNI's policy comprehensively integrates human rights considerations. We welcome the PSNI's attempt to guide officers in the arrest and reporting of offenders so as to minimise the interference with their Article 8 rights. However, we consider that officers should also be provided with some guidance on the steps they should take when *effecting* an arrest in order to protect the privacy of the suspect where possible. We therefore recommend that the PSNI should consider amending its policy on policing unlawful public sexual activity to include specific guidance to officers on how they can ensure arrest operations are conducted sensitively and with the least interference with Article 8.

RECOMMENDATION 11:

The PSNI should consider amending its policy on policing unlawful public sexual activity to include specific guidance to officers on how they can ensure arrest operations are conducted sensitively and with the least interference with Article 8 of the European Convention on Human Rights.

PSNI STOP AND SEARCH POWERS

In our 2006 Annual Report, we recommended that the PSNI should examine and evaluate its use of stop and search powers to ensure that these powers are not being exercised disproportionately.⁹

The PSNI has accepted our recommendation. In its Human Rights Programme of Action 2006-2007, the PSNI refers to the specific responsibility on District Commanders to monitor the exercise of powers to stop and search in their DCU.¹⁰ This is achieved by reviewing the PACE 1/TA forms completed by officers on each exercise of such powers. The PSNI Analysis

9. 2006 Annual Report, Recommendation 19, p.161.

10. General Order No: 49/2004 The Terrorism Act 2000 - Monitoring the use of emergency powers.

11. PSNI's Human Rights Programme of Action 2006-2007, p.21.

12. Letter from Policing Board's human rights advisors to ACC Criminal Justice dated 15th November 2006.

13. The classification system for the Northern Ireland Census has eleven categories for recording the ethnicity of persons.

Centre has prepared a template for DCU analysts to facilitate local profiling. On a quarterly basis, District Commanders report to PSNI Central Statistics Unit on the use of stop and search powers in their district.¹¹ This information is provided to the Policing Board on a six-monthly basis.

PSNI approach to stop and search

The PSNI's approach to the exercise of stop and search powers differs to that adopted by police forces in England and Wales in two significant respects. First, the police in England and Wales employ a more detailed classification system for recording the ethnicity of persons stopped and searched. This system is based on a '16+1' classification system. This classification has five broad categories each of which is sub-divided to create 16 sub-categories and a further 'other' category. Where persons decline to give their ethnicity, it may be recorded as 'not stated'. In contrast, the PSNI's classification is based on five broad categories (but not the same as the five broad categories in England and Wales) and there are no more detailed sub categories.

Secondly, the police in England and Wales request persons stopped and searched to self define their own ethnicity and this is recorded. The police officer will also record his or her own perception of the person's ethnicity. Again, the PSNI's approach differs. The PSNI requires the officer to record only his or her own perception of the person's ethnicity. The person stopped or searched is not requested to give a self-definition.

In November 2006, we raised our concern about the divergence in the PSNI's approach with ACC Criminal Justice.¹² ACC Criminal Justice replied to our concerns, making the following points. First, ACC Criminal Justice explained the PSNI's different classification system. He indicated that the difference results from the different classification system used in the Northern Ireland Census, which is not based on the 16+1 system.¹³ He highlighted the importance of maintaining consistency with the Census in order to effectively review levels of stop and search according to the demography of Northern Ireland. Secondly, ACC Criminal Justice explained why the PSNI does not request a person to self define their ethnicity when stopped and searched. He justified its practice on the basis of the "lower

visible ethnic minority population” in Northern Ireland compared to England and Wales. He also justified the PSNI’s approach as having “less operational impact upon the person being stopped” due to the stop not being “protracted by questions and explanations as to why the ethnic origin is being raised”. ACC Criminal Justice indicated that the PSNI was considering whether it should revise the current system.¹⁴ In August 2007, ACC Criminal Justice informed us that the PSNI has decided to change its classification system for crime recording to reflect the 11 categories in the Northern Ireland Census.¹⁵ This change has not yet been introduced. Nor has any decision been made by the PSNI to change its classification system for recording stops and searches. We are aware that there are complexities around recording ethnicity which need to be addressed. However, we suggest that the PSNI should consider aligning its approach to recording ethnicity so that its classification systems for crime recording and recording of stops and searches both reflect the 11 categories in the Northern Ireland Census. We will report further on this in next year’s annual report.

14. Letter from ACC Criminal Justice to Policing Board’s human rights advisors dated 29th December 2006.

15. Letter from ACC Criminal Justice to Policing Board’s human rights advisors dated 1st August 2007.

PACE/TACT statistics 2006/2007

Table 1 below sets out the number of persons stopped and searched under Police and Criminal Evidence (Northern Ireland) Order 1989 (PACE) and the Terrorism Act 2000 between 1st April 2006 and 31st March 2007. There were a total of 19,154 stops and searches over the period. Tables 2 and 3 set out the number of persons stopped by gender and ethnicity respectively for the same period. As the tables demonstrate, the vast majority of persons stopped and searched were white males.

Table 1:

Persons stopped and searched under PACE and the Terrorism Act 2000, 1st April 2006 - 31st March 2007

Yearly Quarter 2006/2007	Stops and searches under PACE	Stops and searches under Terrorism Act, s. 84	Stops and searches under Terrorism Act, s. 89
Apr - Jun	4,023	439	283
Jul - Sep	4,101	674	269
Oct - Dec	4,638	337	145
Jan - Mar	3,412	468	365
Total	16,174	1,918	1,062

Table 2:

Persons stopped and searched under PACE and the Terrorism Act 2000 by gender, 1st April 2006 - 31st March 2007

Yearly Quarter 2006/2007	Reason for stop and search					
	PACE		Terrorism Act s. 84		Terrorism Act s. 89	
	Male	Female	Male	Female	Male	Female
Apr-Jun	3,710 (92%)	313 (8%)	421 (96%)	18 (4%)	277 (98%)	6 (2%)
Jul-Sep	3,733 (91%)	368 (9%)	603 (89%)	71 (11%)	258 (96%)	11 (4%)
Oct-Dec	4,219 (91%)	419 (9%)	319 (94%)	18 (5%)	141 (97%)	4 (2%)
Jan-Mar	3,137 (92%)	275 (8%)	453 (97%)	15 (3%)	354 (97%)	11 (3%)
Total	14,799 (91%)	1,375 (9%)	1,796 (94%)	122 (6%)	1,030 (97%)	32 (3%)

Table 3: Persons stopped and searched under PACE and the Terrorism Act 2000 by ethnicity, 1st April 2006 - 31st March 2007

Yearly Qu. 06-07	Reason for stop and search																	
	PACE						Terrorism Act s. 84						Terrorism Act s. 89					
	Wh.	Ch.	I/S	Tra.	Bl.	Oth.	Wh.	Ch.	I/S	Tra.	Bl.	Oth.	Wh.	Ch.	I/S	Tra.	Bl.	Oth.
Apr-Jun	3,964	3	1	42	5	8	435	0	0	3	0	1	280	0	0	3	0	0
%	99	0	0	1	0	0	99	0	0	1	0	0	99	0	0	1	0	0
Jul-Sep	4,022	4	0	48	7	20	668	1	0	2	0	3	267	0	0	2	0	0
%	98	0	0	1	0	0	99	0	0	0	0	0	99	0	0	1	0	0
Oct-Dec	4,523	2	14	65	10	24	335	1	0	0	0	1	143	1	0	0	0	1
%	97	0	0	1	0	0	99	0	0	0	0	0	98	0	0	0	0	0
Jan-Mar	3,343	0	5	25	12	27	460	0	3	5	0	0	358	0	0	7	0	0
%	98	0	0	1	0	1	98	0	1	1	0	0	98	0	0	2	0	0
Total	15,852	9	20	180	34	79	1,898	2	3	10	0	5	1,048	1	0	12	0	1
%	98	0	0	1	0	0	99	0	0	1	0	0	99	0	0	1	0	0

Key:

Wh. - White
 Ch. - Chinese
 I/S - Indian Sub-Continent
 Tra. - Irish Traveller
 Bl. - Black
 Oth. - Other

16. Including Indian, Pakistani and Bangladeshi and other Asian.

17. Including Black Caribbean, Black African and other Black.

18. Including other Asian, mixed and other ethnic group.

19. Taken from the Northern Ireland Statistics and Research Agency, Northern Ireland Census Analyser, 2001 Census.

Table 4: Total number of stops and searches, 1st April 2006 - 31st March 2007 according to ethnic group, as a percentage of the population of the ethnic group in Northern Ireland

	All persons	White	Chinese	Indian Sub-continent ¹⁶	Irish Traveller	Black ¹⁷	Other ¹⁸
Population of Northern Ireland ¹⁹	1,681,948	1,670,988	4,145	2,679	1,710	1,136	1,290
Number of stops/searches as a % of the population	1%	1%	0.3%	0.9%	12%	3%	7%

20. The PSNI do not currently record this information for stops and searches under the Terrorism Act.

21. The PSNI's categorisation of ethnic group will next year reflect the 11 category classification of the Northern Ireland Census: Letter from ACC Criminal Justice to Policing Board's human rights advisors, dated 1st August 2007.

Table 4 sets out the total number of stops and searches according to ethnic group, as a percentage of the population of the ethnic group in Northern Ireland, for the period 1st April 2006 to 31st March 2007. The population statistics are somewhat out of date (they are taken from the 2001 Census) but constitute the most reliable published statistics against which to measure.

Table 4 suggests some disproportionality in the number of stops/searches of the Irish Traveller community. According to the table, the number of stops and searches conducted against members of the Irish Traveller community in an annual period corresponds to 12% of the entire Irish Traveller population in Northern Ireland. When compared to the number of stops and searches conducted against white people as a percentage of the entire white population of Northern Ireland, at 1%, or the other ethnic groups, this suggests an increased tendency to stop and search members of the Irish Traveller community.

Table 5 sets out the numbers of stops and searches under PACE²⁰ which led to arrest against each of the five ethnic groups for the period 1st April 2006 to 31st March 2007.

Table 5:

Percentage of stops and searches under PACE leading to arrest according to ethnicity, 1st April 2006 - 31st March 2007

Ethnicity ²¹	Number of persons stopped and searched under PACE	Number of persons arrested	% of searches leading to arrests
White	15,852	1,276	8%
Chinese	9	3	33%
Indian Sub-continent	20	3	15%
Traveller	180	22	12%
Black	34	4	12%
Other	79	6	8%
Total	16,174	1,314	8%

Table 5 demonstrates that only 12% of stops and searches under PACE against members of the Irish Traveller community lead to an arrest. While this figure is higher than the *total* percentage of stops and searches leading to arrest, it is not so high as to justify the higher than average number of stops and searches against members of the Irish Traveller community. We therefore suggest that the PSNI evaluate the increased tendency to stop and search members of the Irish Traveller community as part of its monitoring process. We will follow up with the PSNI and report further in next year's annual report.

In Table 6 below, we analyse the number of persons stopped and searched and subsequently arrested under PACE according to the reason for the search for the period 1st April 2006 to 31st March 2007.

Table 6: Number of persons stopped/searched and subsequently arrested under PACE by reason for search, 1st April 2006 - 31st March 2007

	2006/2007											
	Apr - Jun			Jul - Sep			Oct-Dec			Jan-Mar		
	Searches	Arrests	%									
Stolen property	476	56	12	532	67	13	571	53	9	435	60	14
Drugs	2,018	101	5	1,905	104	5	1,830	115	6	1,453	92	6
Firearms etc.	41	0	0	92	6	6	50	4	8	46	3	7
Offensive Weapon	370	42	11	483	41	8	510	51	10	233	28	12
Going equipped	620	32	5	636	36	6	790	40	5	637	41	6
Others	772	127	16	789	81	10	1,246	159	13	865	117	14
Total persons*	4,023	329	8	4,101	295	7	4,638	376	8	3,412	314	9

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

PSNI monitoring of stop and search powers

PSNI policy instructs District Commanders to monitor the community and religious background of individuals stopped and/or searched on the basis of indicators such as the location of the stop or search or, where supplied, the individual's postcode, and act on any identified disproportionality. A template devised by the Analysis Centre facilitates this monitoring exercise. However, not all DCUs currently employ a DCU Analyst or use the Analysis Centre's template to conduct a profiling exercise. We were concerned that this lack of consistency across DCUs may lead to limited or sporadic monitoring by District Commanders, with the potential that disproportionate use of stop and search powers could go undetected.

We raised our concerns with ACC Urban and ACC Rural. The responses we received from ACC Urban and ACC Rural indicated that there were inconsistencies in the monitoring of the use of stop and search powers and that they would investigate the matter further and consider if existing procedures could be improved.²² They also suggested that the reorganisation of DCUs would facilitate the adoption of a standardised approach to the monitoring of stop and search powers. ACC Urban acknowledged that, while the Analysis Centre's template was developed as a means of monitoring community background, it was recognised that this might only be possible where community background was identifiable on the basis of geographical location.

We asked the ACC Urban and ACC Rural to comment on the use of stop and search powers in their region and to provide us with details of any action taken by District Commanders to address any disproportionate use of such powers identified through monitoring.²³ In response, ACC Urban indicated that District Commanders in Urban Region have concluded from statistics collated by Central Statistics Unit that there is no disproportionality in the exercise of stop and search powers. However, ACC Urban acknowledged that the limited information recordable on the PACE 1/TA form meant that disproportionality in terms of community background or other population demographics could not be adequately monitored.²⁴ At the Accountability Meetings we attended in Urban and Rural Regions in May 2007, ²⁵ both ACC Urban and ACC Rural questioned

22. Letters from ACC Rural and ACC Urban to Policing Board's human rights advisors dated 18th April and 3rd May 2007 respectively.

23. Letter from Policing Board's human rights advisors to ACC Urban and Rural dated 15th March 2007.

24. Letter from ACC Urban to Policing Board's human rights advisors dated 3rd May 2007.

25. Discussed at p.259.

26. Police Ombudsman of Northern Ireland, *Police searches of domestic residences: A report under section 60A of the Police (Northern Ireland) Act 1998*, October 2006.

27. Police Ombudsman report 2006 pp.5 and 6.

District Command Teams on the use of powers to stop and search in their District.

In light of the inconsistent approach to monitoring the exercise of powers to stop and search, it is difficult to determine whether the powers are used disproportionately. We therefore consider Recommendation 19 of our 2006 Annual Report to be implemented only in part. While we recognise that the Analysis Centre's template may not be wholly effective in providing a robust monitoring framework where community background is not differentiated on the basis of geographical location, the onus is on the PSNI to develop a more effective means. We recommend therefore that the PSNI takes steps to establish an effective method of monitoring the use of stop and search powers across districts.

RECOMMENDATION 12:

The PSNI should take steps to establish an effective method of monitoring the use of stop and search powers across districts.

Police Ombudsman report on police searches of domestic residences

In October 2006, the Police Ombudsman published a report on police searches of domestic residences.²⁶ The report presents the findings of a policy and practice investigation comprising three elements: qualitative research on the views, experiences and perceptions of members of the public on police searches; an analysis of records held by police in relation to searches of property and an analysis of records held by the Police Ombudsman in relation to complaints arising from police searches of property.²⁷

The qualitative research undertaken by the Police Ombudsman indicated that members of the public expressed two main concerns: the proportionality of the PSNI's approach to searches and the failure to provide adequate information to residents. In particular, a significant number of consultees indicated that they perceived disproportionality in the number of police officers used to conduct searches and highlighted the absence of female officers during searches where girls and young women were

present. Consultees also expressed concern about the use of search warrants and the lack of clear and consistent information about the nature of the search, their rights during the search, the length of the search and the identification of the officer in charge. Consultees also criticised the PSNI's treatment of vulnerable and minority ethnic groups.²⁸

The Police Ombudsman's analysis of police records was more positive. It indicated that 62% of searches resulted in a positive find, with persons arrested in 17% of searches. Moreover, the Police Ombudsman's analysis refuted several of the concerns expressed by consultees regarding the presence of excessive numbers of police officers at searches. The analysis also indicated that the PSNI demonstrated sensitivity in conducting searches, with 81% of occupants present at the time of the search and 77% of searches taking place between 9am and 9pm. Forced entry occurred in only 21% of searches.²⁹

In response to her findings, the Police Ombudsman made a number of recommendations. Several of the Police Ombudsman's recommendations related to ensuring officers are aware of PSNI policy and practice and reminding officers of their duties and obligations under such policies. In particular, the Police Ombudsman recommended that PSNI officers be reminded of the need to complete warrants and search records accurately. The Police Ombudsman also recommended that the PSNI review the proportionality of the number of police officers involved in search operations and that the PSNI ensure that at least one female officer is in attendance during all searches of domestic properties. A number of the Police Ombudsman's recommendations drew particular attention to vulnerable groups and members of minority ethnic communities. In particular, the Police Ombudsman recommended that the PSNI review guidelines relating to searches of Traveller sites.³⁰

The PSNI accepted all the recommendations of the Police Ombudsman. The PSNI indicated that it would take steps to increase the attendance of female police officers at searches and to address the needs of vulnerable groups, in particular minority ethnic communities. The PSNI referred to its policy of requiring that any district or department seeking Tactical Support Group assistance to conduct searches must conduct, or at least

28. Police Ombudsman report 2006 p.89.

29. Police Ombudsman report 2006 pp.9-10.

30. Police Ombudsman report 2006 pp.11-15.

31. Police Ombudsman report 2006 p.14.

32. Police Ombudsman report 2006 p.11.

consider, a community impact assessment. The community impact assessment should include consideration of the area in which the search is to take place, the likelihood of a hostile reaction and the climate under which searches are to be conducted.³¹

The PSNI responded to several of the Police Ombudsman's recommendations by referring to PSNI policies and guidelines already in existence.³² While we welcome the PSNI's provision of such guidance to its officers, we emphasise the need to ensure that officers have read and understood that policy and guidance. In particular, the PSNI should ensure all its officers have read and understood its recently revised search manual which is based on national ACPO standards.

INTEGRITY TESTING

As part of this year's monitoring work, we once again reviewed the results of PSNI's integrity tests conducted during the period April 2006 to March 2007. We have some reservations concerning these which we intend to take up with the Head of PSNI Professional Standards. We will report further in next year's annual report.

Chapter 5: CODE OF ETHICS

A Code of Ethics for the PSNI was brought into force on 14th March 2003. The Code is based on international human rights standards, including the European Convention on Human Rights. It is a valuable tool to ensure that the PSNI complies with its obligations under the Human Rights Act 1998. Any breach of the Code of Ethics can give rise to a disciplinary investigation.

05

Under the Police (Northern Ireland) Act 2000, the Policing Board is under a duty to assess the effectiveness of the Code of Ethics¹ and has the power to revise it from time to time.² We discuss the effectiveness of the Code and the current status of the Policing Board's review of the Code below.

ENFORCING THE CODE OF ETHICS

In our 2006 Annual Report, we recommended 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 might be appropriate.³

In its Human Rights Programme of Action 2006-2007, the PSNI accepted our recommendation.⁴ PSNI Professional Standards commissioned the PSNI Analysis Centre to review all disciplinary cases between 1st October 2006 and 31st March 2007 to identify the Articles of the Code of Ethics most frequently breached. The Analysis Centre's report was issued in May 2007.⁵ We consider Recommendation 20 of our 2006 Annual Report to be implemented in full. We set out the findings of the report below.

Alleged breaches

The report indicated that there has been a 12% rise in the number of alleged breaches of the Code of Ethics from 2005/2006. The percentage of alleged breaches transferred from the Police Ombudsman has also increased, from 28% of all alleged breaches in April 2005 to September 2006 to 48% in October 2006 to March 2007. The Articles of the Code most commonly alleged to have been breached were Article 7 (integrity), Article 1 (professional duty) and Article 2 (police investigations), respectively. Table 1 below sets out the number of alleged breaches for each of these Articles of the Code of Ethics for 2005/2006 and 2006/2007 respectively.

Table 1:
Most commonly alleged breaches
of the Code of Ethics, 2005 - 2007

Article	Alleged breaches 2005/2006	Alleged breaches 2006/2007	Total 2005-2007
7	164	135	299
1	86	112	198
2	42	68	110

1. Police (Northern Ireland) Act 2000, s. 3(3)(d)(iv).

2. Police (Northern Ireland) Act 2000, s. 52.

3. 2006 Annual Report, Recommendation 20, p.161.

4. PSNI's Human Rights Programme of Action 2006-2007, p.13.

5. PSNI Professional Standards, *Examination of Articles of the Code of Ethics that are breached most frequently*, 24th May 2007.

The sub-Articles most frequently alleged to have been breached were sub-Articles 7.2, 1.5 and 2.2. Sub-Article 7.2⁶ was the most commonly alleged to have been breached, accounting for 25% (107) of all alleged breaches of the Code in 2006/2007. This is a marked reduction from 2005/2006, when sub-Article 7.2 constituted 36% of all alleged breaches. Sub-Article 7.2 accounted for 83% of all Article 7 alleged breaches in the last two years.⁷ Article 7.2 misconduct allegations predominately relate to criminal offences, such as assault, driving with excess alcohol, perverting the course of justice and theft. In 2006/2007, assault was the highest criminal offence recorded (31 alleged breaches).

Sub-Article 2.2⁸ was the second most common Article of the Code of Ethics alleged to have been breached, accounting for 14% (63) of all alleged breaches in 2006/2007.⁹ The third highest number of alleged breaches related to sub-Article 1.5.¹⁰ 38% of these breaches were defined as neglect of duty and 25% were defined as firearms related.

The PSNI report also considered the location of alleged breaches. C district¹¹ and D district¹² had the highest levels of breaches of Article 7.2 in both 2005/2006 and 2006/2007. The PSNI considered that this may in part be explained by the higher than average number of police officers living in C and D districts. C and D districts also accounted for high numbers of alleged breaches of Articles 2.2 and 1.5, although H district¹³ accounted for the highest number of alleged breaches of Article 2.2 in both 2005/2006 and 2006/2007. The numbers of alleged breaches of Article 1.5 were more standardly spread across the DCUs.

Investigations commenced by PSNI Professional Standards

Table 2 below sets out the number of investigations and preliminary inquiries initiated by PSNI Professional Standards in 2005/2006 and 2006/2007 respectively by Article of the Code of Ethics. As the Table demonstrates, there were 436 initial investigations commenced in 2006/2007 as compared with 388 commenced in 2005/2006. The largest number of investigations commenced in both 2005/2006 and 2006/2007 related to alleged breaches of Articles 2 and 7 of the code.

6. Article 7.2: Police officers shall, at all times, respect and obey the law and maintain the standards stated in this Code. They shall, to the best of their ability, support their colleagues in the execution of their duties.

7. 90% of the alleged breaches of Article 7.2 originated from internal misconduct mechanisms.

8. Article 2.2: Police investigations shall, as a minimum, be based upon reasonable suspicion of an actual or possible offence or crime. They shall be conducted in an objective, fair and thorough manner in accordance with the law. Police officers shall follow the principle that everyone who is the subject of a criminal investigation shall be presumed innocent until found guilty by a court.

9. 90% of alleged breaches of sub-Article 2.2 are referred from the Police Ombudsman.

10. Article 1.5: The Police Service is a disciplined body. Unless there is good and sufficient cause to do otherwise, police officers must obey all lawful orders and abide by the provisions of Police Regulations. They shall refrain from carrying out any orders they know, or ought to know, are unlawful. No disciplinary action shall be taken against a police officer who refuses to carry out an unlawful order.

11. North Down, Castlereagh, Ards and Down.

12. Antrim, Carrickfergus, Lisburn and Newtownabbey.

13. Ballymena, Ballymoney, Larne, Coleraine and Moyle.

14. Completed investigations are those investigations completed by PSNI Professional Standards in the period 2005/2006 and 2006/2007 but not necessarily commenced during that period.

Table 2:
Investigations and preliminary inquiries initiated by PSNI Professional Standards, 2005 - 2007

Article of the Code	Number of initiated investigations	
	2005/2006	2006/2007
1. Professional duty	86	112
2. Police Investigations	42	68
3. Privacy and confidentiality	4	15
4. Use of Force	6	16
5. Detained Persons	1	0
6. Equality	15	26
7. Integrity	164	135
8. Property	24	10
9. Fitness for duty	2	2
10. Duty of supervisors	1	0
Other	43	52
Total	388	436

Results of investigations of alleged breaches

In 2005/2006, 163 completed investigations¹⁴ of alleged breaches of the Code resulted in some form of formal or informal sanction. 212 completed investigations of alleged breaches resulted in no (formal or informal) sanction. In 2006/2007, 180 completed investigations of alleged breaches of the Code by PSNI Professional Standards resulted in a formal or informal sanction. 246 completed investigations of alleged breaches resulted in no sanction. Table 3 below sets out the number of investigations of alleged breaches resulting in a formal or informal sanction by Article of the Code of Ethics for 2005/2006 and 2006/2007 respectively.

Table 3:

Investigations resulting in a formal or informal sanction by Article of the Code of Ethics, 2005 - 2007

Article of the Code	Number of completed investigations resulting in sanction	
	2005/2006	2006/2007
1. Professional duty	46	56
2. Police Investigations	30	34
3. Privacy and confidentiality	3	3
4. Use of Force	5	5
5. Detained Persons	1	1
6. Equality	7	16
7. Integrity	57	57
8. Property	3	3
9. Fitness for duty	2	1
10. Duty of supervisors	2	0
Other	7	4
Total	163	180

Sanctions for breaches

A formal sanction is one that is imposed by a PSNI misconduct panel and includes dismissal from the PSNI, a requirement to resign, a reduction in rank or pay, a fine, reprimand or caution. An informal sanction is less severe and is imposed by PSNI Professional Standards. Informal sanctions include Superintendents' Written Warnings, advice and guidance and management discussion.

Table 4 sets out both formal and informal sanctions imposed for breaches of the Code of Ethics by Article of the Code for 2006/2007. The largest number of sanctions were imposed for breaches of Articles 7, 1 and 2 of the Code, in that order.

Table 4: Formal and informal sanctions imposed for breaches of the Code of Ethics by Article of the Code, 2006/2007

Article Sanction	1. Professional Duty	2. Police Investigations	3. Privacy & confidentiality	4. Use of force	5. Detained persons	6. Equality	7. Integrity	8. Property	9. Fitness for duty	10. Duty of supervisors	Other
Dismissed							1				
Required to resign						1					1
Reduction in rank						1	1				
Reduction in pay		1					11				
Fine	1	1					9				
Reprimand	1	1					2			1	
Caution							2				
Superintendents' Written Warning	16	8	2	1		4	12				
Advice and guidance	20	17		4	1	5	14	3	1		1
Management discussion	18	6	1			5	5				1
Total	56	34	3	5	1	16	57	3	1	0	4

The sub-Articles of the Code resulting in the highest number of (formal and informal) sanctions were sub-Articles 1.5, 2.2 and 7.2 in both 2005/2006 and 2006/2007. This correlates with the statistics for alleged breaches.

The analysis of the sanctions imposed for breaches of Articles 7.2, 2.2 and 1.5 indicate that the most common sanction for breach of each of the three sub-Articles in 2005/2006 and in 2006/2007 was advice and guidance.¹⁵ In 2006/2007, four cases involving a breach of Article 7.2 and three cases involving a breach of Article 1.5 resulted in a misconduct hearing.

The PSNI has indicated that the Analysis Centre's report will be circulated amongst DCU Discipline Champions¹⁶ who will use the findings to inform the approach to discipline for breaches of the Code of Ethics at district level. Where particular DCUs were identified in the analysis as having high levels of particular types of misconduct, the report records that this has been highlighted and specific remedial action taken at DCU level. There are also a number of ongoing initiatives to address breaches of the Code of Ethics, including training for student officers by PSNI Professional Standards and regular monitoring at district level.

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 2006 to 31st March 2007.¹⁷ That analysis indicates that, as was the case in 2005/2006, the highest number of cases resulting in formal disciplinary proceedings and Superintendents' Written Warnings concerned breaches of Articles 1.5 (the duty to obey all lawful orders) and Article 2.2 (the duty to conduct investigations in an objective, fair and thorough manner).

A clear pattern is emerging in respect of breaches of the Code of Ethics. The highest percentage of breaches are breaches of Articles 7.2, 2.2 and 1.5 of the Code. Whether this reflects particular patterns or types of behaviour is, however, unclear because of the fairly wide definition of conduct in the Articles in question. This needs to be addressed. We recommend that the PSNI carry out further analysis of the statistics set out above to clarify the patterns or types of behaviour in question.

15. At the time of the analysis, a number of cases were still pending for 2006/2007.

16. The role of the Discipline Champion is to encourage the maintenance of professional standards and act as an initial point of contact for discipline issues within each DCU.

17. At pp.86-90.

18. 2006 Annual Report, Recommendation 21, p.161.

19. PSNI's Human Rights Programme of Action 2006-2007, p.14.

20. At pp.249-252.

21. A competency framework is a model or template outlining the behaviours and attributes relating to any role.

22. PD 05/07, issued March 2007.

RECOMMENDATION 13:

The PSNI should carry out further analysis of statistics on breaches of the Code of Ethics to clarify the patterns or types of behaviour in question.

EVIDENCE OF THE EFFECTIVENESS OF THE CODE

In our 2006 Annual Report, we recommended that the PSNI should provide further evidence of the effectiveness of the Code of Ethics that can be assessed by the Board.¹⁸ In its Human Rights Programme of Action 2006-2007, the PSNI accepted our recommendation¹⁹ and indicated that PSNI Human Resources, PSNI Operational Support and the Police College would introduce a series of initiatives to meet the recommendation.

PSNI Human Resources has integrated the Articles of the Code of Ethics into the performance assessment of the Annual Performance Review (APR). We discuss the new APR system in more detail in chapter 12 of this report.²⁰ In summary, the Code of Ethics has now been incorporated within the PSNI's integrated competency framework for performance management purposes.²¹ A document mapping behavioural indicators to both human rights standards and relevant Articles of the Code of Ethics has been included on the PSNI APR website to guide supervisors as they complete appraisals. The PSNI policy directive on the APR²² highlights that "all officers, regardless of rank, must comply with the Code of Ethics. Officers should ensure that they remain familiar with the Code of Ethics and its application".

From April 2007, PSNI Operational Support introduced the requirement that all General Orders issued thereafter include a statement that they meet PSNI integrity standards. Finally, the Police College included an assessment of the integration of the Code of Ethics into training material in its recent human rights audit, which we discuss in chapter 2 of this report.

We are pleased that the Code of Ethics has been fully integrated into the work of PSNI Professional Standards and incorporated within the new APR system devised by PSNI Human Resources. We note that it will shortly be included in all Police College training materials following their revision in line with the findings

of the Police College's human rights audit and we intend to monitor progress on integration of relevant cross-referencing of the Code into training materials and report further on this in next year's human rights annual report. We are concerned, however, following our review of PSNI policies (outlined in detail in chapter 3 of this report) that integration of the Code of Ethics into PSNI policies, procedures and guidance and referencing of relevant Articles of the Code of Ethics remains patchy. We therefore consider Recommendation 20 of our 2005 Annual Report and Recommendation 21 of our 2006 Annual Report to be implemented in part and recommend that the PSNI should ensure that all new policies, procedures and guidance include relevant references to the Code of Ethics as a matter of standard practice henceforth.

RECOMMENDATION 14:

The PSNI should ensure that all new policies, procedures and guidance include relevant reference to the Code of Ethics as a matter of standard practice henceforth.

REVIEW OF THE CODE OF ETHICS

In February 2006, the Policing Board decided to review the Code of Ethics. On 5th September 2006, the Board launched a consultation exercise on the Code. A working group was established comprising PSNI and Policing Board representatives, including their respective human rights advisors. In November 2006, following a 12 week consultation period, the working group considered the submissions received from stakeholders and interested parties. Amendments were made to the Code of Ethics and accompanying Explanatory Notes and a first draft of the new Code was reviewed by the working group on 10th January 2007.

In our 2005 Annual Report, we recommended that the results of the part of our human rights questionnaire of 2004 dealing with discrimination should be carefully studied by the PSNI and consideration given to revision or clarification of Article 6 of the Code of Ethics.²³ This recommendation remained outstanding at the time of our 2006 Annual Report. However, the recommendation was considered by the Code of Ethics working group and amendments made to the new draft Code.

23. 2005 Annual Report, Recommendation 22, p.169.

We therefore consider Recommendation 22 of our 2005 Annual Report to be implemented in full.

In January 2007, the working group agreed to consult all PSNI officers on the Code of Ethics. On 15th January 2007, all PSNI officers were informed by email of the Policing Board's review of the Code and their views were sought on the contents of the Code. In light of the submissions received by PSNI officers, some further amendments were made to the Code and a second draft was considered by the working group on 20th February 2007. This draft was subsequently considered and agreed by the Policing Board on 22nd March 2007. A second period of consultation on the new draft Code commenced on 26th March. Following the four week consultation period, the working group again met to consider the new submissions received on the draft Code of Ethics 2007.

At the working group meeting on 24th April 2007, a number of additional issues were raised which required a formal corporate response from PSNI. The Policing Board was informed of this development at its meeting on 2nd May. We outlined to the Board the activities of the working group and highlighted a number of issues requiring formal consideration by the PSNI. The PSNI response on these additional matters was received by the Policing Board in July 2007 and relevant amendments have been made to the new draft Code which will be considered by the Code of Ethics working group shortly. A further period of consultation will commence before the final draft of the new Code is considered by the Human Rights and Professional Standards Committee and agreed by the Policing Board. The new Code of Ethics will then be laid before Parliament and the Code of Ethics 2007, together with amended Explanatory Notes, will be issued to all PSNI police officers and formally launched by the Policing Board later in 2007.

Chapter 6:

COMPLAINTS, DISCIPLINE AND CIVIL ACTIONS

Complaints, discipline and civil actions against the police provide important information for use in monitoring human rights compliance. We have reviewed the number and outcome of complaints, disciplinary action and civil actions against the police and considered how they reflect the overall compliance of the PSNI with the Human Rights Act 1998. In this, our third year of monitoring, we have been able to draw on our past analysis to identify trends and patterns in complaints, discipline and civil action against the PSNI.

06

NUMBER AND PATTERN OF COMPLAINTS

In the period 2006/2007, 3,249 complaints were made against the police.¹ This represents a 3% increase in complaints compared with 2005/2006, when 3,108 complaints were made. This reflects the development of an upward trend, although the number of complaints has not risen as sharply this year (a 3% rise) compared to last year (a 8% rise).

Of the 3,249 complaints received and registered by the Office of the Police Ombudsman in 2006/2007, 1,365 (42%) were referred for formal investigation² and the remaining 1,884 (58%) were dealt with by the complaints office.³ 36% of complaints in 2006/2007 related to the manner in which police conducted criminal investigations, 24% related to arrest and 12% related to a traffic incident.⁴

The number of allegations decreased slightly in 2006-2007, to 5,411 allegations.⁵ There was a decrease in the percentage of allegations relating to oppressive behaviour, continuing the downward trend in the seriousness of the type of allegations.⁶ In 2006-2007, 32.7% of complaints related to oppressive behaviour, covering allegations such as assault, intimidation or harassment.⁷ Allegations relating to failure of duty also decreased, from 42% of total allegations in 2005-2006 to 39% of total allegations in 2006-2007.

Allegations of incivility increased from 2005-2006 (12%) to 15.2%, ending the downward trend which had been displayed since 2004-2005.⁸

Most allegations in 2006/2007 related to incidents occurring in a police station (37%). Allegations arising from incidents on the street or road have reduced significantly from 36% of allegations in 2005/2006 to 29% in 2006/2007.⁹

The allegations made in the period April 2006 to March 2007 were classified by the Police Ombudsman as set out in Table 1.¹⁰

1. Police Ombudsman Annual Report and Accounts for the year ended 31st March 2007 (Police Ombudsman's Annual Report 2007), p.22.

2. Under s.56 of the Police (Northern Ireland) Act 1998.

3. Police Ombudsman's Annual Report 2007, p.31.

4. Police Ombudsman's Annual Report 2007, p.25.

5. Police Ombudsman's Annual Report 2007, p.22.

6. From 37% in 2003-2004, 35% in 2004-2005 and 36% in 2005-2006.

7. Police Ombudsman's Annual Report 2007, p.26.

8. From 13% in 2004-2005 and 12% in 2005-2006.

9. Police Ombudsman's Annual Report 2007, p.25.

10. Police Ombudsman's Annual Report 2007, p.26.

Table 1:
Allegations against the PSNI, 2006/2007

Allegation type	Allegation sub-type	2006/2007	
		Total	%
Failure in duty	Detention, treatment and questioning	103	2
	Failure in duty	1,692	31
	Identification procedures	2	0
	Multiple or unspecific breaches which cannot be allocated	6	0
	Other irregularly in procedure	124	2
	Searching of premises and seizure of property	148	3
	Stop and search	27	0
	Tape recording	0	0
	Unknown	2	0
		Sub-total	2,104
Homophobia	Homophobia	3	0
Incivility	Incivility	823	15
	Sectarian abuse	29	1
		Sub-total	852
Malpractice	Corrupt practice	42	1
	Irregularity in relation to evidence/perjury	67	1
	Mishandling of property	38	1
		Sub-total	147
Oppressive behaviour	Oppressive conduct or harassment	567	10
	Other assault	1,004	19
	Serious non-sexual assault	11	0
	Sexual assault	17	0
	Unlawful/unnecessary arrest or detention	167	3
	Unknown	2	0
		Sub-total	1,768
Racial discrimination	Racial discriminatory behaviour	15	0
Traffic	Traffic irregularity	54	1
Other	Other	407	8
Section 55 Referral		61	1
	Total 2006/2007	5,411	100

11. Police Ombudsman’s Annual Report 2007, p.34.

12. Police Ombudsman’s Annual Report 2007, p.36.

13. Involving 9 officers.

14. Involving 13 officers.

15. Involving 9 officers.

COMPLAINT OUTCOMES 2006/2007

In 2006/2007, of all complaints closed following investigation, 82% were not substantiated, 12% were substantiated with action, 4% were substantiated with no further action and 2% were subject to a policy recommendation.¹¹

Formal disciplinary action

Allegations that police officers have committed criminal offences are referred to the Police Ombudsman. Following investigation by the Police Ombudsman, a file is sent to the Public Prosecution Service with a recommendation as to whether a police officer should face criminal charges. Between 2001 and 2007, the Police Ombudsman submitted 67 cases relating to a total of 96 criminal charges to the Public Prosecution Service with a recommendation for prosecution.¹² Table 2 below 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 2007.

Table 2:
Formal disciplinary action 2005-2007

Outcomes	2005-2006	2006-2007
Files submitted to PPS	174	200
• PONI recommendation to prosecute	5	11
• Number of charges	9 ¹³	22 ¹⁴
PONI recommendation of PSNI formal disciplinary action	14	8 ¹⁵

Informal disciplinary action

Table 3 sets out recommendations by the Police Ombudsman for informal disciplinary action between 2005 and 2007.

Table 3:
Informal disciplinary action, 2005-2007

Outcomes	2005-2006	2006-2007
Advice and guidance	41 ¹⁶	65 ¹⁷
Superintendents' Written Warning	11 ¹⁸	21 ¹⁹
Management discussion	10	29 ²⁰
Informal resolution	368	405

16. Involving 50 officers.

17. Involving 64 officers.

18. Involving 12 officers.

19. Involving 23 officers.

20. Involving 24 officers.

21. Figures from Police Ombudsman website at <http://www.policeombudsman.org/caseoutcomes.cfm>.

22. Figures from Police Ombudsman website.

Other disposals

Table 4 sets out all other disposals of complaints for the period 2005-2007.

Table 4:
Other disposals, 2005-2007

Disposal	2005-2006 ²¹	2006-2007 ²²
Not Substantiated	532	601
Ill-founded	381	395
Vexatious/Abuse of Process/ Repetitive etc.	35	46
Failure to Co-Operate/ Withdrawal	1,021	1,158
Incapable of Investigation	n/a	n/a
Outside Remit	388	285
Other	n/a	67

23. Figures from Police Ombudsman website.

24. Statutory Rules of Northern Ireland 2000 No. 320 Royal Ulster Constabulary (Conduct) (Senior Officer) Regulations 2000.

25. General Order No: 30/2006 Guidance on the handling of complaints relating to “direction and control” of the police service.

Table 4 indicates that in 2006/2007, 31.3% of complaints were closed on the grounds that they were (i) not substantiated (17.9%); (ii) ill-founded (11.8%) or (iii) vexatious, anonymous, repetitive or an abuse of process (1.4%). 45% of complaints were not progressed for the following reasons: (a) withdrawal of the complaint by the complainant (7.4%), (b) non-co-operation of the complainant (27.1%), (c) the complaint was outside remit (8.5%) or (d) other (2%).²³

COMPLAINTS AGAINST SENIOR OFFICERS

The Conduct of Senior Officers Regulations 2000,²⁴ require that complaints against officers of Assistant Chief Constable and above are referred to the Policing Board. In 2006/2007, the Policing Board dealt with two complaints against senior officers. We reported on one of these cases in our 2006 Annual Report, indicating that we would report on its final outcome in this report. Both of the complaints dealt with in 2006/2007 were subject to examination by an independent advisor. In both cases, there were found to be no grounds to the complaint. We will continue to monitor complaints against senior officers and report again in our next annual report.

DIRECTION AND CONTROL COMPLAINTS

In July 2006, the PSNI issued a policy on the handling of complaints relating to the “direction and control” of the police service.²⁵ Direction and control complaints relate to the delivery of police services in a police area, including operational police policies, organisational decisions, general policing standards and operational management decisions. Direction and control complaints are defined as matters which constitute misconduct, internal management and organisational support issues or complaints relating to the general functions of the Policing Board. The PSNI’s new procedure emphasises a number of key principles to produce a more streamlined approach to dealing with direction and control complaints.

PSNI Professional Standards has responsibility for discharging the Chief Constable’s duty in relation to direction and control complaints. The PSNI’s new procedure outlines a series of steps which must be met within prescribed time limits when dealing with direction and control complaints. The procedure also

requires PSNI Professional Standards to circulate lessons learnt from the complaints and submit a bi-annual report to the Policing Board. Where an officer appointed to deal with a complaint identifies misconduct issues, a full report must be submitted to PSNI Professional Standards.

During April 2006 to March 2007, the PSNI received 91 complaints in relation to the direction and control of the PSNI. The subject matter of the complaints ranged from the conduct of an arrest or search of property, police response to reports of crime, the retention of DNA and other matters relating to privacy, and police procedure following recovery of stolen property. Of the 91 complaints, the PSNI resolved 56 with the complainant, with an officer at inspector level discussing the issue with the complainant, writing a letter explaining police policy and procedure or issuing an apology where appropriate.²⁶

FORMAL DISCIPLINARY HEARINGS

The PSNI provides us with summary details of all cases that resulted in a formal disciplinary hearing on a six-monthly basis.²⁷ We analyse the information for the period April 2006 to March 2007 in Table 5 below.

Table 5:

All cases resulting in formal disciplinary proceedings, April 2006 - March 2007

Date	Type of Allegation	Detail	Outcome
04/07/06	Professional duty	Failure to investigate an assault.	Reduction in pay
02/08/06	Professional duty	Drunk while in possession of a firearm.	Fined £1,100
27/04/06	Use of force	Actions in discharging CS spray.	Reprimand
21/08/06	Use of force	Use of physical force against complainant.	Charge dismissed: no case to answer
12/04/06	Integrity	Assault occasioning actual bodily harm.	Caution

²⁶. PSNI Professional Standards Activity Report, April 2006 to March 2007.

²⁷. 2005 Annual Report, Recommendation 27(a), p.170.

02/05/06	Integrity (x2)/ Professional duty	Officer working for another organisation while employed by PSNI.	Required to resign
05/05/06	Integrity	Conviction for excess alcohol.	Reinstated following appeal from required to resign – fined 13 day's pay
05/05/06	Integrity	Drunk in charge of a motor vehicle.	Reduction in pay
17/05/06	Integrity/ Professional duty	Dishonesty and failure to make record in notebook.	Fined £250
18/05/06	Integrity	Driving without insurance.	Reduction in pay
18/05/06	Integrity	Common assault.	Fined £500
30/05/06	Integrity	Unlawfully accessing personal data.	Reprimand
30/05/06	Integrity	Driving with excess alcohol.	Fined £939
06/06/06	Integrity (x2)	Possession of cannabis and failure to support officers in execution of duty.	Required to resign
18/07/06	Integrity/ Professional duty	Common assault and failure to render assistance to injured party.	Required to resign/Caution
27/07/06	Integrity	Driving with excess alcohol.	Reduction in pay
03/08/06	Integrity (x2)/ Professional duty	Disorderly behaviour, failure to support colleagues in execution of duty and behaving in manner likely to discredit the organisation.	Reduction in pay/ Fined £429/Fined £429
18/08/06	Integrity	Driving with excess alcohol and without due care and attention.	Required to resign
23/08/06	Integrity	Driving with excess alcohol and in excess of speed limit.	Reduction in pay
05/09/06	Integrity	Driving with excess alcohol.	Reduction in pay

04/10/06	Professional duty (x2)/Property (x1)	Failure to keep an accurate record in his note book, knowingly discarding a statement and failure to correctly handle and maintain property.	Reprimand (x3)
25/10/06	Integrity (x3)	Driving without the necessary licence or test certificate, falsely claiming mileage and driving a vehicle notified as off road.	Reprimand (x3)
14/11/06	Professional duty (x2)/Integrity (x2)	Driving a police vehicle for private purposes and without lawful authority (x2)/driving a police vehicle for private purposes without lawful authority and without adequate insurance cover (x2).	Fined £100 (x2)/ Fined £200 (x2)
16/11/06	Integrity	Driving with excess alcohol.	Reduction in pay
05/12/06	Integrity	Driving with excess alcohol.	Reduction in pay
05/12/06	Integrity	Driving with excess alcohol.	Fined £1175
15/12/06	Integrity/ Property (x2)/ Professional duty (x2)/Privacy and confidentiality	Aiding and abetting the commission of criminal offences, failure to correctly handle and maintain property (x2), discharge of personal issue firearm in the officer's home, failure to carry out duty and failure to keep confidential matters in possession of the police.	Reduction in pay/ Reduction in pay(x2)/ Reprimand/ Reduction in pay/ Reduction in pay
09/01/07	Integrity	Indecent behaviour in a public place and common assault.	Fined £1175
12/01/07	Integrity	Driving with excess alcohol.	Fined £938
25/01/07	Professional duty (x2)	Inappropriate behaviour on police premises.	Reduction in pay of £3,431
31/01/07	Integrity	Driving with excess alcohol.	Fined £1,175

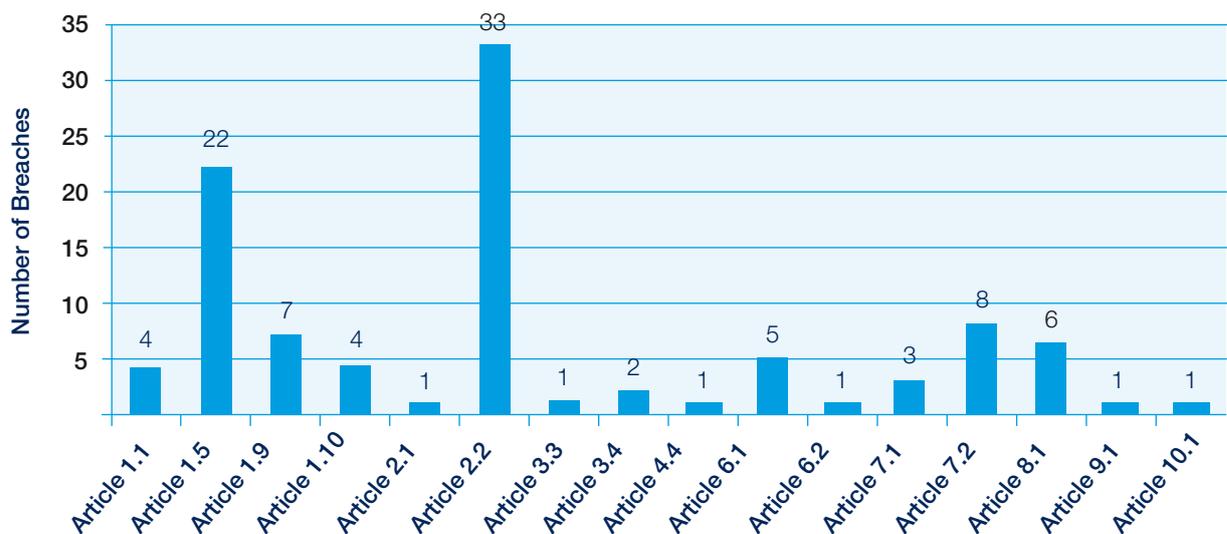
05/02/07	Neglect of duty/ Disobedience to orders	Failure to prevent an assault or its continuance and failure to carry a regulation baton.	Reprimand/ Fined £250
06/02/07	Police investigations (x4)/Integrity/ Professional duty	Failure to conduct a thorough and objective investigation into complaint of assault, failure to obey a lawful order and initiate a case preparation file and making a false claim that witnesses were not contactable.	Reprimand (x5)/ Required to resign
14/02/07	Equality/ Professional duty	Failure to act with fairness, self control, tolerance and impartiality when dealing with a member of the public and bringing discredit on the police service whilst off duty.	Required to resign (x2)
02/03/07	Professional duty	Continuing to pursue a business interest after an application to continue work was refused.	Caution
07/03/07	Integrity	Driving with excess alcohol.	Required to resign
15/03/07	Integrity (x2)	Assault on a member of the public and failure to assist officers responding to the incident.	Required to resign/ Fined £200
16/03/07	Integrity (x2)	Driving with excess alcohol and without due care and attention and failing to stop, remain at the scene of an incident or report the incident and failure to support officers in the execution of their duties.	Required to resign/ Reprimand
28/03/07	Professional duty (x3)/Police investigations	Knowingly making a false or misleading or inaccurate statement, failure to obey a written order, failure to take measures to bring an offender to justice and failure to carry out an investigation in a fair and thorough manner.	Reduction in pay/ Caution/ Reduction in pay/ Caution
30/03/07	Integrity	Driving with excess alcohol.	Required to resign

SUPERINTENDENTS' WRITTEN WARNINGS

The PSNI also provides us, again on a six-monthly basis, with details of all Superintendents' Written Warnings issued to officers.²⁸ In the period April 2006 to March 2007, 100 Superintendents' Written Warnings were issued. The figure below shows the number of Superintendents' Written Warnings according to the relevant Article of the PSNI Code of Ethics breached.

28. 2005 Annual Report, Recommendation 27(b), p.170.

Figure 1:
Superintendents' Written Warnings, April 2006-March 2007



The figure shows that as with last year, the two Articles of the Code of Ethics most regularly the subject of Superintendent Written Warnings in 2006/2007 were Article 1.5 (the duty to obey all lawful orders and refrain from carrying out unlawful orders), with 22 breaches over the period, and Article 2.2 (the duty to conduct investigations in an objective, fair and thorough manner), with 33 breaches over the period.

29. When there were 113 Superintendents' Written Warnings: 2006 Annual Report, chapter 6, p.40.

30. General Order No: 42/2006 Trending and tracking of complaints against the police.

31. The Saturn system.

32. The information includes the day of the week, time of day, station area and location where the allegation arose.

33. Relevant considerations include sickness absence, work performance, stop and search figures, road traffic collisions while on duty, written warnings and any civil actions pending.

34. This may include a welfare referral, monitoring by supervisors, advice or guidance on the Code of Ethics, training or no further action.

Although the overall figure of 100 Superintendents' Written Warnings is down on the comparable period last year,²⁹ the high number of warnings in relation to Articles 1.5 and 2.2 is a matter of concern, not least because it continues the trend from last year. Against this background, we recommend that the PSNI investigate what measures can be taken to reduce the high number of Superintendents' Written Warnings falling into these categories.

RECOMMENDATION 15:

The PSNI should investigate the behaviour or conduct resulting in the high number of Superintendents' Written Warnings under Articles 1.5 and 2.2 of the Code of Ethics.

TRENDING AND TRACKING OF COMPLAINTS

Patten Recommendations 79 and 80 require the PSNI to adopt an automated trend identification system for complaints and to track this information for management purposes. To comply with these recommendations, the PSNI has adopted a trending and tracking policy. In October 2006, the PSNI issued its revised policy on trending and tracking of complaints against the police.³⁰ The PSNI policy emphasises the duty of supervisors under Article 10 of the PSNI Code of Ethics. To facilitate the trending of complaints, the Police Ombudsman provides a regular update to District Commanders via a PSNI computer system³¹ on the number of allegations of misconduct occurring in their DCU.³² Each District Commander decides how best to use the information to reduce complaints in his or her District. The Police Ombudsman also provides information to PSNI Professional Standards on the officers in each District against whom three or more complaints have been made in a 12 month period. This information is passed to the District Commander, who decides on an appropriate course of action, taking into account the policing environment and the nature of the officer's duties.³³ Generally, an inspector will interview the officer, highlighting the number of complaints (without referring to individual complaints), and inviting comment. Following the interview, the inspector will report to the District Commander who will decide on appropriate follow up action.³⁴ PSNI Professional Standards and the officer concerned are informed of any further action.

In our 2005 Annual Report, we recommended that the PSNI should provide the Policing Board with details of action taken by District Commanders under the trending and tracking policy.³⁵ We have been provided with this information for the period April 2006 to March 2007. During this period, PSNI Professional Standards received 90 reports from District Commanders detailing action taken in response to the PSNI's tracking and trending policy. 29 of the reports indicated that District Commanders would take further action in response to officers with three or more complaints in a 12 month period. Of those, 11 officers will receive further training. In 18 reports, District Commanders indicated that officers subject to a complaint will be monitored for up to three months. In 61 of the 90 reports, District Commanders recommended no further action against officers.³⁶

The Policing Board is also 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.³⁷ Table 6 shows the numbers of officers for each DCU in the twelve-month period from 1st April 2006 to 31st March 2007.

35. 2005 Annual Report, Recommendation 27(h), p.170.

36. PSNI Professional Standards Activity Report, September 2006 and March 2007.

37. 2005 Annual Report, Recommendation 27(c), p.170.

Table 6:

Officers with three or more complaints
by DCU, 1st April 2006 - 31st March 2007

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	7	5				47
Ards	5	3				31
Armagh	2	2	3			43
Ballymena	6	5				39
Banbridge	3					9
Belfast East	11	5				59
Belfast North	18	15	3			151
Belfast South	4	3				25
Belfast West	8	3				39
Carrickfergus	3	7				41
Castlereagh	1					3
Coleraine	11	10		1	2	131
Cookstown	3	3				26
Craigavon	2	3				23
Dungannon/ South Tyrone	4	2				21
Fermanagh	1	2				14
Foyle	8	1	1			37
Larne	1	2	1			20
Limavady	1					3
Lisburn	5					15
Magherafelt	1	1				8
Moyle		1				5
Newry & Mourne	4	3				25
Newtownabbey	4	2				21
North Down	3	4				27
Omagh	4	3				31
Strabane	2					6
Total	122	85	8	1	2	900
Total 2005/2006	87	59	6	2	1	637

Note: The former DCUs of Down and Ballymoney had no officers with three or more complaints in the 12 month period.

From Table 6, it is clear that there has been a dramatic increase in 2006/2007 in the overall number of complaints against officers with three or more complaints. However, it is unclear whether this increase is as a result of an increased number of officers against whom three or more complaints have been made or as a result of a higher number of officers having a number of multiple complaints made against them. Whilst we readily appreciate that the vast majority of these complaints do not result in an adverse finding, we recommend that the PSNI and the Policing Board investigate the possible causes of this overall increase.

RECOMMENDATION 16:

The PSNI and the Policing Board should investigate the possible causes of the increase in the overall number of complaints made against officers receiving three or more complaints in a 12 month period.

**REFERRALS TO THE POLICE OMBUDSMAN:
THE REGULATION 20 PROCEDURE**

The Police Ombudsman must investigate certain matters referred to her by the Policing Board, the Public Prosecution Service or the Chief Constable.³⁸ Investigations may include cases where someone has died as a result of the conduct of a police officer and cases involving the discharge of firearms, the firing of AEPs or the use of CS spray. The Police Ombudsman also has a residual power to investigate certain matters, even where there has not been a complaint by a member of the public. Following the Police Ombudsman's investigation, a Regulation 20 report is sent to the Secretary of State, the Policing Board and the Chief Constable.

Analysis of Regulation 20 reports, 2006-2007

We have analysed the Police Ombudsman's Regulation 20 reports issued between June 2006 and April 2007 (25 reports). Table 7 sets out the types and locations of the incidents resulting in Regulation 20 reports for the period. Due to the time lag between the incident and the publication of the report, the reports relate to incidents occurring between 2002 and 2005.

38. Police (Northern Ireland) Act 1998, s.55.

39. Report into the discharge of 7 AEPs in North Belfast on 4th August 2005, para.6.14.

40. Report into the death of female A, Newry, 21st November 2002, para.s 7.1 and 7.2.

Table 7:

Types and locations of incidents and number of referrals resulting in a Regulation 20 report, June 2006 - April 2007

Incident	Referral	Location
Discharge of CS spray	19	Coleraine (3), Maghera (2), Enniskillen (2), Newtownstewart, Londonderry (2), Belfast (5), Newry, Strabane, Ballymena, Newtownabbey
Discharge of AEPs	1	North Belfast
Discharge of firearm	3	Newry, Belfast, Kilrea
Death following a pursuit	1	Newtownabbey
Response to reported death	1	Newry

During the period June 2006 to March 2007, the Police Ombudsman issued 25 Regulation 20 reports. 19 of those reports related to the discharge of CS spray. Three reports were concerned with the discharge of a firearm. Two cases involved the death of a member of the public and one case related to the discharge of seven AEPs during disturbances in North Belfast in August 2005.³⁹

In all of the 19 reports relating to the use of CS spray, the Police Ombudsman found the use of CS spray to be necessary, proportionate and justified in the circumstances. In eleven of the reports, the Police Ombudsman did not raise any issues of concern or make any recommendations. However, in eight of the reports, the Police Ombudsman highlighted issues relating to PSNI procedures connected with CS spray and made several recommendations. These are considered in more detail in chapter 8 of this report.

Two of the Regulation 20 Reports related to the death of members of the public. In the first, a report into the death of a female member of the public in Newry,⁴⁰ the Police Ombudsman found that there was no evidence to suggest that any member of the PSNI had in any way contributed to the death or committed misconduct offences. However, the Police Ombudsman noted ambiguity as to the PSNI's response to calls received by the station communications room. As a result,

the Police Ombudsman recommended that the PSNI amend its General Order to require that operators record each call received by way of the emergency number on the PSNI computer system, including a clear rationale as to the nature and level of the response allocated and that operators be discouraged from using journals to record calls.

The second case related to the death of Raymond Robinson in Newtownabbey, which occurred following a police pursuit.⁴¹ In this case, the Police Ombudsman did not recommend prosecution or misconduct proceedings as a result of this tragic accident. However, she noted the numerous breaches of the PSNI pursuits policy during the pursuit. The Police Ombudsman indicated that the current PSNI policy on pursuits lacked clarity and gave officers ambiguous advice and direction. The Police Ombudsman concluded that it was the policy which failed to afford police officers the guidance and protection required to carry out their functions. The Police Ombudsman recommended that officers be given specialist commentary training as part of PSNI driver training to enable officers and Belfast Regional Control to exchange clear and unequivocal information and advice during a pursuit. In addition, the Police Ombudsman recommended that the PSNI make clear to officers when and in what circumstances an officer should exercise the discretion to chase and that officers should not undertake pursuits unless specifically trained in pursuit driving. Finally, the Police Ombudsman recommended that the PSNI review its current policy to ensure uniformity in dealing with pursuits and align its policy and training with the ACPO Traffic Manual of Guidance and the ACPO national pursuits policy.

41. Report into the death of Mr Raymond Robinson, Threemilewater, Newtownabbey, 24th April 2004, para. 5.25.

PSNI responses to Regulation 20 reports

We have considered the PSNI's general approach to responding to the Police Ombudsman's Regulation 20 reports. The PSNI has established a review panel to consider the Police Ombudsman's Regulation 20 reports and the recommendations arising there from. The panel consists of representatives from PSNI Operational Support, Professional Standards, the Police College and the PSNI human rights legal adviser. A representative from the Policing Board also attends each meeting. The review panel considers recommendations made by the Police Ombudsman in

42. 2005 Annual Report, Recommendation 25, p.169.

43. At pp 164-168

her Regulation 20 reports and agrees the PSNI’s response. The Deputy Chief Constable then writes to the Police Ombudsman indicating how her recommendations will be implemented. To date, the Police Ombudsman has not expressed dissatisfaction with the PSNI’s response to recommendations arising from her Regulation 20 reports.

The PSNI provides a schedule of its responses to the Police Ombudsman’s Regulation 20 reports to the Policing Board on a six-monthly basis.⁴² We have analysed this information for Regulation 20 reports issued in the period July 2006 to April 2007. In light of the time lag between the incident and the publication of the Regulation 20 report, it is important to appreciate that the reports cover events between 2002 and 2005. Table 8 sets out the Police Ombudsman’s recommendations together with the PSNI’s response. In chapter 8 of this report, we consider the PSNI’s implementation of recommendations arising from Regulation 20 reports on the use of CS spray in more detail.⁴³

Table 8:
PSNI’s response to Police Ombudsman’s Regulation 20 report recommendations, July 2006 - April 2007

Issue (No. of instances)	Recommendations	Action
<p>Discharge of a firearm (3)</p>	<ul style="list-style-type: none"> • PSNI to amend its policy to ensure that when CS spray is aimed and the seal broken, it is placed in an evidence bag and treated as used. • Custody officers reminded of the need to record details about CS spray discharges involving prisoners. • Custody officers reminded of the need to issue form CS3 to prisoners exposed to CS spray. • Officers reminded of the need to complete all documentation fully and accurately. • DCU Commander to note the lack of briefing, deployment of resources and failure in operational leadership. 	<p>PSNI responded to the Police Ombudsman on 25th August 2004, confirming adoption and compliance of all recommendations relating to this incident.</p>

	<ul style="list-style-type: none"> • Review of hours worked by HMSU officers. • PSNI to review operational command structure and ensure implementation of the Gold, Silver and Bronze system. • HMSU officers to receive firearms training independent of their own unit. • PSNI to ensure proper maintenance of all firearm training records. • Full compliance with ACPO guidelines on Firearms Tactical Advisors and ACPO Manual of Guidance on Police Use of Firearms. • Chief Constable to review all operational practice dealing with record keeping. • PSNI to undertake research on use of double magazines for MP5 semi-automatic firearm. • Chief Constable to ensure the role of Post Incident Manager is fully implemented. • HMSU personnel to be made fully aware of PONI's role. 	
Discharge of AEPs (1)	<ul style="list-style-type: none"> • Event policy books must be kept • PSNI to encourage video recording of public order events • PSNI to appoint a Post Incident Manager • Policy of appointing a Weapon System Commander to be encouraged 	PSNI has accepted all recommendations. 44
Discharge of CS spray (19)	<ul style="list-style-type: none"> • Importance of aftercare to be emphasised in training. • Officers made aware of designated storage units and reminded to produce their CS spray canisters to the relevant officer following discharge. • Officers reminded of the need to record the actual wording of warnings given. • Senior officers reminded of the need to record details relating to CS spray use and ensure evidential integrity of the CS spray canister. • Strandtown PSNI to review storage facilities and PSNI to consider a Service wide review of storage facilities. 	PSNI responded on 19th January 2007 detailing how it would implement the Police Ombudsman's recommendations relating to the use of CS spray.

44. Letter from Deputy Chief Constable to Policing Board's human rights advisors dated 23rd August 2007.

	<ul style="list-style-type: none"> • PSNI to consider the outcome of a review of CS spray by the PSNI as well as complications with the canister experienced by officers during use. • Officers reminded of the need to accurately record details of the CS spray canister and ensure CS spray issued only by Sergeants. • Supervisors reminded of the need to weigh the CS spray canister at time it is seized. 	
<p>Death of member of the public (2)</p>	<ul style="list-style-type: none"> • PSNI guidance to require that each call received via an emergency number is logged and a clear rationale recorded. • All decisions and their rationale recorded on the computer system • Specialist commentary training to be included as an essential component of driver training. • Clarification given to officers regarding their discretion to chase and central control increased. • Only drivers who have completed specific pursuit training to undertake pursuits. • PSNI to review guidance on vehicle pursuits to ensure uniformity. Training to be based on the ACPO Manual and adoption of the national pursuits policy. 	<p>PSNI introduced a new pursuits policy on 2nd January 2007.</p>



It is clear from Table 8 that the PSNI has not formally responded to the Regulation 20 reports on the discharge of AEPs or the death of one member of the public. This concerns us because the Regulation 20 system relies on a prompt and effective response to any recommendation of the Police Ombudsman. In the circumstances, we recommend that the PSNI provides evidence of the measures it has taken in response to the Police Ombudsman's Regulation 20 reports in these two areas within three months of this report.

RECOMMENDATION 17:

The PSNI should provide evidence of the measures it has taken in response to the Police Ombudsman's Regulation 20 reports relating to the discharge of AEPs in North Belfast in August 2005 and the death of female A in Newry in November 2002 within three months of the publication of this report.

In late 2006, the Police Ombudsman commenced a policy and practice investigation into the PSNI's response to Regulation 20 reports. The investigation will examine issues referred to the PSNI by the Police Ombudsman and evaluate the PSNI's implementation of the Police Ombudsman's recommendations. We will report further on the PSNI's response to Regulation 20 reports in next year's annual report following the publication of the Police Ombudsman's report.

**THE IMPACT OF OFFICERS
RETIRING OR LEAVING THE PSNI
ON DISCIPLINARY PROCEEDINGS**

The PSNI provides us 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.⁴⁵ We analyse the information for the period 1st April 2006 to 31st March 2007 in Table 9 below. In the period in question, 19 officers left the PSNI while under investigation. This figure is in addition to those dismissed or required to resign following formal disciplinary proceedings.

45. 2005 Annual Report, Recommendation 27(d), p.170.

46. Irregularities in information supplied by officer on an accident at work report.

47. Allegation that the officer stole prescription drugs from the family home.

48. Breach of the PSNI's acceptable use policy for emails and internet.

49. Loss of a gun which was being stored by the PSNI for safe keeping.

Table 9:
Allegations made against officers leaving the PSNI and their reason for leaving, 1st April 2006 - 31st March 2007

Allegation	Reason for leaving
Other ⁴⁶	Medical
Firearms (drawing weapon)	Resigned
Assault	Medical
Criminal offences ⁴⁷	Resigned
Traffic drink (x2)	Resigned
Traffic drink	Severance
Assault	Retired
Acceptable use policy ⁴⁸	Resigned
Traffic drink	Resigned
Assault	Retired
Assault	Retired
Harassment/Bullying	Retired
Neglect of duty ⁴⁹	Retired
Alleged criminal offences – theft	Resigned
Alleged criminal offences - theft	Resigned
Alleged criminal offences - theft	Resigned
Firearm discharge	Retired
Alleged assault	Medical
Alleged assault	Resigned

Section 6.3 of the PSNI voluntary early retirement and severances scheme outlines the procedure by which an officer who is suspended or under investigation may apply for voluntary severance. The provision requires that officers who are suspended or under serious criminal or disciplinary investigation may not without the consent of the Chief Constable be accepted for voluntary severance. In our 2006 Annual Report, we queried the effectiveness of this provision, given that 26 officers had left the PSNI while under investigation in the period April 2005 to March 2006 and in light of the seriousness of some of the allegations. As a result, we recommended 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.⁵⁰

The PSNI accepted our recommendation. Currently, all officers applying for severance are subject to discipline vetting by PSNI Professional Standards and the Police Ombudsman. Any officers identified through these vetting procedures may not leave the PSNI without the approval of the Deputy Chief Constable. As an illustration of the working of this system to date, one officer has been dismissed rather than permitted to leave the PSNI and several officers have had their departure from the PSNI delayed pending conclusion of criminal and/or misconduct investigations.⁵¹

In October 2006, we met with the Deputy Chief Constable to discuss the PSNI's voluntary retirement and severance scheme in more detail. The Deputy Chief Constable informed us that every application for severance is examined thoroughly and includes consideration of medical and personal information relating to each officer. A decision is reached on the circumstances of each case.

A recent review of Police Disciplinary Arrangements,⁵² (the Taylor Review), recommended that police officers be permitted to leave the police service without prior permission. This recommendation is contrary to the PSNI's established procedure. At our meeting with the Deputy Chief Constable, he assured us that the PSNI has no plans to change its current scheme to adopt the recommendations of the Taylor Review.⁵³ The PSNI and Police Ombudsman held a conference in May 2007 to discuss the implications of the Taylor Review. The purpose of the conference

50. 2006 Annual Report, Recommendation 22, p.161.

51. PSNI's Human Rights Programme of Action 2006-2007, p.14.

52. Review of Police Disciplinary Arrangements Report, January 2005.

53. Meeting between Deputy Chief Constable and Policing Board's human rights advisors on 5th October 2006.

54. Letter from PSNI Professional Standards to Policing Board's human rights advisors dated 5th July 2007.

55. 2005 Annual Report, Recommendation 26, pp169-170.

56. Not included in these figures are 178 cases referred from the Police Ombudsman for misconduct proceedings.

was to ensure the implications of the Taylor Review are considered at local and Service wide level within the PSNI and to inform the national debate on the reforms.⁵⁴

Against this background, we consider Recommendation 22 of our 2006 Annual Report to be implemented in full but we will continue to monitor 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.

PSNI INTERNAL DISCIPLINE

In accordance with Recommendation 27(e)(i) of our 2005 Annual Report, the PSNI provides us with information on current internal investigations of misconduct and disciplinary action on a six-monthly basis. To allow us to track breaches of the Code of Ethics, the number of investigations of misconduct is correlated to the relevant Article of the Code of Ethics breached.⁵⁵ We have reproduced this information for the period April 2006 to March 2007 in Table 10 below.

Table 10:

Current investigations of misconduct registered by PSNI Professional Standards department, April 2006 - March 2007⁵⁶

Article of Code of Ethics	Number of cases
Article 1.1	2
Article 1.4	2
Article 1.5	25
Article 1.7	1
Article 1.9	3
Article 1.10	24
Article 2.2	5
Article 3.1	4
Article 3.3	4
Article 3.4	2
Article 4.1	2
Article 4.3	1

Article of Code of Ethics	Number of cases
Article 6.1	9
Article 6.2	1
Article 7.1	11
Article 7.2	97
Article 7.5	1
Article 8.1	6
Article 9.1	1
Not Applicable ⁵⁷	34
Total	236

57. Code of Ethics does not apply.

* Within some categories an officer may be counted more than once.

The PSNI also provides us with information on misconduct investigations completed during the period 1st April 2006 to 31st March 2007. The information includes the date of completion of the misconduct investigation, the relevant Article of the Code of Ethics breached, any secondary offence committed and the outcome of the case. We have analysed this information in tabular form below. Table 11 sets out the number of completed misconduct investigations according to outcome for the period 1st April 2006 - 31st March 2007. Table 12 correlates the outcomes of completed misconduct investigations against the relevant Article of the Code of Ethics breached for the same period.

Table 11:
Completed misconduct investigations,
1st April 2006 - 31st March 2007

Outcome	Number of Misconduct Investigations*
No further action (NFA)	110
Advice and guidance	66
Management discussion	36
Superintendent's Written Warning	43
Returned to DCU	106
File to PONI	14
Caution	2
Reprimand	5
Fined	11
Reduction in pay	12
Required to resign	2
Resigned	9
Retired	3
Medical discharge	3
NFA Severance	1
Dismissed	1
Reduction in rank	2
Total	426

* The completion category is the highest sanction of each case even if a number of allegations or officers were involved. Within some categories, an officer may be counted a number of times.

The sanction recorded is the severest imposed in each case. In some cases, a lesser sanction may also have been imposed. 25% of misconduct investigations resulted in no further action. Advice and guidance or management discussions were given in 24% of all investigations. Less than 1% of misconduct investigations resulted in the officer being dismissed or required to resign.

When 2006/2007 figures are compared with those relating to 2005/2006, it is clear that there has been a dramatic increase in the number of cases being returned to DCUs. There is nothing to indicate that this was an inappropriate course of action in any of the cases, but it is important that both the PSNI and the Policing Board know what action is actually taken. To that end, we recommend that the PSNI provide details of all completed misconduct investigations which were returned to DCUs and what action was subsequently taken by DCUs in response.

RECOMMENDATION 18:

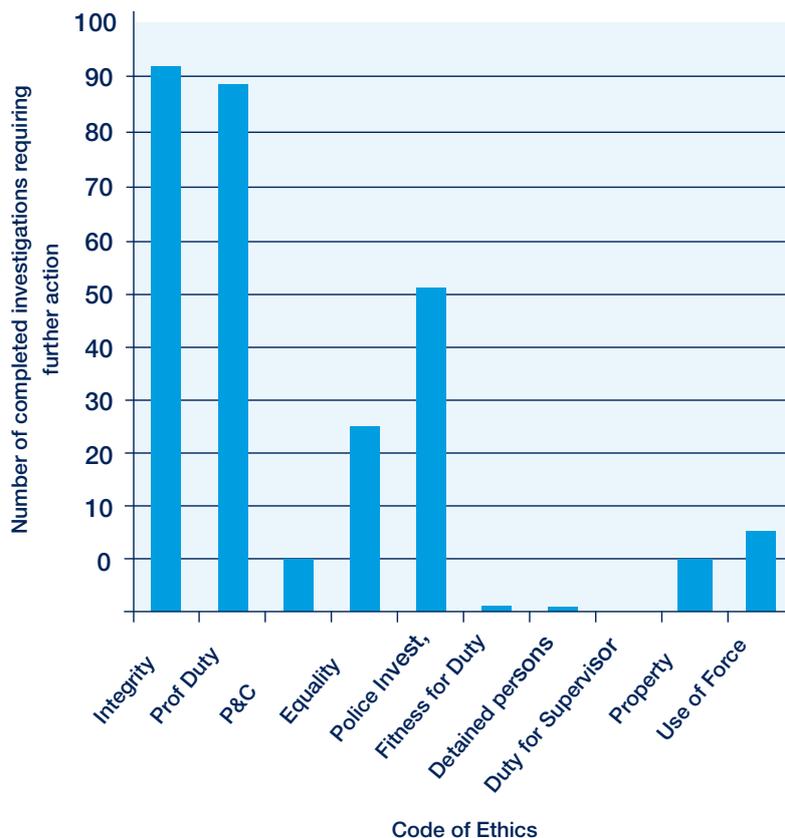
The PSNI should provide details to the Policing Board of all completed misconduct investigations returned to DCUs in 2006/2007 and what action was subsequently taken by DCUs in response.

Table 12: Completed misconduct investigation outcomes correlated against the relevant Article of the Code of Ethics, 1st April 2006 - 31st March 2007

Article of Code of Ethics breached	Integrity	Prof. Duty	P&C	Equality	Police Investigations	Fitness for duty	Detained Persons	Duty of Supervisor	Property	Use of Force	N/A	Total
No further action	43	14	1	5	3	1			1	2	40	110
Caution	2											2
Dismissal	1											1
File to PONI	7	1							2	2	2	14
Fined	9	1			1							11
Managerial Discussion	5	18	1	5	6						1	36
Medical Discharge	2										1	3
Advice and Guidance	14	20		5	17	1	1		3	4	1	66
Reprimand	2	1			1						1	5
Reduction In pay	11				1							12
Resigned	8	1										9
Returned to DCU	17	31	7	9	17				5	2	18	106
Required to resign				1							1	2
Superintendents' Written Warning	12	16	2	4	8					1		43
No further action because of Severance	1											1
Retired	1								1	1		3
Reduction in rank	1			1								2
Total	136	103	11	30	54	2	1	0	12	12	65	426

On the basis of the analysis in Table 12, we can compare the number of misconduct investigations resulting in further action with the relevant Code of Ethics offence to indicate the most common types of misconduct by PSNI officers. This information is reproduced in chart form below and shows that failures in integrity (Article 7), professional duty (Article 1) and police investigations (Article 2) are the most common forms of misconduct.

Figure 2:
Investigations into misconduct requiring further action,
according to the relevant Code of Ethics offence



During the period 1st April 2006 to 31st March 2007, the PSNI provided us with information on the number of officers convicted of criminal offences and the disciplinary action taken in response. This information is set out in Table 13 below. In several cases, the outcomes of internal misconduct investigations were pending and therefore we have not been able to report on the disciplinary action taken.

Table 13: Criminal convictions and disciplinary action, 1st April 2006 - 31st March 2007

Result Charge	Penalty points	Fined	Disq. driving	Sus. sentence	Imprisonment	Other	Result Dis. action
AOABH					2		Required to resign (x2)
Common assault	2			1			Required to resign, Fined
Harassment				1			
Driving with excess speed	3	1					Reduction in pay, SWW (x3)
Indecent behaviour		2					Fined
Breach occupation order/non molestation order		3			2		
Theft				1			Resigned
Disorderly behaviour		1					
Driving with excess alcohol			17				Reduction in pay (x7), Required to resign (x3), Dismissed from Service Fined (x3),
Drunk in charge of car			1				Resigned
Drunk in charge of firearm		1					Resigned
Unfit to drive			1				Dismissed from Service
Careless driving	3		1				NFA (x3), Required to resign
Dangerous driving		1					
Failure to remain/report/stop		3					Required to resign (x3)
Failure to inform ID of driver			1				File to PONI
Failure to provide specimen			3				
No insurance		1					Caution
Data Protection Act infringement		8					Fined (x8)
Perverting the course of justice				5			Resigned (x3), Dismissed from Service (x2)
Driving unaccompanied/ no L plates						2	

Table 13 shows that the most common criminal convictions of PSNI officers relate to driving with excess alcohol. The PSNI has recently changed its policy so that any officer convicted of driving with excess alcohol will be either dismissed or required to resign from the PSNI.⁵⁸ The table also indicates a number of infringements of the Data Protection Act. However, one officer committed all breaches and was subject to the eight fines imposed. We are particularly troubled by the five convictions for perverting the course of justice and recommend that the PSNI provide additional information to the Policing Board on these cases within three months of this report.

RECOMMENDATION 19:

The PSNI should provide additional information to the Policing Board on misconduct cases resulting in criminal convictions of officers for perverting the course of justice in 2006/2007.

We will continue to monitor criminal convictions against PSNI officers and the disciplinary action taken in response, including the outcome of cases currently pending, and report further in next year's annual report.

PSNI DISCIPLINE CHAMPIONS

The PSNI has appointed 11 Discipline Champions to operate in each DCU and Operational Command Unit. The role of the Discipline Champion is to encourage the maintenance of professional standards and act as an initial point of contact for discipline issues within their district command area. The Discipline Champions and representatives of PSNI Professional Standards will meet on a regular basis throughout the year. PSNI Professional Standards will identify examples of good practice and lessons learned for dissemination amongst Discipline Champions.⁵⁹

CIVIL CLAIMS AGAINST THE PSNI

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 April 2006 to March 2007 Table 14 on page 110.

58. General Order No: 26/2006 Discipline sanctions for police officers convicted of drink driving offences. While the usual sanction will be dismissal or a requirement to resign, each case will be treated on its merits and aggravating factors will be considered in assessing the seriousness of the offence. Only in cases where none of the aggravating factors apply and there are exceptional circumstances, will a lesser sanction be imposed.

59. Letter from PSNI Professional Standards to Policing Board's human rights advisors dated 5th July 2007.

60. Includes cases passed to another PSNI branch/insurer.

61. Includes cases where the PSNI denied liability.

62. Includes one case passed to another PSNI branch/insurer.

63. Includes five cases passed to another PSNI branch/insurer.

64. Includes five cases passed to another PSNI branch/insurer.

65. Includes one case passed to another PSNI branch/insurer.

66. Includes four cases passed to another PSNI branch/insurer.

67. Includes one case passed to another PSNI branch/insurer.

68. Includes three cases passed to another PSNI branch/insurer.

69. Includes two cases passed to another PSNI branch/insurer.

70. Excluding industrial tribunal cases.

Table 14:
Civil cases concluded, April 2006 - March 2007

Month	Closed ⁶⁰	Won ⁶¹	Lost	Settled	Withdrawn
Apr 06	59 ⁶²	21	0	34	3
May 06	114 ⁶³	15	1	44	49
June 06	95 ⁶⁴	17	0	53	20
July 06	54 ⁶⁵	11	0	32	10
Aug 06	63	7	0	7	49
Sept 06	78 ⁶⁶	22	0	25	27
Oct 06	70 ⁶⁷	12	1	44	12
Nov 06	75 ⁶⁸	12	1	48	11
Dec 06	63	14	2	31	16
Jan 07	81 ⁶⁹	20	0	53	6
Feb 07	70	11	1	47	11
Mar 07	53	15	1	27	10
Total	875	177	7	445	224

Table 14 includes all claims against the police including personal injury on duty and minor damage to property.⁷⁰ As legal proceedings may take several years before being heard in court or otherwise concluded, many of the cases detailed above relate to incidents which took place a number of years ago.

Table 15 records the cases concluded each month where compensation was paid to the complainant either as a settlement to the case or as ordered by the Court. The table focuses on those areas which most obviously raise human rights issues, such as assault, false imprisonment, trespass, negligence, and psychological injury.

Table 15:
Misconduct cases resulting in compensation to the claimant,
April 2006 - March 2007

Date	Assault	False Imprisonment	Other	Settled	Court Order
Apr 06	3	4	1 (stress and anxiety), 1 (negligence)	8	0
May 06	8	7	0	9	1
June 06	5	1	0	6	0
July 06	4	2	1 (malicious prosecution)	6	0
Aug 06	1	1	0	2	0
Sept 06	2	4	2 (trespass/unlawful search) 1 (baton round) 1 (negligence/breach of contract)	8	0
Oct 06 ⁷¹	10 ⁷²	4	0	11	1 ⁷³
Nov 06	7	7	1 (psychological upset and trauma) ⁷⁴ 1 (injury to finger) 1 (negligence/breach of statutory duty) 1 (negligence/misfeasance in a public office)	16	0
Dec 06	3	4	1 (excessive force) ⁷⁵	6	0
Jan 07	7	4	1 (negligence) 1 (negligence following actions of escaped prisoner)	10	0
Feb 07	3	3	1 (trespass to the person and property) 2 (psychological trauma)	7	0
Mar 07	1	3	0	3	1
Total	54	44	17	92	3
Total 05/06 ⁷⁶	56	47	4	80	4

71. One case in which the claimant alleged he was struck by a plastic baton round was statute barred for being out of time.

72. In one of these cases the officer perceived to be responsible for the assault failed to attend court.

73. The judge found that the force used against the claimant was excessive, particularly considering he was only 12 at the time.

74. Damage to the plaintiff followed publication of his photograph in the Belfast Telegraph in connection with a theft.

75. In this case the judge threw the criminal prosecution out of court as he found the officer's evidence "incredible".

76. Figures for 2005/2006 relate to the period January 2005 to March 2006.

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

77. 2005 Annual Report, Recommendation 31, p.170.

78. PSNI Professional Standards Activity Report, April 2006-March 2007.

79. 2005 Annual Report, Recommendations 27(f) and (g), p.170.

Review of civil cases

In our 2005 Annual Report, 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.⁷⁷ This information is provided to the Policing Board on a six-monthly basis. In the period April 2006 to March 2007, PSNI Professional Standards reviewed 101 civil cases, including cases of assault, unlawful detention, trespass to property, negligence, malicious prosecution and plastic baton round injury. Of those, the Police Ombudsman had investigated 74 cases at the time of complaint, the PSNI had investigated five at the time of complaint and 22 cases indicated no record of investigation by the PSNI or the Police Ombudsman. None of the cases reviewed by PSNI Professional Standards disclosed new evidence or prompted additional action.⁷⁸

In light of the figures for the period April 2006 to March 2007 where compensation was paid to the claimant (as set out in Table 15), which discloses a similar pattern to 2005-2006, we recommend again 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.

RECOMMENDATION 20:

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.

JUDICIAL REVIEWS

The PSNI provides us 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. The PSNI also informs us of any action taken or proposed in response to any judicial review cases brought against the PSNI.⁷⁹

During the period May 2006 to May 2007, eight judicial review cases involving the PSNI were heard.⁸⁰ Five cases only proceeded to the application stage for judicial review and in all five cases, the Court refused the application.⁸¹ In two of the remaining three cases, the Court found in favour of the applicant. In one case, the Court ordered a quashing order against the Secretary of State's decision not to allow the applicant to comment on the PSNI's decision to revoke his firearms licence. In the other case, which concerned an application for review of PSNI decisions relating to an investigation into suicide in custody, the Court found (although not against the PSNI) that the investigation had been insufficiently prompt and expeditious and that disclosure of certain documents had been delayed. The final case concerned the verdicts of juries in inquests and the correct interpretation of the Chief Constable's statutory duty of disclosure.⁸² The House of Lords interpreted the Chief Constable's duty as continuing.⁸³

PSNI Legal Services considered that all but one of the cases did not require any further action on its part. Recognising the significance of the decision of the Court of Appeal in *"E" (Parent of child attending Holy Cross Primary School)* [2006] NICA 37, the PSNI placed a summary of the first instance judgment on the PSNI intranet site and the PSNI human rights legal adviser and human rights training adviser have taken steps⁸⁴ to integrate the case into police training where appropriate.⁸⁵

This recommendation that the PSNI should provide 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 and inform the Policing Board of any action taken or proposed in response to any judicial review cases brought against the PSNI, should be treated as ongoing.

80. PSNI Legal Services, *Six-monthly report of judicial review cases against the PSNI*, November 2006 and June 2007.

81. This included the case of *"E" (Parent of child attending Holy Cross Primary School)* [2006] NICA 37 in which the Court of Appeal dismissed the applicant's appeal against a decision to refuse judicial review.

82. Under s.8 of the Coroners (Northern Ireland) Act 1959.

83. *Jordan and McCaughey v. Chief Constable of the Police Service of Northern Ireland* [2007] UKHL 14.

84. The decision was used during the human rights audit of training materials and has been disseminated in the training environment.

85. Letter from PSNI human rights legal adviser to Policing Board's human rights advisors dated 20th June 2007.

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 and in our Special Report on the Policing of the Ardoyne Parades 12th July 2005 and the Whiterock Parade 10th September 2005. We do not repeat that analysis here.

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The governing legislation is the Public Processions (Northern Ireland) Act 1998¹ which we analysed in our Special Report on the Policing of the Ardoyne Parades 12th July 2004.² 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.

TRAINING

In 2005 and in 2006, the PSNI carried out extensive training on the Public Processions (Northern Ireland) Act 1998, which incorporated practical scenarios to tackle a number of human rights issues. We participated in that training as part of the Policing Board's oversight of the PSNI. In 2007 similar training was planned, but then cancelled. We consider that this was regrettable and recommend that in 2008 the PSNI should reinstate public order training on the Public Processions (Northern Ireland) Act 1998, as amended.

RECOMMENDATION 21:

In 2008 the PSNI should reinstate public order training on the Public Processions (Northern Ireland) Act 1998, as amended.

PSNI PUBLIC ORDER POLICIES

In 2005 we audited the PSNI's public order policies and identified a number of shortcomings. We made a number of recommendations in our 2005 Annual Report, not all of which were implemented by 2006. One outstanding recommendation from our 2005 Annual Report was recommendation 35(a) which related to PSNI Human Rights Policy in relation to Public Events. We deal with that specifically below.³

PSNI policy on the Public Processions (Northern Ireland) Act 1998 and the Parades Commission

Following the recommendations made in our 2005 Annual Report and our Special Report on the Ardoyne and Whiterock Parades 2005,⁴ the PSNI amended its policy on the Public Processions (Northern Ireland) Act 1998 and the Parades Commission. We examined that policy and in our 2006 Annual Report recommended that 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.⁵

1. As amended by the Public Processions (Northern Ireland) (Amendment) Order 2005.

2. Ardoyne Parades Report 2004, para.s 19-32.

3. At pp119-120

4. Monitoring the compliance of the Police Service of Northern Ireland with the Human Rights Act 1998. Report on the Policing of the Ardoyne Parades 12 July 2005 and Whiterock Parade 10 September 2005 (special report on the Ardoyne and Whiterock parades 2005).

5. 2006 Annual Report, Recommendation 23, p.161.

The PSNI accepted our recommendation. In its Human Rights Programme of Action 2006-2007, the PSNI indicated that it had contacted the Parades Commission with a view to establishing a protocol on consultation. However, the Parades Commission declined involvement, citing its independence as justification.⁶

In February 2007, the PSNI reissued an amended version of its policy on Public Processions (Northern Ireland) Act 1998 and the Parades Commission.⁷ The policy now contains as an appendix the aims and limits of police consultation for sensitive parades and related protests. The policy reiterates the PSNI's commitment to working in partnership with the community to reduce tension and the potential for conflict. The use of community and neighbourhood officers is identified as essential to this process. While the policy recognises that it is impossible to draw up a strict framework for community consultation, due to the individuality and complexity of each particular case, a number of guidelines are given to assist officers in identifying the aims and limitations of consultation in relation to sensitive parades.

The policy identifies the aims of community consultation as facilitating discussion, preventing public disorder and ensuring safety, minimising disruption to the community, gauging community feeling, probing tension indicators and identifying an appropriate police response and exploring scenarios which will secure common ground between all parties. The policy instructs officers to undertake as wide a consultation exercise as possible to ensure that all relevant views are reflected in the PSNI's report to the Parades Commission.

Officers are also provided with guidance on the limits of police consultation. The policy instructs officers not to act as a conduit between parades organisers and the Parades Commission or give the impression that they can influence the Parades Commission's decision. The policy highlights the importance of officers providing a balanced and factual report to the Parades Commission and instructs officers not to give the community false or unrealistic expectations. The need to maintain accurate records of all community consultation is also emphasised.

The amended policy adopts a broader approach to human rights than its predecessor. The aim is to ensure a balanced approach

6. PSNI's Human Rights Programme of Action 2006-2007, p.18.

7. General Order No: 20/2006 Public Processions (Northern Ireland) Act 1998 and the Parades Commission, amended and reissued 17th November 2006, 5th February 2007 and June 2007.

8. Including marchers, band members, supporters, protesters, residents, bystanders and police on duty.

9. *Tweed (Appellant) v. The Parades Commission for Northern Ireland (Respondent) (Northern Ireland)* [2006] UKHL 53.

10. See below, pp.123-134.

11. 2006 Annual Report, Recommendation 23, p.161.

12. 2005 Annual Report, Recommendation 35(a), p.170.

13. PSNI's Human Rights Programme of Action 2006-2007, p.27.

to risk assessment by reference to the conduct of all interested parties.⁸ A human rights checklist is included. In June 2007, the PSNI's policy was updated following the House of Lords' decision in *Tweed v. The Parades Commission*.⁹

In our view it is regrettable that the Parades Commission was unwilling to consider establishing a protocol with the PSNI about the purpose and limits of the consultation process. We fully respect the independence of the Parades Commission, but, as events in 2004 and 2005 demonstrated, clarity and transparency about the purpose and limits of the consultation process are fundamental. Some of the difficulties that arose in 2007¹⁰ confirm this.

The recommendation in our 2006 Annual Report was that the PSNI 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.¹¹ Although no protocol with the Parades Commission has been developed, the necessary review has taken place and the PSNI did seek to establish a protocol with the Parades Commission. In the circumstances, we consider Recommendation 23 of our 2006 Annual Report to be implemented in full.

PSNI policy on human rights in relation to public events

In our 2005 Annual Report, we recommended that the PSNI should review and revise its policy on human rights in relation to public events to include a summary of the relevant provisions of the European Convention on Human Rights, a short commentary on the application of these provisions to the public order context and some guidance on factors likely to be relevant in balancing human rights in the public order context. As noted above, this recommendation remained outstanding at the time of publication of our 2006 Annual Report and we indicated our intention to report on it further this year.¹²

In its Human Rights Programme of Action 2006-2007, the PSNI accepted the outstanding recommendation and indicated that it would review its policy and that this review would be completed by December 2006.¹³ We were given a progress report in April

2007. The PSNI at that stage indicated that it had developed a replacement policy called PSNI Procedure and Guidance in relation to Public Events, which was awaiting a corporate decision at a senior level. It was anticipated that this policy would be subsumed into an updated PSNI Manual of Guidance on Keeping the Peace and Criminal Justice Strategy in due course.¹⁴

The new policy, PSNI Procedure and Guidance in relation to Public Events, has now been approved and on 31st July 2007 it was sent to the PSNI publications department to be formatted for publication. We have been provided with a copy of the policy. The policy is clear, comprehensive and carefully drafted. We therefore consider Recommendation 35(a) of our 2005 Annual Report to be implemented in full.

PARADES PASSING THROUGH DISTRICT COMMAND UNITS

In our Special Report on the Ardoyne and Whiterock Parades 2005, we recommended that the PSNI should consider whether further guidance is required where parades pass through different DCUs.¹⁵ In our 2006 Annual Report, we reported that the PSNI had drawn up a revised policy directive on this matter and was engaged in consultation on it.¹⁶ In March 2007, we wrote to ACC Operational Support to request an update on the PSNI's progress in issuing its directive. The PSNI indicated that the issue was being addressed in its policy on Public Processions (Northern Ireland) Act 1998 and the Parades Commission. Appendix A of the policy is intended to ensure that PSNI Regional Command is alerted to all sensitive parades and, in particular, those crossing DCU boundaries. The PSNI indicated that in its view the reduction in the number of DCUs from 29 to eight from 1st April 2007 will greatly reduce the impact of this issue.¹⁷ We accept the approach that the PSNI has taken to this issue and consider the recommendation made in our Special Report on the Ardoyne and Whiterock Parades 2005 to be implemented in full.

VEHICLES WITH SCREENS

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

14. Letter from ACC Operational Support to Policing Board's human rights advisors dated 16th April 2007.

15. Special Report on the Ardoyne and Whiterock Parades 2005, Recommendation 3, p.61.

16. 2006 Annual Report, chapter 7, p.63.

17. Letter from ACC Operational Support to Policing Board's human rights advisors dated 16th April 2007.

18. Special Report on the Ardoyne and Whiterock Parades 2005, Recommendation 3, p.27.

Parades 2005. This gap resulted from the absence of two military screen vehicles which were unserviceable on the day in question. Due to the age of screening equipment, we felt that the problem could reoccur and therefore recommended that the PSNI should consider obtaining its own modern screening equipment.¹⁸

In our 2006 Annual Report, we indicated that the PSNI was considering our recommendation and had submitted a business case for the procurement of suitable vehicles. That case was accepted and in June 2007 the PSNI took delivery of a number of new vehicles with screening equipment attached to them. We were given a demonstration of these vehicles and it is clear that they are a vast improvement on the ageing military screen vehicles. The screens are flexible screens rather than rigid screens and the vehicles are much more manoeuvrable than their predecessors. They were used successfully on a number of occasions this year. The vehicles have the added advantage that the screening equipment can be detached from them, making the vehicles suitable for routine police work when they are not needed as screening vehicles. We therefore consider this recommendation of our Special Report on the Ardoyne and Whiterock Parades 2005 to be implemented in full.

PARADES MONITORING 2007

In the course of our work in 2007, we closely monitored the policing of the Whiterock parade held on 30th June 2007, the parades that passed by the Ardoyne shop fronts on 12th July 2007 (the 12th July Ardoyne parades) and the parade that passed along the Springfield Road on the 12th July 2007 (the 12th July Springfield Road parade). As we noted in our special reports on parades in 2004 and 2005, our remit is to consider whether the policing of these parades complied 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 policed the determinations made by the Parades Commission and took 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 was justified.

For the Whiterock parade on 30th 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 30th June itself, we observed the policing operation initially on the ground, attending at Workman Gate as the police deployed in the early afternoon and subsequently observed events and decision-making in the Silver Command room. For the purposes of this report, we subsequently conducted in-depth interviews with ACC Urban (Gold Commander of the policing operation), the District Commander of 'A' District¹⁹ (Silver Commander) and members of his senior command team. We also examined the contemporaneous record logs generated by Gold and Silver Command in relation to the policing operation.

19. North and West Belfast.

For the 12th July Ardoyne parades and 12th July Springfield Road parade, 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 and decision-making in the Silver Command room. Again, we subsequently conducted interviews with ACC Urban (Gold Commander), the District Commander of 'A' District (Silver Commander) and the Deputy District Commander of 'A' District (Bronze Commander, Ardoyne) and examined the contemporaneous record logs generated by Gold and Silver Command in relation to the policing operation.

We are pleased to report that, like last year, the parades that we monitored this year passed off without significant violence. However, a number of matters arose which impacted on the planning and implementation of the policing operations for these parades which give us cause for concern. We discuss these in detail below.

PSNI long-term preparations

It is important for us to record that the PSNI senior command adopted the same strategic, planning and operational processes and procedures as it employed for policing parades in 2004, 2005 and 2006. Like then, Gold Command strategy meetings for parades in the Urban Region were held in May and June 2007. These meetings were attended by all District Commanders, as well as the PSNI human rights legal adviser.

20. The Form 11/1 indicated that the marshals had completed an NVQ course and a Grand Lodge training course.

21. The Form 11/1 indicated that the marshals had completed an NVQ course.

Again, like 2004, 2005 and 2006, 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".

Use of legal and tactical advisers

Silver Command tactical planning meetings for the 30th June and the 12th July policing operations were held in the days leading up to each parade, following the issue of the various Parades Commission determinations. The PSNI human rights legal adviser and tactical advisers attended the majority of the Silver Command tactical meetings and gave advice as and when necessary. This is welcome and should be continued.

Whiterock Parade 30th June 2007

On 29th May 2007, No.9 District LOL gave notice of its intention to hold the Annual Whiterock Parade on 30th June 2007. 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 parade organiser indicated that the anticipated number of participants in the parade was 850, with some 16 bands and an unknown number of supporters. The parade organiser also listed on the notification form the names of 12 marshals with formal training²⁰ who would be in attendance during the parade. On the same date (29th May 2007), Whiterock Temperance LOL 974 gave notice of its intention to "join the Annual Whiterock Parade". The parade organiser indicated that the anticipated number of participants was 65, with one band and an unknown number of supporters. The organiser listed on the notification form the names of three marshals with formal training²¹ who would be in attendance during the parade.

On 16th June 2007, the Springfield Residents Action Group notified a protest meeting on identified parts of the Springfield Road in response to the parade notification. The organiser indicated that 200 participants were anticipated and listed the names of nine marshals who would be in attendance during the protest.

Parades Commission determinations

The Parades Commission issued determinations in relation to both the parade and the protest.

The Parades Commission issued its determination in relation to the parade on 20th June 2007. It placed a number of conditions on the organiser and participants of the parade. These included the condition that:

“Only the District officer-bearers of No. 9 District LOL, office-bearers and members of Whiterock Temperance LOL 974, and clearly identified marshals, all of whom may not exceed a total of fifty persons, shall process the parade’s notified route in its entirety.”²²

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 the junction of Workman Avenue and Springfield Road and the junction of the roadway through the Invest Northern Ireland site and the Springfield Road.

The remainder of those taking part in No. 9 District LOL, including accompanying bands, were prohibited from joining the Springfield Road at its junction with Workman Avenue. 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, participants were only permitted to display certain insignia defined in the determination.²³

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.

22. Parades Commission determination, 20th June 2007, para. A.

23. The Parades Commission subsequently reissued its determination in relation to the parade to include the “Ulster Banner” within the list of permitted insignia.

24. In accordance with s.8(4) of the Public Processions (Northern Ireland) act 1998 and Rule 6.1 of the Commission's Procedural Rules.

The determination prohibited “colour parties of any type, or flags, clothes, instruments, badges or emblems displayed which could be seen as associated with any paramilitary organisation”. Only hymn tunes were to be played on that section of the parade route from the point where the parade turns right on to the Springfield Road from the roadway through the Invest Northern Ireland site.

The parade organiser was required to “arrange for the presence of an adequate number of stewards to ensure that all parade participants act in an orderly manner.”

The Parades Commission issued its determination in relation to the parade-related protest on 21st June 2007. The determination placed a number of conditions on the location of the protest. It stated:

“A. The protest shall take place between the junction of Pollard Street and the Springfield Road, and the junction of the entrance to the Invest Northern Ireland site (formerly Mackie’s) and the Springfield Road. The protest shall not extend beyond the junction of the entrance to the Invest Northern Ireland site and the Springfield Road, in the direction of the West Circular roundabout.”

Those protesting were confined to the footpaths on both sides of the road and were prohibited from the carriageway between the two points specified in paragraph A above. However, the protest was allowed to take place as notified across the Springfield Road at its junction with Pollard Street.

Like the parade organiser, the protest organiser was required to “arrange for the presence of an adequate number of stewards to ensure that all protest participants act in an orderly manner.”

The Springfield Residents Action Group submitted a request that the Parades Commission review its decision.²⁴ The Commission heard oral representations from the Springfield Residents Action Group and reviewed the information, advice and evidence that it had received in relation to the protest. The Parades Commission issued its decision in relation to the review on 26th June 2007.

The Commission amended its original determination and extended the location of the protest. It provided:

“A. The protest shall take place between the junction of Pollard Street and the Springfield Road, and the city side of the junction of the entrance to the Millennium Outreach Centre and the Springfield Road. The protest shall not extend beyond the city side of the junction of the entrance to the Millennium Outreach Centre and the Springfield Road, in the direction of the West Circular Road roundabout.

B. Those protesting between the junction of Pollard Street and the Springfield Road, and the city side of the junction of the entrance to the Invest Northern Ireland site and the Springfield Road shall be confined to the footpaths on both sides of the road. Those protesting past this point, i.e. between the city side of the junction of the entrance to the Invest Northern Ireland site and the Springfield Road and the city side of the junction of the entrance to the Millennium Outreach Centre and the Springfield Road, shall be confined to the footpath on the left side of the Springfield Road as it approaches the West Circular Road roundabout.”

Like the original determination, the protest was allowed to take place as notified across the Springfield Road at its junction with Pollard Street. Again, the protest organiser was required to “arrange for the presence of an adequate number of stewards to ensure that all protest participants act in an orderly manner.”

The Springfield Residents Action Group applied for a judicial review of the Parades Commission’s decision. The application was heard on Thursday, 28th June 2007 and refused.

PSNI preparations for the event

In the weeks before the Whiterock parade, the District Command team of ‘A’ District was in telephone contact with representatives of both the North and West Belfast Parades and Cultural Forum (the Parades Forum) and the Springfield Residents Action Group.

On 20th June, the District Commander of ‘A’ District met the Parades Commission to discuss the Whiterock parade. During that meeting, he reminded the Parades Commission that there

had been difficulties during the Whiterock parade in 2006 regarding the type and number of marshals that were permitted to accompany that part of the parade permitted to proceed through Workman Gate. The District Commander sought clarity from the Parades Commission on its definition of (i) marshals, specifically, who constituted a marshal for the purposes of the Parades Commission determinations; (ii) flags and (iii) observers. Reference was made to who the marshals would be but the Parades Commission indicated that this was a matter for the parade organiser.

On the same day, the District Commander of 'A' District and his senior command team met with representatives of the Parades Forum. The District Commander informed the Parades Forum that he had sought clarification from the Parades Commission on the definition of the term 'marshals' in the parade determination.

Later in the afternoon of 20th June, the District Commander telephoned a community representative who acted as a point of contact for the Springfield Residents Action Group. The District Commander also informed the representative that he had sought clarification from the Parades Commission on the definition of the term 'marshals' in the parade determination.

At a meeting with the District Commander and his senior command team on 25th June, representatives of the Springfield Residents Action Group referred to the parade determination and questioned the definition of the term 'marshals'. The representatives indicated that they considered the term to mean formal Orange Order marshals. They questioned whether marshals were included within the total of fifty persons permitted by the determination to proceed through Workman Gate or whether they were in addition to that number. The District Commander informed the representatives of the Springfield Residents Action Group that he had already sought clarity from the Parades Commission on the definition of the term 'marshals' and that he would again request clarity when he met with the Commission later that same day.

The District Commander of 'A' District met the Parades Commission in the evening of the 25th June, on this occasion to discuss the associated protest to the Whiterock parade.

During that meeting, he asked for explicit direction on the permitted location of the protest. He also referred to the parade determination and again requested clarification of the definition of the term 'marshals', specifically, whether for the purposes of the determination the term meant Orange Order marshals or stewards wearing orange bibs.

On 28th June 2007, Parades Forum representatives, including the parade organiser, met again with the District Commander and his senior command team. The representatives indicated their intention that five Parades Forum stewards wearing orange bibs would accompany that part of the parade proceeding through Workman Gate. The Parades Forum considered that these persons fell within the definition of 'marshals' included in paragraph A²⁵ of the Parades Commission's determination. The District Commander acknowledged the different interpretations of the term 'marshals' held by the Parades Forum and the Springfield Residents Action Group and informed the Parades Forum of his intention to seek formal written clarification from the Parades Commission on the point. After the meeting, the District Commander telephoned representatives of the Springfield Residents Action Group to formally confirm their interpretation of the term 'marshals.' He also informed the Springfield Residents Action Group representatives of his intention to seek formal written clarification from the Parades Commission on the point.

The District Commander of 'A' District wrote to the Parades Commission on the morning of 29th June, outlining the different interpretations held by the two parties in relation to the term 'marshals' included in paragraph A of the Parades Commission determination and seeking clarity in relation to the term. The letter stated:

"I am aware through discussion with both the North and West Belfast Parades and Cultural Forum and Springfield Residents Action Group that there are different understandings on this part [paragraph A] of the determination.

1. NWBPCF - have indicated to me that they understand that the term 'marshals' includes 'Parades Forum Marshals'. They have further indicated that the Parades Commission have clarified this understanding with the Parades Forum.

25. Which dealt with the part of the parade permitted to process through Workman Gate is set out at p.124 above.

2. SRAG - have indicated that their understanding of the term Marshals means Orange Order Marshals, i.e. members of the respective lodges.

I would refer you to the 11/1 on this matter.

It is of critical importance that there is a clear shared understanding of your interpretation on this point.”

The Parades Commission responded in writing to the District Commander on the same day. It stated:

“The Commission heard from the North and West Belfast Parades and Cultural Forum that they wished to see clarity in the determination on the issue of marshals and flags. In respect of marshals the Commission heard that there were issues last year about marshals being able to accompany the parade on that part of the route through Workman Avenue gates and the Forum sought the Commission’s agreement to marshals accompanying the parade at this part of the route.

In light of this the Commission decided to specify marshals in the list of those members of the parade permitted to process through the Workman Avenue gates, subject to the total not exceeding 50 persons. In reaching this decision the Commission was mindful that the parade organiser has specified a number of people as marshals in the Form 11/1 for this parade. The Commission did not specify the number of marshals, or the exact names of who would process this part of the route, rather the Commission has left this to the discretion of the parade organiser bearing in mind the overall restriction on numbers...”.

The PSNI sought advice from its Legal Services department on the legal interpretation of the Parades Commission’s letter. PSNI Legal Services stated that the Parades Commission letter indicated that for the purposes of paragraph A of the parade determination, only those marshals identified in the Form 11/1 submitted by the parade organiser were permitted to accompany that part of the parade through Workman Gate.

Later that same afternoon, ACC Urban informed the Secretariat of the Parades Commission by telephone of the PSNI Legal Services interpretation of the Parade Commission's letter. The Parades Commission Secretariat indicated that it was not in a position to either challenge or accept the PSNI's legal advice.

On this basis, the District Commander of 'A' District wrote to the parade and protest organisers respectively later that day (29th June 2007) informing them of the Parades Commission's response to his request for clarification of paragraph A of the parade determination. The District Commander stated:

"I am writing to you as I am now in receipt of a letter from the Parades Commission regarding my request to them for clarification on the issue of marshalling at the Whiterock Parade.

The Commission have stated:

"In light of this the Commission decided to specify marshals in the list of those **members of the parade** permitted to process through the Workman Avenue gates, subject to the total not exceeding 50 persons. In reaching this decision the Commission was mindful that the parade organiser **has specified a number of people as marshals in the Form 11/1** for this parade. [PSNI emphasis].

On the basis of this the police are interpreting this to mean that 'Marshals should be part of the parade and mentioned on the 11/1' and will police the determination accordingly.

...if you wish any further clarification you should raise this matter with the Parades Commission."

The District Commander and his senior command team met with Parades Forum representatives, including the parade organiser, again in the early evening of 29th June 2007. The Parades Forum contested the PSNI interpretation of the Parades Commission's letter and stated that they had received different legal advice on the point.

The District Commander and his senior command team also met with representatives of the Springfield Residents Action Group on

the evening of 29th June 2007 to discuss final arrangements regarding the protest the next day.

During the evening of 29th June, the Parades Commission received telephone representations from the Parades Forum regarding its interpretation of the term 'marshals' in the parade determination. It was also in telephone contact with the Springfield Residents Action Group and PSNI ACC Urban. The Parades Commission maintained its position regarding its interpretation of the term 'marshals' and issued no additional statement or clarification in relation to the term.

Events on the day

On the day of the parade itself, we observed the deployment of the police along the Springfield Road in the early afternoon and attended the Silver Command room from 2.30pm. The parade commenced without incident. At about 3.30pm, the main Whiterock parade approached Workman Gate. The head of the main parade proceeded past Workman Gate along Woodvale Avenue and entered the Invest Northern Ireland site.

District officer-bearers of No. 9 District LOL, office-bearers and members of Whiterock Temperance LOL 974 and a number of men in orange bibs remained at Workman Gate. The PSNI Bronze Commander at Workman Gate came through the Gate to speak with the parade organiser. Five men in orange bibs approached the Bronze Commander. The Bronze Commander read the following statement to the parade organiser (following advice from PSNI Legal Services):

"In accordance with the determination of the Parades Commission issued in respect of this public procession, a total of 50 (fifty) persons, including marshals, are permitted to proceed through the Workman Avenue gates. District Master, please indicate the marshals who you intend to accompany the parade as it proceeds through the gates."

An exchange continued for several minutes. The Bronze Commander informed the parade organiser that the Parades

Commission determination only permitted those marshals notified on the Form 11/1 to proceed through Workman Gate with the parade. The Bronze Commander then read again from his prepared statement:

“Are these the persons you intend to accompany the parade as official Orange Order marshals as it proceeds through the gates? I must remind you that you shall be responsible for any breaches of the determination of the Parades Commission.”

The Bronze Commander then returned to the Springfield Road side of Workman Gate. At 3.39pm, Workman Gate was opened. The five men in orange bibs stepped forward towards the Springfield Road. They then removed their bibs and stepped to the side of the parade, passing the orange bibs to five members of the parade who put on the orange bibs and proceeded to accompany the parade of district officers of Whiterock District No. 9 and office-bearers and members of Whiterock Temperance LOL 974 through Workman Gate onto the Springfield Road. At 3.41pm, Workman Gate was closed behind the parade. The parade proceeded along the Springfield Road to join the main parade.

As the main parade proceeded through the Invest Northern Ireland site onto the Springfield Road, the 50 strong parade from Workman Gate rejoined it. The remainder of the parade passed off without incident.

Observations

We are concerned about the significant delay in addressing the uncertainty around the definition and use of the term ‘marshals’ in the Parades Commission’s determination for the Whiterock parade. Despite requests being made by the PSNI as early as 20th June 2007 - some ten days before the Whiterock parade - it was not until the 29th June, less than 24 hours before the commencement of the parade, that the Parades Commission provided clarity around the term, following a formal written request by the PSNI. Even at this point, the Parades Commission’s written response to the PSNI was not sufficiently clear to allow PSNI senior commanders responsible for planning the policing operation to rely on it without first seeking advice as to its correct legal interpretation from PSNI Legal Services.

This causes us serious concern. It is the Parades Commission alone that has the power under the Public Processions (Northern Ireland) Act 1998 as amended to impose conditions on those taking part in public processions and parade-related protests. Determinations issued by the Parades Commission are legally binding. Where any ambiguity, uncertainty or error in the determination becomes apparent, it is imperative that it is clarified or corrected as soon as possible. This is to ensure that all parties affected by the determination, particularly parade organisers, protest organisers and the PSNI are aware of the legal scope of the determination and what constitutes lawful or unlawful conduct under it. This inevitably impacts on the planning of the policing operation for such events.

In the circumstances, we consider that it was entirely appropriate for the PSNI to take advice from its Legal Services department on the legal interpretation of the Parades Commission's letter, which it was duty bound to follow. Further, in our opinion, the PSNI's legal advice cannot be criticised as incorrect.

We consider that it is critical for the PSNI and the Parades Commission to work together to ensure that all ambiguities, uncertainties or errors in determinations are identified and remedied as soon as they become apparent and appropriate clarification and/or correction provided to all interested parties. This will provide legal certainty and ensure that both parade and protest organisers understand the correct interpretation of the terms of the Parades Commission's determinations. It will also allow the PSNI to work with parade and protest organisers more effectively to plan appropriate and proportionate policing operations for parades and protests.

We understand that ACC Urban and the District Commander of 'A' District will meet with the Parades Commission for a formal debrief of the Whiterock parade 2007 in the coming weeks. We will provide a full report to the Policing Board on the outcome of this debrief in due course.

Ardoyne Parades 12th July 2007

As part of the 12th July parade, the Earl of Erne LOL 647, Ligoniel True Blues LOL 1932, Ballysillan LOL 1891, LOL 1970 and Ulster Volunteers LOL 1216 submitted form 11/1

notifications to the Parades Commission for subsidiary parades to pass the Ardoyne shop fronts on the morning of 12th July on their outward route to join the main 12th July parade. The organisers indicated that the numbers of participants expected to take part in the subsidiary parades in the morning were 50, 80, 15-20, 22 and 39 respectively. The Earl of Erne LOL 647 and Ligoniel True Blues LOL 1932 each indicated that one band would accompany them. All the lodges indicated that a number of marshals would be in attendance.²⁶ The Earl of Erne LOL 647, Ligoniel True Blues LOL 1932 and Ballysillan LOL 1891 each also indicated on their respective notifications that they would pass the Ardoyne shop fronts on their return route in the evening.

On 29th June 2007, the Ardoyne Parades Dialogue Group notified a parade-related protest on identified parts of both sides of the Crumlin Road, time-linked to the outward and returning parades. The organisers indicated that 100 participants would take part in the protest on the Crumlin Road and listed the names of nine formally trained marshals who would be in attendance.

Parades Commission determinations

The Parades Commission issued determinations relating to the notified parades on 5th July 2007. The following conditions were imposed on the outward morning parades:

“A. On the morning outward parade, the Earl of Erne LOL 647 shall join together with Ligoniel True Blues LOL 1932, Ballysillan LOL 1891, LOL 1970 and Ulster Volunteers LOL 1216. The five lodges shall then proceed together along the Crumlin Road and the Woodvale Road before each proceeds to its notified point.”

Supporters were allowed to accompany the outward morning parade on foot within the body of the parade. No music other than a single drum beat was to be played from the junction of Crumlin Road and Hesketh Rod and the junction of Woodvale Parade and Woodvale Road.

The Parades Commission also imposed conditions on the return evening parades. The three returning lodges (the Earl of Erne LOL 647, Ligoniel True Blues LOL 1932 and Ballysillan

26. The majority of the marshals listed were recorded as having completed either an NVQ training course or the North and West Belfast Parades and Cultural Forum's marshalling course.

LOL 1891) were required, along with the two notified bands, to proceed together along Woodvale Road and Crumlin Road before then proceeding to their respective notified dispersal points. In addition:

“C. On the return evening parade, supporters will not accompany the parade on foot between the junction of Woodvale Road and Woodvale Parade and the junction of Crumlin Road and Hesketh Road. Supporters may instead proceed along that section of the route by bus, immediately preceding the main parade”

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. 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 9.00pm.

The Parades Commission determinations included a new paragraph specifically dealing with marshals:

“M. The parade organiser shall arrange for the presence of an adequate number of stewards to ensure that all parade participants act in an orderly manner. The Commission does not limit the number of stewards to individuals named as marshals on the 11/1 as the Commission acknowledges that there may be a need to review that number in advance of any parading event in the interests of securing public safety at any parading event. However, the Commission states that all stewards must be identified by way of an armband, vest, or other publicly visible and discernible device, and that all stewards satisfy the parade organiser of their capability and awareness of the need to carry out their functions in a competent manner. It is the responsibility of the parade organiser to engage stewards who can deliver the standards of stewarding necessary to ensure public safety.”

The Parades Commission issued no determination in respect of the morning protest. It did however issue a determination in respect of the evening protest. The protest was allowed to take

place between 565 Crumlin Road and the adjacent 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.

The morning parades

We attended the Silver Command room from 7am on the morning of the 12th July to observe the policing operation for the outward parades. By 8.35am, all the lodges and bands had arrived at the junction of Hesketh Road and Crumlin Road. At 8.38am, the parades proceeded down the Crumlin Road past the Ardoyne shop fronts, accompanied by about 100 supporters within the body of the parade. A large number of stewards wearing orange bibs escorted the parades down the Crumlin Road. A small number of neighbourhood police officers and the Bronze Commander (Ardoyne), wearing high visibility jackets walked the parades down the Crumlin Road past the Ardoyne shop fronts. No music was played. Approximately 30 protesters were present. At 8.49am, the lodges, bands and supporters were clear of the Ardoyne shop fronts.

The return evening parades

We attended the Silver Command room from 5pm on the evening of the 12th July to observe the policing operation for the return parades. By 7.09pm, protesters were gathering at the Ardoyne shop fronts. At 7.18pm, a number of men wearing orange bibs had gathered on the Woodvale Road. Soon after, the parades and supporters arrived at the junction of Woodvale Road and Woodvale Parade. At 7.20pm, buses arrived at Woodvale Road to transport the supporters past the Ardoyne shop fronts in accordance with the Parades Commission determination. At around 7.22pm, the supporters were getting on the buses. At 7.25pm, the buses were ready to move. At 7.28pm, the lodges and bands formed up. At about 7.35pm, the buses carrying the supporters began to move up the Crumlin Road, past the Ardoyne shop fronts. The parades proceeded along the Woodvale Road and up the Crumlin Road, escorted by stewards wearing orange bibs.

27. The organiser of Whiterock Temperance LOL 974 identified three marshals, the organiser of West Belfast LOL 739 identified two.

28. NVQ Course.

A number of parade supporters had by this time gathered at the top of Twaddell Avenue. A very large crowd of supporters had gathered at the junction of Crumlin Road and Hesketh Road. A large number of these supporters subsequently moved down the Crumlin Road to meet the oncoming buses carrying the supporters. At 7.37pm, the buses arrived at the junction of Crumlin Road and Hesketh Road.

By 7.40pm, the head of the parade had passed the Ardoyne shop fronts. The parade was escorted by a small number of neighbourhood police officers and the Bronze Commander (Ardoyne), wearing high visibility jackets. At 7.43pm, a firework exploded at Mountainview as the tail of the parade proceeded past. A small number of missiles were thrown at the parade. As the parade approached the junction of Crumlin Road and Hesketh Road, protesters moved across the Crumlin Road but by 7.53pm, the protesters were beginning to disperse. At about 7.56pm, the parades moved off from the junction of Crumlin Road and Hesketh Road and the supporters began to disperse.

By 8.10pm, a large crowd of about 200 protesters were moving between the Ardoyne shop fronts and the junction of Crumlin Road and Brompton Park. A fairly large number of parade supporters remained at the top of Twaddell Avenue. At 8.47pm, the PSNI moved a unit across the top of Twaddell Avenue but by about 9.12pm, the two crowds at Twaddell Avenue and Brompton Park had in large part dispersed.

Springfield Road Parades 12th July 2007

On 29th May 2007, Whiterock Temperance LOL 974 gave notice of an intention to “join and return from the Boyne Celebrations” on 12th July 2007. On 14th June 2007, West Belfast LOL 739 gave notice of an intention to “join the Boyne Celebrations” on 12th July 2007. The organisers indicated that the anticipated number of participants (including band members) in the parades was 45 and 50 respectively, with one band accompanying West Belfast LOL 739. The two organisers listed the names of marshals²⁷ with formal training²⁸ who would be in attendance. The notified route for the parades was from Whiterock Orange Hall via the Springfield Road to West Belfast Orange Hall on the Shankill Road.

On 26th June 2007, the Springfield Residents Action Group notified a protest on identified parts of the Springfield Road in response to the parade notifications. The organiser indicated that 150 participants were anticipated and listed the names of nine marshals who would be in attendance.

Parades Commission determinations

The Parades Commission issued determinations in relation to the parades and the protest notifications. The Parades Commission issued its determination in relation to the parade on 4th July 2007. It placed a number of conditions on the organiser and participants of the parade. These included the condition that on the parade's outward route, supporters were prohibited from taking part in the parade between the junction of the West Circular Road and Springfield Road and the junction of Springfield Road and Workman Avenue. On its return route, the parade was prohibited from entering that part of the notified route between the junction of Workman Avenue and Springfield Road and the junction of Springfield Road and West Circular Road.

The determination included the new paragraph dealing with stewards:

"E. The parade organiser shall arrange for the presence of an adequate number of stewards to ensure that all parade participants act in an orderly manner. The Commission does not limit the number of stewards to individuals named as marshals on the 11/1 as the Commission acknowledges that there may be a need to review that number in advance of any parading event in the interests of securing public safety at any parading event. However, the Commission states that all stewards must be identified by way of an armband, vest, or other publicly visible and discernible device, and that all stewards satisfy the parade organiser of their capability and awareness of the need to carry out their functions in a competent manner. It is the responsibility of the parade organiser to engage stewards who can deliver the standards of stewarding necessary to ensure public safety."

The Parades Commission issued a determination in relation to the protest on 5th July 2007. It placed a number of conditions

29. ETCFHE Certificated.

30. At p.138.

on the organiser and participants of the protest. The protest was permitted to take place as notified as far as the junction of Isadore Avenue and the Springfield Road but was prohibited from going beyond this point in the direction of the West Circular Road roundabout. The protest was confined to the footpaths on both sides of the road and was prohibited from the carriageway. The protest determination also included the same paragraph dealing with stewards.

Additional protest notifications

On 6th July, the Interface Residents Group and the Highfield and Springfield Residents both notified protests against the Springfield Residents Action Group notified protest. The purpose of the protests was to “protest against threats and intimidation of Protestants”. The organiser of the Interface Residents Group notified the location of its protest as the junction of Workman Avenue/Springfield Road to the junction of Springfield Road/ Invest Northern Ireland site. The organiser of the Highfield and Springfield Residents notified the location of its protest as the junction of West Circular Road/Springfield Road to the junction of Springfield Road/ Invest Northern Ireland site. Both organisers indicated an anticipated number of 100 participants for each protest, with marshals²⁹ supplied by the North and West Belfast Parades and Cultural Forum.

The Parades Commission issued determinations in relation to both notified protests. It placed a number of conditions on the organiser and participants of both protests.

The Interface Residents Group protest was permitted to take place on the traffic island on the Invest Northern Ireland service road. The protest was prohibited from encroaching onto the carriageway. The total number of participants, including marshals and/or stewards was not permitted to exceed 10 and the protest was required to disperse immediately after the parade has passed the determined protest location. The determination again included the new paragraph set out above³⁰ dealing with stewards.

The Highfield and Springfield Residents protest was permitted to take place:

“on the footway on the north side of the Springfield Road between the junction of West Circular Road and the Springfield Road and to a point 10 metres west of the junction of Isadore Avenue and Springfield Road.”

The total number of participants, including marshals and/or stewards was not permitted to exceed 100 and the protest was required to disperse in the direction of West Circular Road immediately after the parade has passed the determined protest location. The determination again included the new paragraph set out above dealing with stewards.

Events on the day

By 8.52am, the Interface Residents Group protest (comprising 10 participants) had gathered on the traffic island on the Invest Northern Ireland service road. About 30 men in orange bibs were present outside West Belfast Orange Hall. By 9.12am, participants of the Highfield and Springfield Residents protest began to gather on the Springfield Road at the designated location defined in the Parades Commission determination. About 150 participants of the Springfield Residents Action Group protest had by then also gathered on their designated parts of the Springfield Road. A number of international observers were also in attendance. By 9.33am, between 80-90 participants of the Highfield and Springfield Residents protest had gathered on the Springfield Road. Police officers wearing high visibility jackets were located at intervals along the Springfield Road in proximity to the various protests. At 9.38am, the parade proceeded up the Springfield Road past the Invest Northern Ireland site accompanied by a significant number of marshals wearing orange bibs. A small number of police officers wearing high visibility jackets escorted the parade as it moved up the Springfield Road. The Highfield and Springfield Residents protesters began to disperse in accordance with the Parades Commission determination. At 9.39am, the parade turned off the Springfield Road and proceeded through Workman Gate.

At 9.40am, the Springfield Residents Action Group protesters standing on the Workman Gate side of the Springfield Road crossed over the road to join the rest of the protest participants. At 9.42am, the Interface Residents Group protesters dispersed

31. The first relating to the Interface Residents Group notified protest and the second, the Highfield and Springfield Residents notified protest.

in accordance with the Parades Commission determination, moving up the Workman Gate side of the Springfield Road and through Workman Gate. The Gate was closed behind the Interface Residents Group protesters.

Observations

As noted above, the Parades Commission's inserted a new paragraph in its determinations specifically dealing with marshals/stewards. The Parades Commission states that it does not limit the number of stewards to individuals named as marshals on the 11/1 (parades notification) or 11/3 (protest notification). It also acknowledges that there may be a need to review the number of marshals/stewards in advance of any parade or protest in the interests of securing public safety. This is intended to give both parade and protest organisers wide discretion in their decisions about the number and identity of marshals and/or stewards.

Whether this fully addresses the concerns of all parties about the identities of marshals and stewards remains to be seen.

In a number of its determinations for the 12th July,³¹ the Parades Commission imposed a limit on the *total* number of participants, including marshals and/or stewards within this permitted maximum number. In some cases, this may be useful approach. It provides guidance to parade and protest organisers without unduly restricting their decisions about the numbers of marshals and/or stewards that they consider necessary in the interests of public safety. At the same time, it provides certainty about the total number of persons permitted to participate in parades and protests. This is important not only for parade and protest organisers, but for the planning of the policing operation for the event.

Again, we understand that ACC Urban and the District Commander of 'A' District will meet with the Parades Commission for a formal debrief of the 2007 parades in the coming weeks. We will provide a full report to the Policing Board on the outcome of this debrief in due course.

Findings and recommendations 2007

As was the case for 2004, 2005 and 2006, we were given unrestricted access by the PSNI to all strategic and planning meetings and documents for the parades 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.

It is important to highlight again this year that we only seek in this report to make general findings on the human rights compliance of the policing operations we monitored in 2007. 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. Against that background, in respect of the Whiterock parade on 30th June and the 12th July Ardoyne parades and Springfield Road 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 processes. 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 in the days leading up to the parades and on the day of the parades themselves with diligence and proportionality.

Against this background, we make no recommendations in relation to the policing of the Whiterock parade on 30th June 2007, the 12th July 2007 Ardoyne parades or the 12th July 2007 Springfield Road parade.

32. 2006 Annual Report, chapter 7, p.64.

33. Police Ombudsman for Northern Ireland, *Police Identification in Northern Ireland: A Report under Section 60A of the Police (Northern Ireland) Act 1998*, March 2006.

34. Paper to the Community and Human Rights Committee of the Policing Board, 8th February 2007.

35. Special Report on the Ardoyne and Whiterock Parades 2005, Recommendation 6, p.61.

36. Letter from PSNI Media and Public Relations department to Policing Board's human rights advisors dated 24th April 2007.

POLICE IDENTIFICATION

In our 2006 Annual Report,³² we reported on the Police Ombudsman's review of police identification in Northern Ireland.³³ We indicated that the PSNI had taken steps to implement the recommendations arising from the Police Ombudsman's report. In February 2007, the PSNI updated the Community and Human Rights Committee of the Board on its implementation of the Police Ombudsman's recommendations. The PSNI reported that, following a review of its policy on police name badges, it had developed a new information badge for use by officers who cannot display their name for security reasons and also added officers' numbers to the epaulette of officers' uniforms and officers' name badges. The PSNI has commissioned the Royal National Institute for the Blind to review the quality and clarity of the name badge. Work is ongoing to implement the remainder of the Police Ombudsman's recommendations, including providing visible and unique identifiers for police vehicles and promoting the increased use of business cards by officers.³⁴

RELEASE OF VIDEO FOOTAGE

In our Special Report on the Ardoyne and Whiterock Parades 2005, we recommended that the PSNI should consider making some of its video footage of parades and other public order events publicly available.³⁵ In response, the PSNI indicated that the publication of video footage would become part of its media strategy in relation to parades. In 2006, following the effective release of CCTV footage of the parades in 2005 and our recommendation, the PSNI included the option of releasing CCTV footage of disturbances to the media in all strategic Gold meetings on public order events. The PSNI Gold Strategy document for Public Order Operations (2007) has been amended to reflect this development.³⁶ Where disturbances occur, a senior press officer is given early access to video footage and makes an assessment, in conjunction with the Gold Commander and senior investigating officer, as to whether it is necessary and appropriate to release the footage. Where the decision is to release the footage, PSNI Photography department transfer it into an accessible format and, where necessary, pixilate individual faces to hide identity. Prior to receiving the information, any section of the media must sign an indemnity form, which seeks to ensure

that the use of video footage complies with human rights law and practice and will not prejudice subsequent judicial proceedings.³⁷ The PSNI also considers releasing still CCTV pictures of offenders to newspapers.³⁸

We are satisfied with the progress that has been made on this issue. We therefore consider this recommendation made in our Special Report on the Ardoyne and Whiterock Parades 2005 to be implemented in full. It is our intention to review the release and use of video footage in next year's annual report.

In the process of compiling our Special Report on the Ardoyne and Whiterock Parades 2005, we observed two pieces of video footage that caused us concern. One piece of footage related to an individual being approached by police officers at speed and struck on the legs with a baton. The other piece of footage appeared to show an individual being struck and kicked by police officers. We recommended that both pieces of footage should be studied by the Chief Constable.³⁹ In our 2006 Annual Report, we reported that the Deputy Chief Constable had studied the tapes of both incidents and passed them to the Police Ombudsman for investigation.⁴⁰ In April 2007, the Police Ombudsman indicated to us that investigations were being conducted into both incidents, not only due to the Deputy Chief Constable's referral of the video footage, but also in response to complaints from members of the public. Both cases were referred to the Public Prosecution Service (PPS). In the first case, the PPS directed no prosecution. The police officer in the second case is currently being prosecuted for common assault.⁴¹ We are satisfied with the progress made on this matter. We consider this recommendation of our Special Report on the Ardyone and Whiterock Parades 2005 to be implemented in full. We will report further in due course and consider whether any additional recommendations are necessary when the relevant proceedings have been completed.

37. The PSNI human rights legal adviser inputted into the creation of the form.

38. This will only be done in conjunction with the Senior Investigating Officer, a Senior Press Officer and a Legal Adviser after all police enquiries to identify the suspects have been exhausted. The media is required to sign an indemnity form and agree to restrict publication to one occasion to ensure subsequent judicial proceedings are not prejudiced.

39. Special Report on the Ardoyne and Whiterock Parades 2005, Recommendations 4 and 5, p.61.

40. 2006 Annual Report, chapter 7, p.64.

41. Letter from Police Ombudsman's office to Policing Board's human rights advisors dated 17th April 2007.

Chapter 8: USE OF FORCE

Police officers have statutory powers which include the authority to use force in specified circumstances. The regularities of the use of force by police officers raises fundamental human rights issues. It is critical that the PSNI has in place clear policies to guide officers in the use of force and effective internal procedures for monitoring and reviewing all uses of force.

08

AUDIT OF PSNI POLICIES ON THE USE OF FORCE

PSNI Policy on public order and the use of force

In our 2006 Annual Report, we recommended that 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.¹

In its Human Rights Programme of Action 2006-2007, the PSNI accepted our recommendation. It has recently issued a Policy Directive on Public Order and Police Use of Force (the Use of Force Policy Directive).² The Use of Force Policy Directive is “the principal reference on which all applications of force [by police officers] are based.” It is designed to provide a summary of the legal rules governing the use of force and to provide practical guidance to officers so that they are aware of their rights and responsibilities when using, or considering the use of force.

The Use of Force Policy Directive consolidates nine PSNI policies which have been or will be cancelled.³ The PSNI has decided not to include its policy on AEPs in the new Use of Force Policy Directive because it considers it to be more relevant to the use of firearms. The PSNI therefore intends to integrate its AEP policy into its new Policy Directive on the police use of firearms which is at an advanced stage of drafting. Both Policy Directives will cross refer to each other.⁴ We are satisfied with the PSNI’s response to Recommendation 24 of our 2006 Annual Report, which we consider to be implemented in full.

In our 2006 Annual Report, we recommended that the PSNI human rights legal adviser should review the legal basis section of the Use of Force Policy Directive to ensure clear and straightforward guidance is available to officers.⁵ In its Human Rights Programme of Action 2006-2007, the PSNI accepted our recommendation.⁶ Amendments to this section have been made by the PSNI human rights legal adviser and meet the concerns we had in relation to this section of the draft Policy Directive. We therefore consider Recommendation 25 of our 2006 Annual Report to be implemented in full.

In our 2006 Annual Report, we recommended that the PSNI should review and revise its Use of Force Policy 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 its General Order on Post-Incident Procedures).⁷

In its Human Rights Programme of Action 2006-2007, the PSNI indicated that it had accepted and met this recommendation.⁸

1. 2006 Annual Report, Recommendation 24, p.161.

2. PSNI Policy Directive PD 07/07, Public Order and the Use of Force (including CS Incapacitant Spray, Batons, Handcuffs and Vehicle Mounted Water Cannon), 8th June 2007.

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.

4. PSNI’s Human Rights Programme of Action 2006-2007, p.19.

5. 2005 Annual Report, Recommendation 37(a)(ii), p.171 and 2006 Annual Report, Recommendation 25, p.161.

6. PSNI’s Human Rights Programme of Action 2006-2007, p.19.

7. 2006 Annual Report, Recommendation 26, p.161.

8. PSNI’s Human Rights Programme of Action 2006-2007, p.19.

The Use of Force Policy Directive now includes a section on investigations. This section cross-refers to the PSNI General Order on Post Incident Procedures. We therefore consider Recommendation 37(a)(ii) of our 2005 Annual Report and Recommendation 26 of our 2006 Annual Report to be implemented in full.

In our 2006 Annual Report, we reported that a number of recommendations from our 2005 Annual Report in relation to various policies concerning the use of force remained outstanding. Specifically in our 2005 Annual Report, we recommended that the PSNI should make a number of changes to its policies on public order, including the policy on the use of force, use of firearms, firearms tactical advisers and post-incident procedures following discharge of firearms by police.⁹ In its Human Rights Programme of Action 2006-2007, the PSNI indicated that it has made the necessary amendments to its policies.¹⁰ We set out our analysis of the respective policies below.

PSNI Policy on firearms tactical advisers

In September 2006, the PSNI issued its revised policy on firearms tactical advisers. As we recommended in our 2005 Annual Report,¹¹ the revised policy now outlines the relevant human rights standards, including Articles 2 and 3 of the European Convention on Human Rights, and refers to the decision of the European Court of Human Rights in *McCann v. UK* (1995) 21 EHRR 97. In compliance with our recommendation, the new policy also cross refers to the Public Order Tactical Advisers policy and includes a review date of 12 months after publication.¹² We consider Recommendation 37(c) of our 2005 Annual Report to be implemented in full.

PSNI Policy on post-incident procedures

In April 2006, the PSNI issued its policy on post incident procedures following the discharge of firearms and the deployment of post incident managers.¹³ The policy provides guidance on the creation of Post Incident Management Teams, introduced in accordance with the ACPO Manual of Guidance on Police Use of Firearms. The role of the post incident manager is to act as an interface between principal officers most directly involved in the incident, investigating officers and other officers.

9. 2005 Annual Report, Recommendation 37 (b), (c) and (h), p.171.

10. PSNI's Human Rights Programme of Action 2006-2007, p.28.

11. 2005 Annual Report, Recommendation 37(c), p.171.

12. General Order No:38/2006 Firearms Tactical Advisers.

13. Policy Directive PD: 03/06 Post incident procedure deployment of post incident managers - discharge of firearms.

14. 2005 Annual Report, Recommendation 37(h), p.171.

15. *Application by Marshall Taggart for judicial review* [2003] NIQB 2.

The post incident manager facilitates the investigation of the incident, while ensuring that the principal officer's welfare is upheld. The PSNI's policy refers to the need to maintain a balance between providing psychological support to the officers involved and the effective progression of the investigation, referring to Article 2 of the European Convention on Human Rights. The policy also refers to the need to ensure that any interference with Article 8 rights is only to the extent necessary to facilitate the investigation. The PSNI human rights legal adviser was consulted in the drafting of the policy. The policy cross - refers to PSNI policies on human rights and police use of force and firearms, AEPs and critical incidents and Article 4 of the Code of Ethics.

In our 2005 Annual Report, we recommended that the PSNI's policy should set out explicitly the requirements of investigations into deaths, should 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) and should set out the rights of police officers who are the subject of investigation following a death.¹⁴

The PSNI's policy provides guidance on the requirements of investigations into deaths, including the need to secure the scene immediately and to preserve the integrity of evidence. The actual investigation is carried out by the Police Ombudsman. However, where there is a supplementary criminal matter to be investigated by the police, the policy states that the agency investigating the most serious allegation should take the lead in respect of forensic support, crime scene management and access to witnesses and suspects. The PSNI senior investigating officer must liaise closely with the Police Ombudsman's investigators and follow established protocols throughout the investigation of the incident. The PSNI's policy requires that independent witnesses are identified in the period immediately following the incident and states that consideration should be given to the community impact of the incident. The policy gives guidance on the implications of the *Taggart* decision¹⁵ and the application of Article 6 of the European Convention on Human Rights to the requirement that officers make adequate notebook entries. The appendices to the policy include guidance on what factors

the Police Ombudsman's investigation would consider and the roles and responsibilities of officers following the discharge of police firearms.¹⁶

With regard to references to victims and the victim's family, whilst the policy explicitly states that its focus is on the needs of the investigation and those of police officers, guidance on the needs of witnesses and victims is provided in other PSNI policy documents. However, the policy does not explicitly reference the PSNI's policy on victims and witnesses.

Finally, in respect of the rights of officers, the PSNI's policy requires that officers are reminded of their right to legal advice and provides guidance on how legal advice should be secured through the Police Federation and Superintendents' Association. The policy differentiates between 'category A' cases involving a death or serious injury, which require an officer to seek legal advice, and less serious 'category B' cases where, depending on the circumstances, the officer may decide to seek legal advice. The policy requires that the principal officer is medically examined and provided with welfare support. The policy outlines procedures for ensuring the officer's anonymity, although indicating that anonymity cannot be assured if a case goes to court. The policy also refers to the need to ensure the immediate security of the officer and his or her family and requires that consideration be given to redeploying the officer from operational duties.¹⁷

Against this background we consider that the new policy on post incident procedures implements Recommendation 37(h) of our 2005 Annual Report in full.

PSNI Policy on use of firearms

In our 2005 Annual Report, we noted that the PSNI policy on use of firearms was comprehensive and clear and a model of its kind. However, we recommended that the PSNI should amend its policy on police use of firearms to cross-refer to the Code of Ethics, particularly Article 4, and insert a review date into the policy.¹⁸ The PSNI indicated that the recommendation would be incorporated into work to progress the recommendations arising out of the HMIC Review of PSNI use of firearms and that this work would be complete by March 2007. In our 2006 Annual

16. Including the principal officer, bronze, silver and gold commanders, ACPO officer, post incident manager and police senior investigating officer.

17. In assessing whether the officer should be redeployed consideration should be given to the nature of the incident, the extent of the officer's involvement, assessment by other parties, views of line managers and PSNI Occupational Health and Welfare and the wishes of the officer.

18. 2005 Annual Report, Recommendation 37(b), p.171.

19. 2006 Annual Report, p.75.

20. PSNI's Human Rights Programme of Action 2006-2007, p.28.

21. Update from PSNI human rights legal adviser, 1st August 2007.

22. 2006 Annual Report, Recommendation 27, p.161.

23. PSNI's Human Rights Programme of Action 2006-2007, p.19.

24. Letter from ACC Operational Support to the Chairman of the Policing Board dated 29th January 2007.

Report, we urged the PSNI to move forward with this work as a matter of priority.¹⁹ In its Human Rights Programme of Action 2006-2007, the PSNI indicated that the necessary amendments had been made to its policy on human rights and police use of firearms.²⁰

Our audit of PSNI policy this year indicated that its policy on the use of firearms has not been revised or updated since its introduction in November 2001. Contrary to the PSNI's indication, therefore, the PSNI has not amended its policy to reflect our recommendation. We are aware, however, that the PSNI is drafting a consolidated overarching Policy Directive on the use of firearms that will include policies on firearms and AEPs, and that drafting of this Directive is at an advanced stage.²¹ We recommend that the PSNI ensure the amendments we previously recommended are included in this new policy. We will review this new Policy Directive to ensure that the amendments we recommended are included once the Policy Directive is issued, and report further in next year's annual report. We therefore regret that Recommendation 37(b) of our 2005 Annual Report remains outstanding.

PSNI Policy on deployment and use of AEP impact rounds

In our 2006 Annual Report, we recommended that 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.²² In its Human Rights Programme of Action 2006-2007, the PSNI indicated that it would conduct further research on the matter.²³ In January 2007, we received a letter from ACC Operational Support indicating that the PSNI had accepted our recommendation to consider the Joint Committee's recommendation. Following consideration, the PSNI has decided to continue to adhere to current ACPO guidance on the test for use of AEPs. The PSNI justified its decision on the basis that to adopt the Joint Committee's recommendation and restrict use of AEPs to circumstances where live fire could be used would limit AEP usage so severely as to potentially endanger the lives of police officers and members of the public.²⁴ We accept the PSNI's justification. Against this background, we

consider Recommendation 27 of our 2006 Annual Report to be implemented in full.

25. Issued on
27th January 2006.

Amendments to PSNI AEP Policy

In March 2005, the Board considered the PSNI case for the introduction of AEPs. The Policing Board elected to endorse the Chief Constable's decision to introduce AEPs to PSNI officers, subject to the Chief Constable demonstrating that he had fully consulted with relevant bodies, including the Children's Commissioner (NICCY).

An exchange of correspondence between PSNI and NICCY between September 2005 and February 2006 failed to resolve the issues in dispute. In March 2006, the Policing Board's Human Rights and Professional Standards Committee considered a statement from the Derry District Policing Partnership²⁵ asking the Policing Board to carry out a Child Impact Assessment on the use of AEPs. The Committee requested an update from PSNI and NICCY separately on the meetings they had held in this regard. The key issues of dispute are summarised below.

Position of the Children's Commissioner:

- NICCY considers that AEPs should not be used against children.
- NICCY considers that specific warnings about the use of AEPs in the presence of children should be made.
- Medical evidence on the impact of AEPs on children is still required.
- PSNI should routinely monitor the number of children and young people injured by AEPs, as required in Appendix G of the ACPO AEP guidance.

Position of the PSNI:

- The PSNI guidelines on the use of AEPs, which mirror ACPO guidelines, state that "every effort should be made to exclude the use of firearms especially against children ..." and "...every effort should be made to ensure that children are not put at risk by the firing of an AEP. This is particularly

26. A research report by Dr Kevin Maguire et al, *Injuries caused by the Attenuated Energy Projectile: The Latest Less Lethal Option*, considers the medical injuries associated with the use of AEP. It has been considered both by the Community and Human Rights Committee and the NIO led UK Steering Group examining alternative policing approaches to the management of conflict. PSNI, in attendance with representatives from the Northern Ireland Office, the Defence Science Technology Laboratory and the ACPO special advisor, met with Dr Maguire to discuss his report in April 2007. Members of the Board's Community & Human Rights Committee received an update on the outcome of this meeting.

27. The Defence Scientific Advisory Council Sub-Committee on the medical implications of less lethal weapons.

relevant in public order situations where children may be amongst a crowd and be placed in danger should an AEP miss its intended target”.

- PSNI has stated that it is unaware of any serious injury to any child caused by the firing of the 282 AEPs between July and September 2005.
- PONI received only two complaints about the discharge of AEPs during the public order disturbances at Ardoyne and Whiterock in 2005.
- PSNI has received (and copied to the Policing Board) legal advice which states that the use of AEPs against children cannot ever be completely ruled out as a blanket prohibition.
- PSNI contends that it can be difficult in some circumstances to identify children in a rioting crowd. PSNI advises that ACPO are aware of the type of public order situations in which AEPs are used in Northern Ireland, which differs from the rest of the UK, and accept that, in such circumstances, only general monitoring information can be gathered.

In June 2006, NICCY wrote directly to the Policing Board setting out its concerns. The issue was re-considered by the Board's then Community and Human Rights Committee in May and August 2006. The Committee subsequently decided to convene a meeting in November 2006 with representatives from NICCY, PSNI, the NIO and the Policing Board. We also attended as the Policing Board's human rights advisors. During the meeting, PSNI invited NICCY to attend and observe AEP training. This was facilitated in January 2007. The potential publication of a medical report on injuries caused by AEPs²⁶ was noted. The NIO representative reported that DOMILL²⁷ was considering commissioning further research on the impact of the use of AEPs on children. The PSNI agreed to amend its AEP policy to include more specific references to children and young people. The policy was subsequently amended and re-issued in December 2006.

The Policing Board convened a follow up meeting in June 2007. Again, representatives of NICCY, the NIO, the PSNI and the Policing Board attended that meeting. We were also present as the Policing Board's human rights advisors. NICCY stated

that it had attended part of the PSNI training on AEPs.²⁸ NICCY considered that the training did not pay sufficient attention to the impact of the use of AEPs on the rights of the child. It remained of the view that there is insufficient medical evidence to prove that AEPs are less lethal when used against a child. NICCY therefore remained dissatisfied with the amended PSNI AEP policy. It does not consider that the AEP policy is sufficiently robust in its emphasis on the protection of children and young people.

The PSNI stated that the amended AEP policy reflects national and international guidance on the deployment and use of AEPs and exceeds national standards in relation to its instructions regarding children.

We have reviewed the PSNI's amended AEP policy. The policy includes specific reference to children and young people in the human rights and use of force section, the warnings section, the section on spontaneous outbreaks of serious public disorder, the section on records and also in the section on training.

In our 2003 Monitoring Framework, we recognised that the use of equipment such as AEPs, water cannons and CS spray "is not prohibited as such under the European Convention on Human Rights, but that strict guidelines are needed for its use."²⁹ We do not accept that the European Convention on Human Rights or the Human Rights Act 1998 requires, still less imposes, a blanket prohibition on the use of AEPs against children and young people. However, the younger the individual against whom an AEP is used, the stronger the justification for use will have to be. Moreover, below a certain age, it is difficult to envisage any circumstances when the use of AEPs will be justified.

We consider that the PSNI's policy on AEPs is strict. It explicitly requires that "every effort should be made to ensure that children or members of other vulnerable groups are not placed at risk by the firing of an AEP. This is particularly relevant in public order situations where such persons may be amongst a crowd and be placed in danger should an AEP miss its intended target". When making a decision to authorise the issue of AEPs, commanders are required to give consideration to the possibility that children

28. NICCY attended one day of the three-day initial AEP training course.

29. Policing Board, *Monitoring PSNI Compliance with the Human Rights Act 1998*, December 2003.

or members of other vulnerable groups may be present and to record in their logs the grounds for their decision to authorise issue, deploy and use AEPs.

It requires AEP system commanders to conduct a “dynamic risk assessment” regarding the presence of children and members of other vulnerable groups” at scenes of public disorder before authorising deployment and use of AEPs. In addition, the policy requires that “everything must be done” to ensure that those engaged in rioting, as well as onlookers and innocent bystanders “including, if known, children or members of other vulnerable groups” are made aware of the potential use of force if they choose to remain in the vicinity.

The policy instructs that AEPs should be fired at selected individuals and not indiscriminately at the crowd.

The policy provides that AEPs should be aimed to strike directly (i.e. without bouncing) and aimed at the belt buckle, thus militating against upper body hits. Unless there is a serious and immediate risk to life, which cannot otherwise be countered, use at less than one metre or aiming the weapon to strike a higher point of the body at any range is prohibited. In these circumstances the risk of serious and even fatal injuries is increased and the firer must be able to justify the increased use of force.

We consider that the amendments made by the PSNI to its AEP policy now mean that all officers authorising the issue, deployment and use of AEPs, and all officers using AEPs, are explicitly required to consider the presence of children or members of other vulnerable groups at scenes of public disorder before authorising or using AEPs.

However, we recommend that the PSNI should consider whether it should further amend its AEP policy to include guidelines that reflect the following:

“The younger the individual against whom an AEP is used, the stronger the justification for use will have to be. Moreover, below a certain age, it is difficult to envisage any circumstances when the use of AEPs will be justified.”

RECOMMENDATION 22:

The PSNI should consider whether it should further amend its AEP policy to include guidelines that reflect the following:

“The younger the individual against whom an AEP is used, the stronger the justification for use will have to be. Moreover, below a certain age, it is difficult to envisage any circumstances when the use of AEPs will be justified.”

30. Sporadic, spontaneous and pre-planned.

AEP INITIAL TRAINING

In April 2007, we attended various elements of an initial AEP training course run by Combined Operational Training at Steeple. The three day course includes lessons on PSNI service guidelines, human rights and the police use of force, a handling class and range practice, which includes a pre-qualification shoot, a qualification shoot and a tactical shoot. At the end of the course, officers complete an exam and a classification shoot in order to be awarded classification as an AEP gunner. Following initial classification, officers are required to attend refresher training twice annually.

The lesson on PSNI service guidelines includes instruction on the command structure for the deployment and use of AEPs. This is followed by guidance on restrictions that apply to AEP use, including target distance, points of aim and firing from vehicles. During the lesson, the trainer and officers discuss the test for the use of lethal force and the need for the officer to be able to justify his actions. The trainer then sets out the absolute necessity test, the need to give warnings and the requirement that other conventional methods of dispute resolution be attempted prior to resort to lethal force. The trainer discusses the different types of public order operations³⁰ and the command structure applicable to each. Finally, the trainer emphasises the need to accurately complete records of the use of AEPs.

The lesson on human rights and the use of force is delivered in day two of the course. The lesson refers to the standards required by the Criminal Law Act 1967, the Human Rights Act 1998 and the Police and Criminal Evidence (Northern Ireland) Order 1989, with detailed guidance given on both the Criminal Law Act 1967 and Article 2 of the European Convention on

31. Meeting between NICCY and Policing Board's human rights advisors on 17th April 2007.

Human Rights. In relation to Article 2, the training goes into detail on the test for lethal force and exceptions under Article 2(2). The trainer explicitly highlights the requirement that AEPs are to be used only against specific targets, rather than as a means of crowd control.

The trainer leads a discussion on appropriate levels of force, drawing on real examples of public order situations which have arisen in the Ardoyne and Whiterock parades in the last two to three years. The trainer refers officers to a number of European Court cases which have dealt with the use of lethal force, including *Stewart v. UK* (1984) and *McCann v. UK* (1995). The trainer refers to the UN Code of Conduct for Law Enforcement Officials, highlighting in particular Article 3(c) which discourages the use of firearms against children. This was the only reference made to children during the course of the lesson and the trainer failed to refer to the UN Convention on the Rights of the Child. The trainer failed to instruct officers that AEP system commanders are required to conduct dynamic risk assessments regarding the presence of children or members of other vulnerable groups at scenes of public disorder, and that officers must make detailed records in their notebooks of the grounds for their decision to fire AEPs.

We met with representatives of NICCY in April 2007. They expressed concerns about AEP initial training, indicating that from their observation of the training course, they did not consider that the particular vulnerabilities and rights of children and young people were given sufficient focus.³¹

We are concerned that the PSNI AEP training course fails either to expressly refer to the PSNI's new AEP policy or to incorporate explicit consideration of the rights of children and young people in this context. We therefore recommend that the PSNI review its AEP training course to refer expressly to the PSNI AEP policy and to incorporate explicit consideration of the rights of children and young people.

RECOMMENDATION 23:

The PSNI should review its AEP training course to refer expressly to the PSNI AEP policy and to incorporate explicit consideration of the rights of children and young people.

PSNI USE OF WATER CANNON

In our 2006 Annual Report, we recommended that 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.³² The PSNI accepted our recommendation. In its Human Rights Programme of Action 2006-2007, the PSNI indicated that it would meet our recommendation but report on an annual basis due to the infrequency of use of water cannon.³³

We met with PSNI Operational Support in March 2007 and agreed that the PSNI would submit a report on the use of water cannon to the Policing Board on a six-monthly basis, in September and March each year. Each report will contain information on the location, time and date of the incident, as well as a summary of events, the authority for deployment and use and details of any injuries sustained or any damage to property.³⁴ PSNI Operational Support subsequently wrote to us indicating that in situations of serious public disorder, it may not be possible to obtain details of injuries to persons who have not been arrested or who have fled the scene of the disturbance and that injuries would therefore only be recorded where known.³⁵ We accepted the PSNI's position. In May 2007, PSNI reported that water cannon was not used during the period 1st April 2006 to 31st March 2007.³⁶ Against this background, we consider Recommendation 28 of our 2006 Annual Report to be implemented in full, but remind the PSNI of the continuing nature of this recommendation.

In our 2006 Annual Report, we reported that Recommendation 38 of our 2005 Annual Report remained outstanding. This recommendation requires the PSNI to provide reports to the Policing Board on a quarterly basis of all incidents where water cannon have been deployed and used, setting out specified details of the incident. We also reported that the PSNI had implemented Recommendation 39 of our 2005 Annual Report in full but we reminded the PSNI of the continuing nature of this recommendation. This recommendation stated that the PSNI should assign internal responsibility for (i) reviewing, on a six-monthly basis, all instances where water cannon has been

32. 2006 Annual Report, Recommendation 28, p.161.

33. PSNI's Human Rights Programme of Action 2006-2007, p.19.

34. Meeting between Policing Board's human rights advisors and PSNI Operational Support, 26th March 2007.

35. Letter from PSNI Operational Support to Policing Board's human rights advisors dated 8th May 2007.

36. Ibid.

37. 2005 Annual Report, Recommendation 39, p.171.

38. PSNI's Human Rights Programme of Action 2006-2007, p.29.

39. Meeting between Policing Board's human rights advisors and PSNI Operational Support, 26th March 2007.

40. Letter from PSNI Operational Support to Policing Board's human rights advisors dated 8th May 2007.

41. At pp.161-163 and pp.168.

deployed and used and (ii) issuing guidelines on best practice further to such review. We also recommended that the PSNI should provide the Policing Board with a summary of the conclusions of this six-monthly review.³⁷

In its Human Rights Programme of Action 2006-2007, the PSNI reiterated its acceptance of our recommendation subject to a minor adjustment. The PSNI indicated that it would undertake an *annual* review of the use of water cannon on an ongoing basis.³⁸ At our meeting with PSNI Operational Support in March 2007, we agreed with PSNI's suggested approach and agreed that the review would be conducted by PSNI Operational Support at the end of the parading season in September or October each year.³⁹ We also agreed that an internal review would not be required in years where water cannon were not used.⁴⁰ Against this background, we amend Recommendation 39 of our 2005 Annual Report which we again consider to be satisfied but remind PSNI of the continuing nature of this recommendation. We note however that Recommendation 38 of our 2005 Annual Report remains outstanding due to the failure of the PSNI to introduce its electronic use of force monitoring form. We discuss this in more detail below.⁴¹

PSNI USE OF CS INCAPACITANT SPRAY

Training in the use of CS spray

In May 2007, we attended initial CS incapacitant spray (CS spray) training delivered by Urban Region Operational Command Unit trainers. The training consists of a presentation on PSNI policy and procedure relating to the carriage and use of CS spray, a practical class on use of CS spray and exposure to the spray.

The first part of the lesson involves a presentation which included guidance on the chemical composition of CS spray, its physical effects, medical implications of use and aftercare requirements, appropriate and inappropriate circumstances for using CS spray, the applicable legal standards for use and reporting standards and procedures. The lesson includes reference to vulnerable persons, including children, those suffering from a mental illness and persons on drugs or under the influence of alcohol and the fact that the impact of exposure to CS spray may be heightened for these vulnerable groups.

In accordance with PSNI policy on the use of CS spray, trainers instruct officers not to use CS spray at a distance of less than one metre, on persons restrained or handcuffed (unless the officer would otherwise be at risk), against a person in charge of a car, or against a person with a firearm. Trainers also advise officers against using CS spray in public order situations due to the indiscriminate nature of the effects of the spray. Throughout the lesson, trainers emphasise that officers should keep an accurate record of any use of CS spray, ensuring, in particular, that the necessary forms are distributed and completed.

Instruction on the human rights implications of the use of CS spray reminds officers to ensure minimal interference, exercise restraint, act proportionately and secure medical aid at the earliest opportunity. Trainers direct officers to ask themselves the following questions prior to using CS spray: (i) is there a lawful objective for use? (ii) are alternative methods available? (iii) is it absolutely necessary to use force? and (iv) is the use of CS spray proportionate in the circumstances? However, during the lesson that we observed, trainers failed to make specific reference to relevant Articles of the European Convention on Human Rights.

The presentation is followed with a practical lesson on the use of CS spray. During this lesson, trainers instruct officers on gripping, drawing and targeting CS spray and give guidance on appropriate warnings and aftercare. Trainers integrate human rights principles into the practical lesson and specifically highlight the relevance of Article 3 of the European Convention on Human Rights to the provision of adequate and appropriate aftercare.

At the end of the training session, officers are invited to experience exposure to CS spray. This is a non-compulsory part of the course. The experience is undertaken to ensure officers are fully aware of the physical impact of CS spray and to encourage them to consider its impact from the subject's perspective.

We consider that the practical lesson on the use of CS spray effectively integrated and applied human rights principles. We have some minor reservations, however, regarding the classroom presentation. In particular, there was confusion regarding the test for the use of force, with the trainer referring only to the absolute

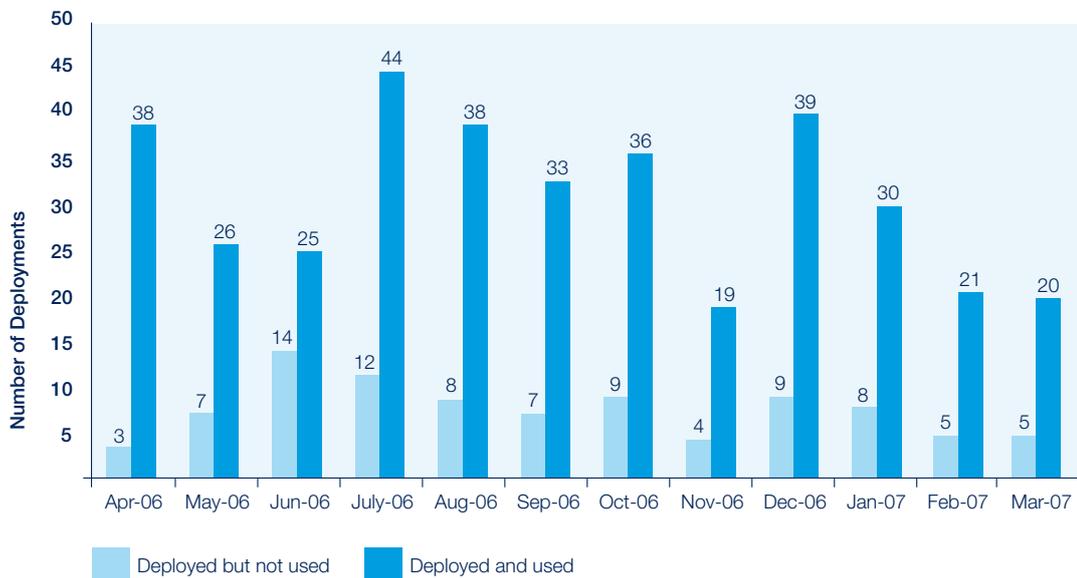
42. PSNI Central Statistics Unit, *Quarterly Report: Statistics on the Use of CS Spray, Quarter 4, 2006/2007*, 1st January 2007 to 31st March 2007.

necessity test for the use of lethal or potentially lethal force. We therefore suggest that the PSNI’s internal evaluation team should consider our reservations regarding possible confusion about the tests for the use of force in all lessons dealing with the use of force, public order equipment and personal protection equipment as part of its internal evaluation of the delivery of human rights and we will report further in next year’s annual report. We make no formal recommendation, however, at this stage.

Use of CS spray, 1st April 2006 - 31st March 2007

There were 460 deployments of CS spray in the 12 month period between April 2006 and March 2007. 80% of the deployments (369) resulted in the use of CS spray. Figure 1 below 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 same period. The highest number of deployments resulting in CS spray being used was in July 2006 (44), the lowest was in November 2006 (19). The number of deployments of CS has decreased from 554 in 2005/2006 to 460 in 2006/2007. The number of deployments in which CS spray was used has also reduced from 412 in 2005/2006 to 369 in 2006/2007.⁴²

Figure 1:
Deployment and use of CS spray,
1st April 2006 to 31st March 2007



In our 2006 Annual Report, we recommended that 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 1998.⁴⁴

In its Human Rights Programme of Action 2006-2007, the PSNI accepted our recommendation, indicating that Superintendent Operational Support would work with the Policing Board to implement this recommendation.⁴⁵ PSNI Central Statistics Unit continues to maintain statistics on the use of CS spray. The PSNI suggested that the collation and reporting of statistics will be improved following introduction of the electronic Use of Force Monitoring Form.⁴⁶

In March 2007, we met with PSNI Operational Support to progress implementation of this recommendation. As a result of this meeting, PSNI Operational Support agreed to consult with PSNI Central Statistics Unit to determine whether it would be able to produce a more detailed report on the use of CS spray from the information collated in the completed Use of Force Monitoring Forms, drawing in particular on the summaries of each incident provided by individual officers.⁴⁷

In May 2007, PSNI Operational Support informed us that it had discussed the provision of data on the use of CS spray with PSNI Central Statistics Unit. The amount of information that can be drawn from the electronic Use of Force Monitoring forms will only be clear following the evaluation of the pilot of the electronic Use of Force Monitoring form.⁴⁸ The PSNI at that time informed us that the pilot was imminent⁴⁹ and that it intended to introduce the electronic Use of Force Monitoring Form across the PSNI in September 2007.

We are critical that the PSNI only commenced its pilot of the Use of Force Monitoring Form in August 2007. As a result, the Policing Board continues to be in the unacceptable position that the PSNI does not provide it with adequate information to enable it to evaluate whether the use of CS spray complies with the Human Rights Act 1998. This is of obvious and pressing concern. We consider Recommendation 29 of our 2006 Annual

44. 2006 Annual Report, Recommendation 29, p.161.

45. PSNI's Human Rights Programme of Action 2006-2007, p.20.

46. Which will include reference to location, date, time of incident, injuries sustained, damage to property and other appropriate information.

47. Meeting between Policing Board's human rights advisors and PSNI Operational Support, 26th March 2007.

48. Letter from PSNI Operational Support to Policing Board's human rights advisors dated 8th May 2007.

49. The form is to be piloted in A District and Rural Region OCU.

50. 2005 Annual Report, Recommendation 42, p.172.

51. 2005 Annual Report, pp.86-87.

52. Letter from PSNI Operational Support to Policing Board's human rights advisors dated 8th May 2007.

Report and Recommendation 41 of our 2005 Annual Report remain outstanding. We therefore recommend that the PSNI complete its pilot of the electronic Use of Force Monitoring Form expeditiously and following completion of the evaluation of the pilot, move promptly to introduce the electronic form across the PSNI.

RECOMMENDATION 24:

The PSNI should complete its pilot of the electronic use of Force Monitoring Form expeditiously and following completion of the evaluation of the pilot, move promptly to introduce the electronic form across the PSNI.

In our 2005 Annual Report, we recommended that 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. We also recommended that the PSNI should provide the Policing Board with a summary of the conclusions of its six-monthly internal review.⁵⁰ In our 2006 Annual Report, we reported that the PSNI had completed an internal review of CS spray twelve months after its introduction and that we had been provided with a copy of the review. We agreed to adjust our recommendation to require an annual rather than a six-monthly review.⁵¹

In May 2007, PSNI Operational Support wrote to us, indicating that the annual review of the PSNI's use of CS spray was being conducted in partnership with PSNI Central Statistics Unit. PSNI Operational Support indicated that due to the resource intensive nature of the review, other issues or work areas would be given priority.⁵² We are not satisfied with the PSNI's response to our recommendation, particularly in light of the serious concerns we have highlighted regarding the PSNI's failure to provide the Policing Board with sufficient information to enable it to monitor PSNI's use of CS spray for compliance with the Human Rights Act 1998. It is imperative that the PSNI conducts regular and robust internal reviews on all uses of CS spray and issues guidelines on best practice to officers.

It is with regret that we therefore reinstate our recommendation that the PSNI should assign responsibility internally for reviewing annually all uses of CS spray, and for issuing guidelines on best

practice to police officers. Further, the PSNI should provide the Policing Board with a summary of the findings and conclusions of its annual internal review.

RECOMMENDATION 25:

The PSNI should assign responsibility internally for reviewing all uses of CS spray annually, and for issuing guidelines on best practice to police officers. Further, the PSNI should provide the Policing Board with a summary of the findings and conclusions of its annual internal review.

PSNI REPORTS TO THE POLICING BOARD

In our 2006 Annual Report, we recommended that the PSNI should submit reports on serious public disorder to the Policing Board within seven days of such incidents.⁵³ In its Human Rights Programme of Action 2006-2007, the PSNI indicated that it accepted our recommendation.⁵⁴ The PSNI has issued a policy which gives police guidance on the requirement for early reporting following the discharge of AEPs and incidents of public disorder.⁵⁵ The PSNI's policy states that District Commanders must ensure that reports are completed, while PSNI Command Secretariat has responsibility for forwarding the reports to the Policing Board. The PSNI reissued its policy in December 2006 as a reminder to District Commanders of the need to comply with the early reporting requirement. We consider that this implements Recommendation 30 of our 2006 Annual Report in full. It also implements Recommendation 37(i) of our 2005 Annual Report⁵⁶ that the PSNI should submit PB2s to the Policing Board within seven days following every incident of serious public disorder which remained outstanding at the time of publication of our 2006 Annual Report.⁵⁷ However, we remind the PSNI of the continuing nature of this recommendation.

Regulation 20 reports relating to PSNI use of force

In 2006/2007, the Police Ombudsman issued 25 Regulation 20 reports relating to the PSNI's use of force. 19 of the reports related to the use of CS spray, three related to the discharge of a firearm and one related to the discharge of AEPs. We analyse the reports below.

53. 2006 Annual Report, Recommendation 30, p.161.

54. PSNI's Human Rights Programme of Action 2006-2007, p.20.

55. General Order No: 50/2002 Requirements for Early Reporting to the NI Policing Board Police Discharge of Attenuating Energy Projectiles (Impact Rounds) - Form Policing Board 1 (PB1) Incidents of Public Disorder - Form Policing Board 2 (PB2).

56. 2005 Annual Report, Recommendation 37(i), p.171.

57. PSNI's Human Rights Programme of Action 2006-2007, p.29.

58. Report into the discharge of CS incapacitant spray, Newtownstewart, 24th July 2004, para.s 8.1 and 8.2.

59. Report into the discharge of CS incapacitant spray at Atlantic Avenue, Belfast, 9th December 2004, Report into the discharge of CS incapacitant spray at Fisherwick Crescent, Ballymena, 22nd December 2004, Report into the discharge of CS incapacitant spray at the Odyssey Arena, Belfast, 24th December 2004, Report into the discharge of CS incapacitant spray, Newtownabbey, 28th November 2004 and Report into the discharge of CS incapacitant spray at Tulmore Road, Newry, 8th December 2004.

60. Report into the discharge of CS incapacitant spray at Tulmore Road, Newry, 8th December 2004, para. 8.1.

61. Report into the discharge of CS incapacitant spray at the Odyssey Arena, Belfast, 24th December 2004, para.s 8.1-8.3.

In all of the 19 Regulation 20 reports relating to the use of CS spray, the Police Ombudsman found the use of CS spray to be necessary, proportionate and justified. However, in eight of the reports, the Police Ombudsman raised concern about some aspect of the use of CS spray and made recommendations. In one such report, the Police Ombudsman expressed concern regarding the lack of aftercare given to two men subjected to CS spray. In this case, one man was left at the scene without any aftercare. The PSNI restrained the other man in the back of a police land rover in a manner which constituted excessive force and risked positional asphyxia. The Police Ombudsman recommended first, disciplinary proceedings against the particular officer and second, that the PSNI reinforce the importance of aftercare to officers. The Police Ombudsman also noted that there was a delay between the discharge of the CS spray and the handing in of the CS spray canister. The Police Ombudsman recommended that police officers be made aware of storage facilities for CS spray canisters in their respective DCUs and of the need to provide canisters to the relevant senior officer as soon as is practicable.⁵⁸

On a number of occasions, the Police Ombudsman highlighted the failure of officers to accurately and comprehensively record the use of CS spray.⁵⁹ The Police Ombudsman highlighted the failure of an officer on one occasion to seal a CS spray canister in an evidence bag. She considered the CS spray policy left officers unclear whether such a response was necessary where an officer deployed but did not use a canister. In light of this ambiguity, she recommended that the PSNI amend the policy to ensure that officers treat CS spray as 'used' when it is pointed at a member of the public and the seal broken.⁶⁰ She also suggested that the PSNI may like to consider a Service-wide review of storage facilities. The Police Ombudsman also recommended that all police officers should be reminded of the importance of accurately recording warnings.⁶¹

On several occasions, the Police Ombudsman highlighted unsatisfactory record keeping by custody officers, particularly in recording whether a CS3 form was issued to a person detained following exposure to CS spray. In light of these failings, the Police Ombudsman recommended that all custody officers be reminded of the need to accurately record all details about CS

spray discharges involving prisoners and that custody officers also be reminded of the need to issue form CS3 to all prisoners who have been exposed to CS spray prior to their release from custody.⁶²

On two occasions, the Police Ombudsman expressed concern regarding the PSNI's referral of the incident to her office and the delay she experienced in acquiring documents from the PSNI.⁶³

Finally, on one occasion, following a malfunction of the CS spray canister which caused the spray to be discharged in an undirected manner, causing contamination to bystanders, including a number of police officers, the Police Ombudsman's report highlighted the indiscriminate effects of the spray as an illustration of why CS spray is not appropriate in public order crowd control situations.⁶⁴ During our analysis of the reports, we noted a further two occasions in which CS spray was discharged against a group of people with indiscriminate effects.⁶⁵ In one such case, CS spray was discharged on three occasions at a crowd, thus preventing officers from tracing all persons affected by the CS spray or administering appropriate aftercare.⁶⁶

Three of the Regulation 20 reports related to the discharge of firearms. In one case,⁶⁷ the Police Ombudsman reported on a discharge of a firearm at a moving vehicle. Firing at a moving vehicle is discouraged by the ACPO Manual of Guidance on the Police Use of Firearms and should not take place in normal circumstances. The Police Ombudsman also noted that the vehicle was driving extremely dangerously and directly at the officer. Although the discharge was, in the circumstances, unlikely to be effective and would not have prevented a collision with the officer, the Police Ombudsman concluded that the use of force was necessary to prevent serious injury and in accordance with Service instructions and training.⁶⁸ In the second case, the Police Ombudsman found that the discharge of the firearm was reasonable, proportionate and necessary in the circumstances and that no other method or control was available to the officer or practicable to eliminate the immediate threat.⁶⁹ However, the Police Ombudsman noted a number of failings in the organisation and command structure for the operation and made a series of significant recommendations.⁷⁰ The Police Ombudsman submitted her recommendations to the PSNI

62. Report into the discharge of CS incapacitant spray at Fisherwick Crescent, Ballymena, 22nd December 2004, para.s 8.2 and 8.3, Report into the discharge of CS incapacitant spray, Newtownabbey, 28th November 2004 and Report into the discharge of CS incapacitant spray, Antrim Road, Belfast, 4th December 2004.

63. Report into the discharge of CS incapacitant spray Long Commons/Church Street Coleraine, 6th November 2004 and Report into the discharge of CS incapacitant spray at Atlantic Avenue, Belfast, 9th December 2004.

64. Report into the discharge of CS incapacitant spray Westland Road, Belfast, 7th November 2004, para. 8.4.

65. Report into the discharge of CS incapacitant spray, Maghera, 15th November 2004.

66. Report into the discharge of CS incapacitant spray, Londonderry, 11th September 2004.

67. Report into the Discharge of Firearm at Watson Road, Newry on 25th November 2002, para.6.3.

68. The Police Ombudsman submitted a file on the case to the PPS. However, the PPS did not direct prosecution or identify disciplinary offences.

69. Report into the discharge of a firearm, Howard Street, Belfast, 24th November 2002.

70. Including that a review be undertaken of PSNI operational command structure, that Headquarters Mobile Support Unit officers receive firearms training independent from their Unit and that proper maintenance of all firearms training records be ensured.

71. Report into the discharge of a firearm at Kilrea Town Centre, 12th July 2004.

72. Report into the discharge of 7 AEPs in North Belfast on 4th August 2005.

in July 2003 and the PSNI accepted all recommendations. The third firearms case involved the discharge of warning shots. In this case, the Police Ombudsman found that the discharge in response to public disorder in Kilrea Town Centre was not compliant with PSNI policy in that warnings were not given and public safety was not fully considered. In light of this, the Police Ombudsman recommended that the PSNI review the effectiveness and appropriateness of the discharge of warning shots during incidents of serious public disorder. The Police Ombudsman also reported that the operational planning was inadequate and displayed a lack of leadership on the part of the DCU Commander and Silver Commander. The Police Ombudsman recommended that the new District Commander note the failures in briefing, deployment of resources and operational leadership.⁷¹

One Regulation 20 report related to the discharge of AEPs. In this case, the discharge of the AEPs followed a violent attack on police resulting from a period of sustained rioting, which involved the use of petrol and blast bombs. The Police Ombudsman found the discharge of AEPs to be justified and proportionate in the circumstances. The Police Ombudsman noted that due to the nearby interface between nationalist and loyalist residents, the PSNI had no choice but to act as a barrier between the two communities. She further noted that officers issued audible warnings prior to all seven discharges of AEPs and that the discharges were largely accurate. The Police Ombudsman commended the PSNI for appointing a Weapons System Commander to oversee two Tactical Support Group teams, which she highlighted as an example of good practice which ensured officers were given clear instructions as to when AEPs could justifiably be discharged. In addition, the Police Ombudsman highlighted the PSNI's use of video recording during instances of public disorder, which she considered to be effective and to be encouraged. On a more negative note, the Police Ombudsman was critical of the PSNI's inaccurate reporting to the Policing Board on the number of AEPs discharged due to double counting and the failure of the PSNI to keep an Event Policy Book in line with its policy on AEPs. The Police Ombudsman recommended that the PSNI ensure adherence to its policy in future public order events.⁷²

PSNI responses to Regulation 20 reports

In January 2007, the Deputy Chief Constable wrote to the Policing Board's Community and Human Rights Committee to update it on the PSNI's response to the Police Ombudsman's reports on the use of CS spray from August to December 2004. The Deputy indicated that the Police Ombudsman's reports for this period (published during 2005 and 2006) contained a number of recommendations which the PSNI had already addressed or was currently implementing. Measures undertaken by the PSNI included the issue of reminders to custody officers of aftercare procedures for prisoners and the importance of custody record management; a review of DCU CS spray storage facilities and a review of storage policies. The Deputy Chief Constable also indicated that on a number of occasions when the Police Ombudsman identified particular and recurring concerns with officers' use of CS spray, she informed the Deputy Chief Constable directly and immediately. In response, the Deputy Chief Constable had amended PSNI policy and reinforced training requirements.⁷³

We consider the PSNI's general response to Regulation 20 reports in more detail in chapter 6 of this report.

USE OF FORCE MONITORING FORM

At the time of publication of our 2006 Annual Report, we reported that our 2005 Annual Report recommendation that the PSNI should provide statistics collated on all uses of force to the Policing Board on a quarterly basis⁷⁴ remained outstanding. In its Human Rights Programme of Action 2006-2007, the PSNI confirmed its commitment to implementing our recommendation. As stated above, the PSNI indicated that its new electronic Use of Force Monitoring Form would be introduced across the Service in September 2007⁷⁵ and that the PSNI intended to use the form as a basis for quarterly reporting to the Policing Board.⁷⁶

We have recorded our criticism that the PSNI only commenced its pilot of the electronic Use of Force Monitoring Form in mid-August 2007 earlier in this chapter, and refer to the recommendation we have already made in this regard. We

73. Letters from the Deputy Chief Constable to the Policing Board's Director of Policy dated 19th January 2007 and letters from the Deputy Chief Constable to the Policing Board's human rights advisors dated 23rd August 2007.

74. 2005 Annual Report, Recommendation 36, p.171.

75. The PSNI intend DCU Operations Managers to monitor satisfactory, accurate and prompt completion of the electronic monitoring forms by officers.

76. PSNI's Human Rights Programme of Action 2006-2007, p.28.

77. HMIC, *Review of PSNI Compliance and Its Statement of Intent on the Police Use of Firearms and Less Lethal Weapons*.

78. When not actively engaged in dealing with spontaneous incidents, officers allocated to ARVs will conduct directed patrolling, for example, in protection of cash-in-transit deliveries and high-risk anti-robbery patrols.

79. Letter from PSNI Operational Support to Policing Board's human rights advisors dated 8th May 2007.

80. Letter from ACC Operational Support to Chief Executive of the Policing Board dated 8th May 2007.

81. HMIC, *Review of PSNI Compliance and Its Statement of Intent on the Police Use of Firearms and Less Lethal Weapons*, Recommendation 21.

consider Recommendation 36 of our 2005 Annual Report to remain outstanding.

ARMED RESPONSE VEHICLES

In its report dated 9th December 2005, Her Majesty's Inspectorate of Constabulary (HMIC) identified a potential gap in the PSNI's capacity to respond to spontaneous incidents involving firearms or edged weapons.⁷⁷ Currently, the PSNI's capacity to respond to such situations rests with uniform response officers and specialist firearms officers. In light of this gap, the PSNI intends to introduce Armed Response Vehicles (ARVs) to provide initial armed response to spontaneous incidents where there is a real or perceived threat from a firearm or other weapon. The primary role of ARVs will be to respond to such incidents and, where necessary, contain situations and conduct emergency entries.⁷⁸ ARVs will operate from three locations across Northern Ireland. Every ARV location will have the capability to provide two vehicles for response to incidents in each shift. This will provide a total of six vehicles for response operating across Northern Ireland.⁷⁹ A team has been established within PSNI Operational Support to progress the PSNI's introduction of ARVs. PSNI is currently recruiting for the ARV posts. Approximately 120 officers will be allocated to ARVs. Each officer allocated to an ARV will undertake an 11 week training course prior to deployment. The PSNI hopes to introduce ARVs in early 2008.⁸⁰

PSNI'S PROPOSAL TO INTRODUCE TASER

In June 2005, the Chief Constable informed the Policing Board of his intention to introduce Taser for use by a limited number of officers for a trial period of twelve months. During the course of that year, HMIC had conducted a review of the deployment and roles of armed officers. In its December 2005 report, HMIC recommended that the PSNI should examine the acquisition of Taser as a further less lethal option for deployment at incidents which merit the deployment of firearms by officers.⁸¹ Following a meeting of the Policing Board on 28th March 2006, the Policing Board asked us to consider and advise on the human rights implications of the proposed introduction of Taser.

In preparing our advice for the Policing Board, we consulted with several interested parties⁸² and discussed the PSNI's proposal at a series of roundtable meetings on PSNI use of force.⁸³ We also attended seminars held by Amnesty International and the Northern Ireland Human Rights Commission. In addition, we discussed a number of issues relating to Taser use in England, Scotland and Wales with representatives of ACPO, the NIO, the Home Office and the Home Office Scientific Development Branch. We also compiled and reviewed all the available documentation relating to Taser that we could access. We found that the PSNI proposal to introduce Taser had human rights implications and therefore that the Policing Board, under its statutory duty to monitor the PSNI's compliance with the Human Rights Act 1998, had a duty to consider those human rights implications. We summarise below our key findings and recommendations.

Findings

Our review of documentation relating to Taser indicated that there had been a number of sudden deaths reported after the use of Taser. How far the evidence established a causal link between death and the use of Taser, either as a sole direct cause or as a contributory cause, was disputed. What was clear was that some groups were more vulnerable to the use of Taser than others⁸⁴ and evidence available from England, Wales and Scotland suggested that in a high percentage of cases, Taser had been used against these very groups. We also found that the full effects of Taser on groups such as children and pregnant women were not known. We noted, however, that since Taser had been more widely available in England, Scotland and Wales, there had been only one case in which concern had been raised about a possible link between Taser and death⁸⁵ and there had been no other evidence of serious injury caused by Taser. We referred to DOMILL's⁸⁶ overall conclusion that the risk of life-threatening or serious injury from the M26 Taser is "very low".⁸⁷ Against this background, we concluded that Taser should be treated as potentially lethal equipment, rather than lethal or non-lethal.

82. The American Civil Liberties Union, Amnesty International, the Children's Law Centre, the Northern Ireland Commissioner for Children and Young People, the Northern Ireland Human Rights Commission and the Omega Foundation.

83. Attendees included British Irish Rights Watch, the Committee on the Administration of Justice, the Equality Commission, the Office of the Police Ombudsman, the Pat Finucane Centre, Relatives for Justice, Save the Children and the United Campaign Against Plastic Bullets.

84. For example those suffering from mental illness, those using drugs and/or those in a state of excited delirium.

85. On 11th October 2006, Taser was used by Durham police on Brian Loan, a 47 year old man, at his home. Three days later he died. The post-mortem report records that Brian Loan died from natural causes and the Independent Police Complaints Commission has said that there is no link between the use of Taser and his death. However, the investigation into the cause of death has not yet been concluded and the Inquest into the death has not yet commenced.

86. DOMILL considered the medical implications of using Taser. Its focus was the M26 Taser model supplied by Taser International and it addressed the medical implications of an operative trial proposed by ACPO under ACPO Guidance. DOMILL issued a statement in December 2002 - a summary of which was included in the UK Steering Group's Third Report.

87. Steering Group, Third Report, p.84, para. 160.

Test for the use of Taser

We concluded that the fact that Taser should be treated as potentially lethal did not mean that its use could never be compatible with Article 2 of the European Convention on Human Rights (the right to life) or the Human Rights Act 1998. Drawing from case law on Article 2 of the European Convention on Human Rights, we formulated a test for the use of Taser. According to that test:

“[The use of Taser] will be lawful where it is immediately necessary to prevent or reduce the likelihood of recourse to lethal force (e.g. conventional firearms). This test is just below that for the use of lethal force (such as conventional firearms), but a much stricter test than that which applies for other uses of (non lethal) force. It means that Taser can be used in circumstances where there is a threat to life or a threat of serious injury, but that threat has not quite reached the threshold where lethal force (such as conventional firearms) could be justified.”

In our advice to the Policing Board, we expressed concern that none of the official bodies charged with considering the use of Taser had publicly addressed the legal and human rights framework within which Taser can or should be used. We were also concerned that the current ACPO Policy and Guidance on the use of Taser may not be sufficiently clear and may accommodate cases which would not satisfy the test for use of Taser that we set out. Consequently, we considered that the ACPO policy and guidance may not meet the requirement under Article 2 of the European Convention on Human Rights that law enforcement officers, including the police, should receive clear and precise instructions as to the manner and circumstances in which they should make use of Taser.

Recommendations

Against that background we recommended that before the PSNI proposal to introduce Taser is progressed, the Policing Board should satisfy itself that the PSNI had properly addressed the legal and human rights framework within which Taser can be used and, in particular, that it had devised clear and robust policy, guidance and training to ensure that any use of Taser

in Northern Ireland fully complied with the requirements of the European Convention on Human Rights and the Human Rights Act 1998. In addition, we recommended that if Taser is introduced in Northern Ireland, the relevant authorities should ensure that all operations in which Taser might be used are planned and controlled so as to minimise, to the greatest extent possible, recourse to its use.

We concluded that a case for the introduction of Taser required the PSNI to show that there have been or may well be situations in Northern Ireland in which the use of Taser would be immediately necessary to prevent or reduce the likelihood of recourse to lethal force. We indicated that we were not satisfied that the PSNI proposal to introduce Taser had met that requirement.⁸⁸ In our view, a ‘capability gap’ could only properly be identified once the proper legal test for the use of Taser had been set out and agreed. We therefore recommended that the Policing Board should require the PSNI to provide clearer evidence of a capability gap requiring the introduction of Taser before it progressed its proposal⁸⁹ and that the evidence provided should take account of the test for the use of Taser that we set out.

We presented our advice to the Policing Board’s Human Rights and Professional Standards Committee on 14th June 2007. Members of the Committee accepted our advice and recommended that it should be accepted by the full Policing Board. The Committee requested that we consider the evidence presented by the PSNI on the existence of a capability gap requiring the introduction of Taser to assess whether the gap has been made out. The Committee also requested that we review the PSNI’s policy, guidance and training on Taser, assessing whether it meets the standards required by Article 2 of the European Convention, and report back to the Committee. We have agreed to the Committee’s requests.

We will report further to the Policing Board’s Human Rights and Professional Standards Committee on the PSNI’s proposed introduction of Taser in the coming months and include a summary of this work in next year’s annual report.

88. Although the letter sent by the PSNI to consultees on 25th September 2006 referred to a ‘capability gap’ that had been identified regarding its response to certain types of incidents and gave some hypothetical examples (some of which would clearly satisfy the Article 2 ECHR test), we were not convinced that this aspect of the PSNI proposal to introduce Taser was robust enough to withstand careful scrutiny.

89. That is not to say that a case for the introduction of Taser in Northern Ireland cannot be made out. It is simply to say that clear evidence of a capability gap should be provided before potentially lethal equipment is made available to any law enforcement agency.

Chapter 9: COVERT POLICING

The interception of communications, 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 interception of communications, surveillance and the use of covert human intelligence sources by the police are compatible with the Human Rights Act 1998. It also puts in place an oversight framework comprising the Chief Surveillance Commissioner who regulates and monitors adherence to the rules and a Tribunal for dealing with complaints.

09

The functions of the Commissioner and Tribunal are summarised in our 2005 Annual Report¹ and not repeated here.

COVERT POLICING TRAINING

The Authorising Officers' Course

In our 2006 Annual Report, we reported that the PSNI had devised a course for all officers who may be called upon to authorise investigations and operations under RIPA. We recommended that following completion of this training programme in September 2006, only those officers who have completed the course should be eligible as authorising officers.² In its Human Rights Programme of Action 2006-2007, the PSNI accepted this recommendation.³

The authorising officers' training programme has now been completed. We have been provided with the figures and details of those attending and on 16th-18th January 2007 we attended the course ourselves as observers. It is clear that the training programme was an important initiative and that it should be repeated in due course. 71 Authorising Officers responsible for authorising investigations and operations under RIPA, including authorisations for the use of Covert Human Intelligence Sources (CHIS), have completed the course, as have the Chief Constable, the Deputy Chief Constable and all of the Assistant Chief Constables. Since September 2006, other officers have also completed the course. When we attended the course as observers, we had some minor concerns about some of the detail of the course. We brought these to the attention of the course organisers, who took these concerns on board.

The PSNI policy on Covert Surveillance Authorisations and the role of the Central Authorisation Bureau (CAB) makes it clear that only those officers who have completed the course should be eligible as authorising officers and we consider that this implements Recommendation 31 of our 2006 Annual Report in full. It is obviously important that the training is maintained for those recruited as Authorising Officers and as a refresher for those authorisation officers already in post. However, since the PSNI is fully committed to this at present, we do not consider that a recommendation on the matter is necessary this year.

Other covert policing training

In our 2006 Annual Report, we recommended that 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.⁴

In its Human Rights Programme of Action 2006-2007, the PSNI indicated that its covert police training³ is currently subject

1. See p.124.

2. 2006 Annual Report, Recommendation 31, p.162.

3. PSNI's Human Rights Programme of Action 2006-2007, p.15.

4. 2006 Annual Report, Recommendation 32, p.162.

to scrutiny by the Police College, the PSNI human rights legal adviser and the Policing Board's human rights advisors.⁵ In addition, PSNI Crime Operations has taken a number of steps to embed human rights into practice. First, all sergeants and inspectors within Special Operations Branch Operations Centre⁶ and all Special Operations Branch superintendents must successfully complete the National Silver Firearms Commanders course and the National Gold Firearms Commanders course, respectively. Secondly, the PSNI human rights legal adviser has recently undertaken a review of all Special Operations Branch procedures. Thirdly, a number of training courses promote the integration of human rights, including training on CHIS and bespoke training by the PSNI human rights legal adviser on issues relevant to Special Operations Branch. In addition, selected trainers have achieved accreditation in human rights and several PSNI personnel have attended training and/or conferences on covert policing, use of lethal force and the use of CHIS in covert operations. Finally, an officer has been appointed within PSNI Crime Operations to lead on human rights.

These are all important initiatives and we have discussed a number of them with the PSNI human rights legal adviser. He has informed us that in October/November 2006, he reviewed all aspects of Special Operations Branch planning and implementation of operations. He produced a report highlighting a number of issues, all of which were dealt with to his satisfaction. Since June 2006, the PSNI human rights legal adviser has also reviewed Special Operations Branch procedures, including, for example, procedures on dynamic entry, the operation of the Central Authorisations Bureau and the PSNI Telecoms Liaison Unit.

Specific training was also provided to Special Operations Branch officers by the PSNI human rights legal adviser in June 2006, which included an outline of the planning requirements of Article 2 of the European Convention on Human Rights and the law relating to the use of force. Since then, the PSNI human rights legal adviser has updated trainers and staff on developments in case-law.

Against that background, we consider Recommendation 32 of our 2006 Annual Report to be implemented in full.

5. PSNI's Human Rights Programme of Action 2006-2007, p.15.

6. Responsible for co-ordinating all PSNI covert operations in Northern Ireland.

7. 2006 Annual Report, Recommendation 33, p.162.

8. PSNI's Human Rights Programme of Action 2006-2007, p.16.

POLICIES AND PROCEDURES

In our 2006 Annual Report, we recommended that the PSNI should further review the effectiveness of its policies on covert policing within twelve months of this Human Rights Annual Report.⁷

The PSNI accepted our recommendation. In its Human Rights Programme of Action 2006-2007, the PSNI indicated that it was reviewing a number of its policies.⁸ A review of the Covert Human Intelligence Source Manual, the Undercover policy and the Members of the Public policy was expected to have been completed by April 2007.

A limited review has now taken place. The Covert Human Intelligence Source Manual has been superseded by the ACPO Guidance on Covert Human Intelligence Sources, which was published in October 2006. We have had access to that Guidance and it is clearly comprehensive and fully up to date. It is due to be reviewed 18 months after its publication (i.e. in about April 2008) and we will comment further after that date.

The Undercover policy has not been reviewed. That is because national guidelines are currently being reconsidered and the PSNI is anxious that its policy should reflect those guidelines. It is anticipated that any revision to the national guidelines will take place within the next six months and that changes to PSNI policy will be made promptly thereafter.

The PSNI Members of the Public policy is currently under review and a number of changes are likely. These changes are intended to clarify the policy, which, it seems, is not very well understood. Again national guidelines are being reconsidered and the PSNI is anxious that its policy should reflect those guidelines.

Against that background we consider Recommendation 33 of our 2006 Annual Report and Recommendation 46 of our 2005 Annual Report to be implemented in part. The Covert Human Intelligence Source Manual has been reviewed and we do not criticise the decision to postpone the review of the Undercover policy and the Members of the Public policy, given the desirability of co-ordinating PSNI policy with national guidelines. However, we are concerned that the Members of

the Public policy is not very well understood and against that background, we recommend that the PSNI complete its revision of the Undercover policy and the Members of the Public policy within 12 months of the publication of this report and also that it consider how best to ensure that the Members of the Public policy is better understood by all PSNI officers for whom it is relevant.

RECOMMENDATION 26:

The PSNI should complete its revision of its Undercover policy and its Members of the Public policy within 12 months of the publication of this report and also should consider how best to ensure that its Members of the Public policy is better understood by all PSNI officers for whom it is relevant.

In July 2007, we reviewed other PSNI material on covert policing, including its policy on Covert Surveillance Authorisation and the role of CAB and the form devised by the PSNI covering authorisation for approaches to recruit CHIS. Both documents are clear and concise and we were informed that they had been seen and approved by the PSNI human rights legal adviser. In our view, there may be some scope for incorporating a number of the Surveillance Commissioner's recommendations⁹ into the policy on Covert Surveillance Authorisation and the role of the CAB and we recommend that the PSNI consider doing so.

RECOMMENDATION 27:

The PSNI should consider the scope for incorporating a number of the Surveillance Commissioner's recommendations into the policy on Covert Surveillance Authorisation and the role of the PSNI Central Authorisation Bureau.

We also recommend that in future, as a matter of standard practice, all PSNI material on covert policing of a general nature (e.g. policies, guidance and general forms) should be reviewed and approved by the PSNI human rights legal adviser before it is issued.

⁹. See below at pp.179-180.

RECOMMENDATION 28:

In future, as a matter of standard practice, all PSNI material on covert policing of a general nature (e.g. policies, guidance and general forms) should be reviewed and approved by the PSNI human rights legal adviser before it is issued.

THE CHIEF SURVEILLANCE COMMISSIONER'S REPORTS

We have now reviewed the reports of the Chief Surveillance Commissioner every year since 2002. The 2007 report was sent to the Chief Constable in April 2007, following an inspection in March 2007. We have had unrestricted access to that report and to the Chief Constable's response. We have also discussed both these documents with the Head of the PSNI Central Authorisations Bureau.

The 2007 report records that 6 of the 11 recommendations made by the Surveillance Commissioner in 2006 remain extant, 4 have been discharged and one has been replaced with a recommendation made by the Commissioner in his report this year. Although this concerned us initially, we were reassured by the Surveillance Commissioner's assessment that, despite this, there had been positive progress driven by the Chief Constable, his management board and the CAB and that the outstanding recommendations were mainly caused by procurement difficulties and IT inadequacies. The Surveillance Commissioner also reported that training of Authorisation Officers and clarity in the role of the CAB had much improved and that his inspectors found no evidence of malpractice in the current conduct of covert surveillance.

It is clear from the 2007 report that things have improved since 2006. Although questions were raised about some of the procedures and practices adopted by the PSNI and some minor compliance difficulties appear to have persisted from last year, the main focus of the inspection was on directed surveillance where a high level of overall compliance was recorded and the standard of documentation was described as high. In addition, the Surveillance Commissioner highlighted six examples of best practice, which obviously indicated positive progress.

The Surveillance Commissioner made 14 recommendations in his 2007 report, which, he emphasised, should be seen in light of the progress already made. These cover a variety of matters and require the PSNI to reconsider some policy issues. The Chief Constable set out the action that the PSNI will take in response to each of these recommendations in a letter dated 10th May 2007 and a meeting with the Surveillance Commissioner took place shortly thereafter. We have discussed the Chief Constable's response with the Head of the CAB and will follow up PSNI implementation of the 13 recommendations over the course of the next 12 months. In accordance with our now established practice, we have provided a detailed briefing to the Chairman and Vice-Chairman of the Policing Board about the PSNI's response to the Surveillance Commissioner's recommendations.

Although the Surveillance Commissioner's report is a restricted document, we consider that the oversight provided under RIPA should be as transparent as possible without damaging the public interest in maintaining confidentiality. To that end we suggested to ACC Crime Operations that the Surveillance Commissioner's letter to the Chief Constable summarising the report should be put into the public domain with redactions if necessary. We are pleased to report that the PSNI has agreed to this.

NATIONAL SECURITY: TRANSFER OF PRIMACY

In our 2006 Annual Report, we recommended that before the transfer of responsibility for national security intelligence work in Northern Ireland from the PSNI to the Security Services 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.¹⁰

The PSNI has accepted our recommendation. In its Human Rights Programme of Action 2006-2007, the PSNI stated its commitment to ensuring that there is no diminution in its ability to comply with the Human Rights Act 1998 or in the Policing Board's human rights monitoring role.¹¹ The PSNI's resolve on this issue is reflected in the five principles drafted by ACC Crime

10. 2006 Annual Report, Recommendation 34, p.162.

11. PSNI's Human Rights Programme of Action 2006-2007, p.16.

12. Letter from ACC Crime Operations to Chairman of the Northern Ireland Policing Board dated 12th September 2006.

13. The St Andrew's Agreement includes Annex A Practical changes to the operation of the institutions, Annex B Human rights, equality, victims and other issues, Annex C Financial package for the newly restored executive, Annex D Timetable for implementation of the St Andrew's Agreement and Annex E Future national security arrangements. On 10th January 2007, the Prime Minister issued a further statement on Annex E to the St Andrew's Agreement.

Operations. The five principles are as follows: (i) all Security Service intelligence relating to terrorism in Northern Ireland will be visible to the PSNI; (ii) the PSNI will be informed of all Security Service counter terrorist investigations and operations relating to Northern Ireland; (iii) Security Service intelligence will be disseminated with PSNI according to the current PSNI dissemination policy, and using police protocols; (iv) the great majority of national security covert human intelligence sources in Northern Ireland will continue to be run by PSNI officers under existing police handling protocols; and (v) there will be no diminution of the PSNI's ability to comply with the Human Rights Act 1998 or the Policing Board's ability to monitor said compliance.¹²

These five principles were accepted by the Government and are recorded in Annex E to the St. Andrews Agreement¹³ concluded on 13th October 2006. Also included in Annex E was an acceptance that, as the Policing Board's human rights advisors, we should have a role in proofing the relevant protocols between the PSNI and the Security Services that will underpin these five principles and confirm that satisfactory arrangements are in place to implement them.

We welcome the PSNI's initiative in drafting the five principles set out above and in ensuring that they form part of the framework for the transfer of responsibility for national security intelligence work in Northern Ireland from the PSNI to the Security Services. The significance of this cannot be overstated.

We have discussed the five principles with ACC Crime Operations and we have seen and commented upon the overarching protocol that is being negotiated between the PSNI and the Security Services. We are satisfied that the five principles are reflected in that protocol, but have raised several issues about their practical implementation. It is proposed that a number of Service Level Agreements will deal with the details of the working arrangements between the PSNI and the Security Services following the transfer of responsibility for national security intelligence work in Northern Ireland. We are currently examining these agreements with ACC Crime Operations and it is our intention to report to the Policing Board before transfer takes place on the question of whether they are sufficient to

ensure the satisfactory implementation of the five principles set above.

Against that background, we consider Recommendation 34 of our 2006 Annual Report to be implemented in full.

OPERATION BALLAST

On 22nd January 2007, the Police Ombudsman published a report which examined allegations of collusion between the RUC and paramilitary organisations from the early 1990s onwards. The main focus of the report was the murder of Mr. Raymond McCord Jr. in 1997. The report concluded, among other things, that Mr. McCord's murder had not been properly investigated and, more generally, that there had been ineffective management of informants, disregard for the law and collusion in the period in question.

The Police Ombudsman's report contained 20 recommendations, the last of which required the Policing Board to establish a mechanism to review the PSNI response to the other recommendations¹⁴ within six months and at appropriate intervals thereafter (Recommendation 20). The Policing Board met on 24th January 2007 to discuss the Police Ombudsman's report. After that meeting, the Chairman of the Policing Board indicated that notwithstanding the acceptance by the Chief Constable of all of the recommendations in the report, the Policing Board wanted to be satisfied that the problems highlighted in the report have been or are being addressed, that the handling of informants and intelligence information is of the highest professional standard, in line with legal requirements, and that the tragic circumstances documented in the report could not be repeated.

The Policing Board accepted its responsibility for overseeing the implementation of the recommendations in the report and agreed (among other things) that, as its human rights advisors, we would examine, validate and report on the PSNI's implementation of those recommendations. In furtherance of that task, we met the Chief Constable, ACC Crime Operations and the Head and the Deputy Head of the Historical Enquiries Team in March 2007 to discuss the general approach that was being adopted by the PSNI to the recommendations of the Police Ombudsman.

14. That applied to the PSNI (two did not).

Subsequently we met the Police Ombudsman in May 2007 to ensure that we fully understood what she considered to be necessary for implementing the recommendations. We then held follow up meetings with ACC Crime Operations and his team to discuss PSNI progress in implementing the recommendations. In those discussions we received written and verbal reports from the PSNI.

In July 2007, we presented our initial findings to the Policing Board's Corporate Policy, Planning and Performance Committee. ACC Crime Operations also attended to give a report and to take questions from Board Members. The PSNI reported that it considered that it had made progress on all 17 recommendations that applied to them, five of which it considered to have been implemented. Our own assessment was that the PSNI had made satisfactory progress in the six month period since the Police Ombudsman's report was published. We were satisfied that we had received full and frank information from PSNI on all relevant issues and have no reason to doubt that we will continue to do so.

It is our intention to monitor the PSNI's compliance with the recommendations that it accepts have not yet been implemented. Those include the principal recommendations requiring re-investigation of various offences and related matters. We also intend to verify for ourselves whether the PSNI has fully satisfied the recommendations that it considers to have been implemented. A further report will be made to the Policing Board's Corporate Policy, Planning and Performance Committee in January 2008.

COVERT SURVEILLANCE OF SOLICITOR CONSULTATIONS

In our 2006 Annual Report, we reported that in February 2006, it had 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 concerns to us about this and raised questions about the compatibility of such surveillance with the Human Rights Act 1998. We reported that the solicitor in question was arrested and has since been charged with several offences.

We raised a number of issues with ACC Crime Operations in relation to this incident at a meeting in May 2006 and subsequently with the Head of the CAB at a meeting in July 2007. We have been assured that covert surveillance on members of the legal profession is only undertaken in rare and extreme circumstances. We have also had explained to us the history, procedures and safeguards relating to the incident.

As we indicated last year, in due course fuller details will emerge, either during the criminal proceedings that are still ongoing or as a result of judicial review proceedings challenging the PSNI's approach to the issue. At this stage, it would be inappropriate for us to comment specifically about the case or about the approach taken by the PSNI more generally. However, it is our intention to report on the issue as soon as it is appropriate to do so.

ROLE OF PSNI HUMAN RIGHTS LEGAL ADVISER

In recent months the PSNI has been making greater use of its human rights legal adviser on routine matters of covert policing. That has involved the adviser attending Gold level meetings, providing operational advice and reviewing material on covert policing of a general nature, e.g. policies, guidance and general forms. We consider that this is a positive development. In late August 2007, the PSNI human rights legal adviser relocated to PSNI Crime Operations in order to provide a more comprehensive service.¹⁵ It is too early for us to assess the benefits of this new arrangement and we will return to this in next year's annual report. However, whilst undoubtedly covert policing operations raise complex human rights issues, it is important that the PSNI human rights legal adviser remains accessible across the service.

15. Letter from ACC Crime Operations to NIPB's human rights advisors dated 28th August 2007.

Chapter 10: VICTIMS

The treatment of victims of crime is a strong indication of the PSNI's commitment to protecting and defending human rights and fundamental freedoms. 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 Power¹ and many other international human rights instruments.

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In 2006, we reported on the PSNI's policy on dealing with victims and witnesses¹ which standardises PSNI's approach to the treatment of victims and witnesses, setting out clear procedures for communication between the PSNI and victims and witnesses and providing guidance on how to treat victims according to their needs and particular racial, religious, sexual and cultural identities.

PSNI QUALITY OF SERVICE SURVEY 2005/2006

In 2006, the PSNI again conducted a quality of service survey of victims of violent crime, vehicle crime, domestic burglary, racist incidents and road traffic collisions in 2005/2006 on behalf of the Policing Board.² During 2005/2006, 11,102 questionnaires were sent to a random sample of such victims for the period 1st April 2005 to 31st March 2006. 2,652 questionnaires were returned, resulting in a response rate of 23.9%. We set out the survey's key findings, together with last year's findings, in Table 1 below. The table demonstrates that victims' satisfaction with police performance has remained at a consistently high level for the last two years.

1. Policy Directive No. 05/06.

2. This survey was first conducted in 2004/2005. 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.

Table 1:
PSNI Quality of Service Survey

Survey area	Percentage of respondents indicating satisfaction with PSNI's performance	
	2004/2005	2005/2006
Overall service	82	81
Ease of contact	90	90
Time for police to arrive	84	85
Actions taken by police	77	77
Kept informed of process	70	70
Treatment by police	89	88

The level of satisfaction is the proportion of respondents stating that they were completely/very/fairly satisfied.

ADDRESSING THE NEEDS OF SPECIFIC VICTIMS

In our 2006 Annual Report, we completed a comprehensive audit of policies relating to the investigation of crimes committed against particular victim groups. In 2006/2007, we turned to look in more detail at training provided by the PSNI to specialist officers dealing with particular victim groups, and the specific roles and responsibilities of those officers. We discuss these further under relevant headings below, together with statistics on clearance rates of incidents relating to certain victim groups and initiatives adopted by the PSNI over the last twelve months.

Vulnerable Victims and Intimidated Witnesses Steering Group

The PSNI is represented on the Vulnerable Victims and Intimidated Witnesses Steering Group. The Steering Group was established in 2002 as a sub-group of the Criminal Justice Board³ and is chaired by the NIO. The Steering Group comprises representatives of the main criminal justice agencies and the voluntary agencies⁴ Victim Support Northern Ireland and NSPCC. The Steering Group provides a forum for the discussion of issues which impact on victims and witnesses across the criminal justice system and, through a network of sub-groups, is responsible for co-ordinating key areas of service development and delivery.⁵

Domestic violence

As noted in our 2006 Annual Report, reported incidents of domestic violence are increasing year on year in Northern Ireland. Table 2 below sets out the number of domestic violence incidents, recorded crimes and clearance rates across Northern Ireland between 2005 and 2007. The table indicates that while the number of recorded domestic crimes has decreased since 2005/2006 (by 653), the number of incidents has increased (by 397).

3. The Criminal Justice Board is made up of the heads or senior representatives of the seven main statutory criminal justice agencies in Northern Ireland and is chaired by the Director of Criminal Justice in the Northern Ireland Office. Board Members include representatives of the Northern Ireland Court Service, the Northern Ireland Prison Service, the Police Service of Northern Ireland, the Probation Service for Northern Ireland, Public Prosecution Service, the Youth Justice Agency and the Attorney General's Office. The Board was formed in May 1998

4. Membership includes representation from the Northern Ireland Office, PSNI, Public Prosecution Service, Northern Ireland Court Service, Northern Ireland Prison Service, Probation Board for Northern Ireland, Youth Justice Agency, Victim Support Northern Ireland, NSPCC and Northern Ireland Statistics and Research.

5. NIO, *Delivering a better service to victims and witnesses of crime - a Northern Ireland draft strategy*, January 2007, p.12.

6. Defined as "any incident of threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) by one family member against another or adults who are or have been intimate partners, regardless of gender, and whether a crime has occurred or not", PSNI Statistical Report No. 2 Domestic Incidents and Crimes, 1st April 2006 - 31st March 2007.

7. 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 Magistrate's court or on indictment in the Crown Court.

8. Sanction clearances are those where a formal sanction is imposed on an offender by means of a charge, summons, caution or where the offence is taken into consideration at court.

9. Non sanction clearances are those where no further action is taken by police on the grounds that the offender, victim or essential witness is dead or too ill, the victim refuses or is unable to give evidence, the offender is under the age of criminal responsibility, the police or PPS decides that no useful purpose would be served by proceeding or the time limit of six months for commencing prosecution has been exceeded.

10. In April 2006, the PSNI adopted a higher evidential standard in respect of non sanction clearances. This change was introduced in order to bring the clearance types more closely into line with police services in England and Wales where they have been applying the Crown Prosecution Service evidential test since 2002. In Northern Ireland, the equivalent standard only became relevant to PSNI clearances with the establishment of the Public Prosecution Service in

Table 2:
Domestic violence incidents,
recorded crimes and clearance rates, 2005 - 2007

	2005/2006	2006/2007	Change
Total number of incidents ⁶	23,059	23,456	+397
Total number of crimes ⁷	10,768	10,115	-653
Sanction clearance ⁸ rate (%)	24.1	31.1	+7.0 %pts
Non sanction clearance rate (%)	53.5	14.7	-38.8 %pts
Overall clearance rate (%)	77.5	45.8	-31.7 %pts

The overall clearance rate for domestic violence crimes is 45.8%. This is a decrease of 31.7 percentage points on the clearance rate in 2005/2006. This significant decrease can be explained in large part by the change in the definition of non-sanction clearance⁹ adopted by PSNI during the reporting year. The more useful comparative indicator is the sanction clearance¹⁰ rate which stands at 31.1% for 2006/2007, representing an increase of seven percentage points on the rate in 2005/2006.

PSNI domestic incidents policy

In our 2006 Annual Report, we reported on the PSNI domestic violence policy issued in 2004. Following a comprehensive review, the PSNI is due to re-issue its policy on domestic incidents (PSNI domestic incidents policy) in October 2007. We have been provided with the final draft of the new policy directive. We set out below our analysis of the new policy. The new policy adopts the term 'domestic abuse' in recognition that the term 'domestic violence' does not always reflect abusive behaviour in its broadest sense. The policy defines domestic abuse as:

“Any incident of threatening behaviour, violence or abuse (psychological, physical, verbal, sexual, financial or emotional) inflicted on one person by another where they are or have been intimate partners¹¹ or family members,¹² irrespective of gender or sexual orientation.”¹³

Aims and objectives of the policy

The domestic incidents policy explicitly states that the PSNI “is committed to the principle that domestic abuse is unacceptable and that everyone has the right to live free from fear and abuse. Where domestic abuse occurs, or has the potential to occur, the paramount consideration is to ensure the safety and well-being of victim(s), children and police officers (attending such incidents) and to ensure, where appropriate, perpetrators of abuse are challenged and held to account to reduce the potential for re-offending.”

The four aims informing the PSNI’s approach to responding to domestic incidents are:

- (a)** to protect the lives of both adults and children who are at risk as a result of domestic abuse;
- (b)** to investigate all reports of domestic abuse;
- (c)** to facilitate effective action against perpetrators so that they can be held accountable through the criminal justice system;
- (d)** to adopt a proactive multi-agency approach in preventing and reducing domestic abuse.¹⁴

PSNI procedure for responding to domestic incidents

The policy comprehensively outlines the procedures to be adopted when officers respond to victims of domestic abuse.

It provides instructions to officers on action to be taken in relation to the following:

- (i)** the initial report of domestic violence;¹⁵
- (ii)** completion and submission of occurrence management forms;
- (iii)** powers of entry;

June 2005. While this has had the effect of reducing the overall clearance rate, sanction clearances remain unaffected: PSNI Statistical Report No. 2 Domestic Incidents and Crimes, 1st April 2006 - 31st March 2007.

11. Intimate partners means there must have been a relationship with a degree of continuity and stability. The relationship must also have had (or reasonably supposed to have had) a sexual aspect: PSNI domestic incidents policy, para. 2(2)(b)(iii).

12. Family members include mother, father, son, daughter, brother, sister, grandparents, whether directly or indirectly related, in-laws or stepfamily: PSNI domestic incidents policy, para. 2(2)(b)(ii).

13. This definition was compiled by the Northern Ireland Regional Steering Group on Domestic Violence.

14. PSNI domestic incidents policy, para. 3(2)(a).

15. Whether by telephone, letter, email or third party referral.

16. A significant statement is one made by the perpetrator that appears capable of being used in evidence.

17. Risk includes risk of future harm to the adult victim, children, family members or any other person. Risk identification refers to the identification of established risk factors in a domestic abuse case. Only trained PSNI Domestic Abuse Officers undertake and monitor risk assessments.

18. Discussed in more detail below at pp.195-196.

- (iv)** attending a domestic incident;
- (v)** obtaining a first account of the domestic incident from a victim or witness;
- (vi)** scene preservation and sources of evidence;
- (vii)** recording of significant statements;¹⁶
- (viii)** dealing with counter allegations;
- (ix)** powers of arrest and arrest strategies;
- (x)** risk identification, assessment and management;¹⁷
- (xi)** multi-agency risk assessment conferences;¹⁸
- (xii)** development of the investigation;
- (xiii)** obtaining evidence from witnesses and victims;
- (xiv)** interviewing the perpetrator;
- (xv)** use of interpreters;
- (xvi)** the use of police bail;
- (xvii)** retraction statements;
- (xviii)** tactical advice in domestic sieges and hostage taking incidents; and
- (xix)** records management.

Specific factors

Importantly, the domestic incidents policy includes separate sections on specific factors to be taken into consideration when responding to domestic abuse cases, including the particular vulnerability of children in domestic incidents situations; the impact of cultural influences on domestic abuse (highlighting and explaining issues such as ‘family honour’, ‘honour killings’ and forced marriage); the prevalence of domestic abuse in same sex relationships (and the significant under-reporting of domestic abuse by lesbians and gay men) and the importance of informing victims about and/or referring them to support organisations such as Victim Support, Women’s Aid, Men’s Advisory Project etc. A separate section is also devoted to domestic incidents involving PSNI officers and staff.

Specialist domestic abuse officers

The domestic incidents policy sets out the roles of PSNI domestic abuse officers (DAOs) and domestic abuse co-ordinators.

District Commanders appoint specialist DAOs who are located within each district. It is the responsibility of the District Commander to ensure that an adequate number of DAOs are appointed to manage the level of reported domestic incidents within their respective districts. The role of the DAO is set out in detail within the policy and includes:

- (a)** identifying, assessing and managing risk in all domestic incidents reported to police;
- (b)** participating in multi-agency risk assessment conferences;
- (c)** providing support, guidance and information to victims of domestic abuse and assisting their access to appropriate support agencies;
- (d)** providing advice to operational officers and supervisors investigating domestic incidents;
- (e)** assisting and on some occasions taking full responsibility for the development of domestic abuse investigations;
- (f)** developing relationships with statutory and voluntary domestic abuse support agencies;
- (g)** maintaining and collating statistics relating to domestic abuse; and
- (h)** devising a district protocol in relation to police response to domestic abuse, highlighting local initiatives unique to the district.

The policy refers to the introduction by the PSNI of Public Protection Units. A project team has been set up to establish these units within each district. Each Public Protection Unit will come under the command of the District Commander. It is the intention of the PSNI that a Public Protection Unit will consist of a vulnerable and missing persons team, a sex offender management team, a child protection team and a domestic abuse team. DAOs will form part of the Public Protection Unit

19. Discussed at pp. 195-196.

20. Letter from ACC Criminal Justice to Policing Board's human rights advisors dated 5th July 2007.

21. 2006 Annual Report, Recommendation 35, p.162.

22. PSNI's Human Rights Programme of Action 2006-2007, p.17.

and will report to the domestic abuse co-ordinator who will monitor domestic abuse cases to identify established risk factors and repeat victimisation and participate in the Multi-agency Risk Assessment Conference (MARAC)¹⁹ process. The PSNI considers that the introduction of Public Protection Units will provide a number of benefits, including clear leadership, ownership, accountability and a joined up approach to public protection.²⁰

Practical guidance

Appendices to the policy include a summary of relevant legislation and police powers, a checklist for officers receiving the initial report of a domestic incident, established risk factors of domestic abuse, risk assessment and safety planning, a sample safety plan for victims, guidance notes on interviewing a perpetrator, a domestic abuse protocol and notes on special measures to assist vulnerable or intimidated witnesses in giving evidence in court.

Observations

The new domestic incidents policy is clear and comprehensive. It is an impressive and well structured policy which sets out clearly and in detail the procedures to be followed by police officers responding to domestic incidents. The particular complexities of responding to and investigating domestic incidents are highlighted with sensitivity, as are the vulnerabilities and risk factors which victims may present. The policy includes reference to relevant articles of the European Convention in the legal basis section and also includes a specific section on the positive obligations of police officers to take reasonable action within their powers to safeguard the rights of victims and children and other vulnerable people.

In our 2006 Annual Report, we recommended that 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.²¹ The PSNI indicated in its Human Rights Programme of Action 2006-2007 that it would include relevant aspects of the Foyle Protocol on Domestic Violence in an updated version of its domestic violence policy.²² The Foyle Domestic Violence Protocol has now been included as an Appendix to the PSNI domestic incidents policy. We

consider that this implements Recommendation 35 of our 2006 Annual Report in full.

Domestic violence involving PSNI officers and staff

One area of concern raised by Women's Aid when we consulted with them last year was the rate of domestic violence amongst PSNI officers and staff and how the PSNI dealt with such incidents.²³

In March 2007, the PSNI issued a policy on domestic violence involving PSNI officers and staff²⁴ based on ACPO guidance.²⁵ The policy refers to the PSNI's positive duties under Articles 2, 3 and 8 of the European Convention on Human Rights and illustrates this by reference to *Osman v. UK* (1998) and *Z and Others v. UK* (2001). The PSNI's policy states that the PSNI will take positive action to prevent domestic violence and refer police personnel for support to overcome abuse. The policy outlines a number of support structures, including the role of Employment Support Officers in providing counselling and information. The policy indicates that the PSNI will investigate and hold officers and staff who perpetrate domestic violence accountable, indicating that they will be treated the same as non police perpetrators.

Officers or police staff who are subject to a court order relating to domestic violence or domestic violence related criminal offences must notify their DCU Commander or Head of Branch. In cases involving an arrest, report or charge in relation to a domestic violence related offence, PSNI Professional Standards, the regional ACC and the Deputy Chief Constable must also be notified. Following notification of criminal allegations, a risk assessment must be conducted in which the employing DCU Commander or Head of Branch considers whether to suspend the individual or give them alternative duties.²⁶ PSNI policy indicates that an officer's failure to report may result in disciplinary action and refers to the duty of supervisors under Article 10 and the general duty of integrity under Article 7.5 of the Code of Ethics. Misconduct proceedings will be initiated against an officer who is criminally prosecuted for offences related to domestic violence and may be initiated even in cases not resulting in criminal prosecution.²⁷ In both cases, dismissal will be considered.²⁸

23. See 2006 Annual Report, p.105.

24. General Order No. 20/07.

25. ACPO, *Guidance on police officers who commit domestic violence related criminal offences*, 2003.

26. Excluding duties related to domestic violence, child protection or sexual offences.

27. Where a member of police staff is criminally prosecuted for offences relating to domestic violence, the case is considered as an act of gross misconduct under the Northern Ireland Civil Service Staff Handbook and consideration given to termination of employment.

28. Where dismissal is not opted for, a report must be submitted to the Deputy Chief Constable, outlining the rationale for the decision against dismissal.

29. The model requires that a risk assessment conference, involving all relevant agencies, is conducted for high risk victims of domestic violence. The risk assessment is used as a structured information-gathering tool by officers responding to incidents of domestic violence in order to identify the appropriate level of intervention according to the level of risk. Intervention may constitute anything from an information letter to a multi-agency risk assessment conference.

30. ACPO, *Identifying, Assessing and Managing Risk in the Context of Policing Domestic Violence*, February 2004.

31. The 13 other agencies were Women's Aid, Health Visitors, Social Services, Child Services, Northern Ireland Housing Executive, Probation Board, Victim Support, Mental Health, HomeFirst, General Practitioners, Adult Services, Youth Justice Agency and Eldercare.

32. Letter from ACC Criminal Justice to Policing Board's human rights advisors dated 8th May 2007.

33. PSNI Analysis Centre, *Results Analysis: Multi Agency Risk Assessment Conference (MARAC) Pilot*, March 2007.

34. Key high risk factors were identified as (i) relationship separation; (ii) offender behaving in a jealous or controlling way; (iii) perpetrator has a criminal record for violence or drugs.

35. The PSNI Analysis Centre considered that the high number of referrals from the police compared to other agencies may be because the process was perceived as led by the police.

36. The objectives achieved were to research existing policies and develop best practice for risk assessment, to identify high-risk indicators of domestic violence, increase the number of offenders arrested, decrease the number of repeat offenders and to develop and deliver a multi-agency risk assessment conference.

MARAC Pilot and Analysis

The Multi-Agency Risk Assessment Conference (MARAC) model is a multi-agency approach to domestic violence based on risk assessment and inter-agency working and information sharing.²⁹ The aims of the MARAC model are to provide an effective risk assessment model and a supporting risk management structure for victims of domestic violence and their children and to maximise evidential opportunities to ensure perpetrators of domestic violence are held accountable for their actions. In our 2006 Annual Report, we reported on the PSNI's commencement of a pilot of the MARAC model in Larne, Carrickfergus, Antrim and Ballymena districts. The PSNI developed its pilot in accordance with ACPO guidance on domestic violence risk management.³⁰ In total, 14 agencies including the PSNI were engaged in the MARAC process.³¹ Following completion of the PSNI's pilot in September 2006, a results analysis was conducted by the PSNI Analysis Centre. Prior to implementing the model across the PSNI, the PSNI intends to undertake consultation to determine levels of commitment from partner agencies.³²

The PSNI Analysis Centre analysed results of the MARAC pilot,³³ assessing 807 reported domestic incidents over the six-month period between 1st April 2006 and 20th September 2006. Almost a quarter (23%) of reported incidents were assessed to be very high risk.³⁴ Of those, 57% of very high risk individuals were referred to the MARAC, the majority of referrals being made by the police.³⁵

Overall, the results of the MARAC pilot were positive. Of the six objectives of the MARAC pilot, all but one was fully achieved.³⁶ The overall number of repeat incidents decreased and the number of arrests for domestic violence increased. The MARAC participants reported that relationships between agencies had improved significantly as a result of sharing information in the MARAC. A survey of a small number of victims who participated in the MARAC process produced positive feedback and a number of victims reported that, following the MARAC process, they left the abusive situation and had been assisted in progressing their lives free from abuse.

The results analysis identified a number of areas for improvement, including the development of information sharing protocols, further training for MARAC participants and awareness-raising for victims and administrative support for the MARAC process. In total, the Analysis Centre made 12 recommendations, relating to training, the accumulation of recording forms, information sharing, attendance and participation at the MARAC, victim awareness and administrative support. The Analysis Centre concluded that following a rigorous review of structures, protocols and procedures, the MARAC model should be extended across Northern Ireland. The PSNI Chief Constable's Forum is due to consider this recommendation to extend the MARAC model across the PSNI in October 2007. We intend to examine the training provided to DAOs and the activities of DAOs as part of next year's monitoring work.

Perceptions of PSNI's approach to tackling domestic violence³⁷

In our 2006 Annual Report, we reported on our consultation with representatives of Women's Aid on the PSNI's approach to tackling domestic violence and its treatment of victims of domestic abuse. This year we again met with representatives of Women's Aid who raised a number of matters with us. We set these out in summary below.

First, representatives of Women's Aid were concerned that whilst domestic violence training for PSNI student officers is now well established and focused (see below), training on domestic violence at district level for longer serving officers, particularly sergeants and inspectors, is virtually absent. Anecdotal examples of treatment of domestic violence victims by older serving officers suggest that this training gap needs to be addressed. Women's Aid informed us of a newly established City & Guilds accredited training programme on domestic violence being run for longer serving officers in Foyle. The training programme was developed by Women's Aid and is due to be evaluated next year. We intend to monitor the implementation and evaluation of the new programme. In addition, in light of the new PSNI domestic abuse policy due to be issued later this year (see above), we intend to monitor the steps taken by the PSNI to ensure that all officers are aware of and understand the new policy and to review domestic violence training provided at the district level.

37. Based on our meeting with Women's Aid. We do not intend to suggest there are not other perceptions held.

The representatives of Women's Aid this year again raised concerns regarding the role of PSNI domestic abuse officers, suggesting a lack of consistency across districts to the investigatory role of those specialist officers and to the provision of adequate investigation training. As we have already highlighted, we intend to examine the training provided to PSNI domestic abuse officers and the activities of domestic abuse officers as part of next year's monitoring work.

Women's Aid also highlighted concerns regarding the use of interpreters in cases of domestic violence involving non-nationals/non-English speakers. One example was given of a case where the same interpreter was used to translate (for the purpose of statement taking) for the perpetrator and the victim. This causes us serious concern and we intend to investigate this incident further.

Women's Aid again this year endorsed the MARAC model as a critical multi-agency initiative. They were strongly supportive of an extension of the model across Northern Ireland.

Student officer domestic violence training

Student officer training on domestic violence takes the form of four lessons. In the first lesson, a Domestic Violence Officer (DVO) examines a domestic violence incident. The lesson covers the definition of a domestic incident, the role and responsibilities of the investigating officer and the DVO and the role and services provided by external agencies. The lesson instructs officers on the steps which should be taken when attending a domestic violence incident, including the need to focus on the victim's perception of the incident and to adopt a proactive approach reflecting the PSNI's pro-arrest policy, the importance of collating and maintaining the integrity of evidence and records and the need to involve other agencies, such as Social Services. The DVO uses case studies to illustrate the points covered in the lesson.

The second lesson is delivered by PSNI trainers and aims to examine and promote understanding of the causes and effects of domestic violence and the appropriate police response when dealing with domestic violence incidents. The lesson is intended to instruct student officers on the cycle of domestic violence,

the reasons why victims may be reluctant to engage with the criminal justice system, the importance of working with other external agencies and the need for good record keeping. Officers are instructed how to apply for and enforce non-molestation and occupation orders and what other police powers may be used to deal with domestic violence incidents.

At the outset of the lesson, the trainer requires student officers to complete a knowledge check based on pre-reading material. The knowledge check requires officers to identify the human rights which may be engaged in domestic violence incidents. Student officers repeat the knowledge check at the end of the lesson and the two checks are compared to identify gaps in knowledge and assess the effectiveness of the lesson. Using a domestic violence case study, the trainer divides officers into groups and asks them to develop a domestic violence aide memoir to be used by officers when dealing with a domestic violence incident. Each group's aide memoir is discussed and a fully comprehensive checklist drawn up. The trainer proceeds to develop the case study, questioning student officers on the appropriate police response, police powers and practical measures that should be taken to assist the victim. The trainer discusses with students the implications of the victim withdrawing a complaint and highlights relevant human rights considerations, including the victim's right to life (ECHR, Article 2) and, in the event that the police decide to prosecute without the victim's consent, the implications for the victim's right to respect for private and family life (ECHR, Article 8). The trainer refers student officers to PSNI policy on domestic incidents and ACPO guidance. The lesson concludes with a video on domestic violence, which emphasises the seriousness of the issue and the profound impact of domestic violence on the lives of victims.

The third lesson of the domestic violence course is delivered by Women's Aid. Again, the aim of the lesson is to provide student officers with more detailed awareness of the patterns and impact of domestic violence and the role of external support services, including Women's Aid. The lesson covers the myths and mistaken beliefs surrounding domestic violence, statistics on domestic violence and forms of domestic violence, including physical, sexual, financial and emotional.

38. This is the definition adopted by ACPO.

39. PSNI Annual Statistical Report 2006/2007 (May 2007).

40. PSNI Community Safety Branch Note to Policing Board's human rights advisors 17th August 2007.

41. The PSNI's policy on hate incidents defines a faith or religious group as a group of persons defined by reference to religious belief or lack of religious belief. This would include Christians, Muslims, Hindus, Jews, Sikhs and different sects within a religion. It also includes people who hold no religious belief at all.

42. The PSNI's policy on hate incidents indicates that the term 'sectarian' is not clearly defined, however, is used in Northern Ireland to describe incidents of bigoted dislike or hatred of members of a different religious or political group.

Following the three lessons, student officers are required to complete a role play with a victim of domestic violence who has decided to make a report to the police following a sustained period of abuse. An actor plays the role of the victim. Student officers are assessed during the exercise. The assessment contributes to the student officer's overall assessment at the end of the student officer training programme. The assessment focuses on four areas of the officer's performance: effective communication, problem-solving, community and customer focus and respect for diversity. At the end of the exercise, the trainer debriefs the student officer, identifying positive aspects of the officer's performance and referring to areas requiring improvement. The student officer training on domestic violence is focused and practical. The use of the knowledge check and applied contextual learning provided through the case study are particularly positive elements of this training. However, we observed some inconsistencies in the use of terminology and definitions which we bring to the attention of the PSNI internal evaluation team.

Hate crime

In our 2006 Annual Report, we reported that the level of hate crime in Northern Ireland was increasing. Hate crime is defined as any hate incident, which constitutes a criminal offence, perceived by the victim or any other person, as being motivated by prejudice or hate.³⁸

Table 3 on page 198 sets out the number of reported incidents and clearance rates by type of hate crime for 2005/2006 and 2006/2007.³⁹ In 2005/2006, there was a total of 2,997 reported incidents of hate crime. This figure has increased in 2006/2007 with 3,113 reported incidents of hate crime. These figures, however, provide only a general indication of the overall number of reported hate crime incidents, as one incident may be classified as having more than one type of motivation.⁴⁰

During 2006/2007, the number of reported racist incidents increased by 111 (+11.9%), while reported faith/religion⁴¹ incidents increased by 66 (+94.3%). In the same period, reported homophobic incidents fell by 65 (-29.5%), sectarian⁴² incidents fell by six (-0.4%) and incidents with a disability motivation fell by

22 (-31.4%). During 2006/2007, the PSNI established a baseline measure of incidents and crimes with a transphobic motivation. Table 3 indicates that there were 32 reported incidents and 14 recorded crimes with a transphobic motivation in 2006/2007.

Table 3:

Hate incidents, recorded crimes and clearance rates, 2006-2007

Type of hate crime	Total number of incidents		Total number of crimes		Sanction clearance rate (%)		Non sanction clearance rate (%)		Overall clearance rate (%)	
	05/06	06/07	05/06	06/07	05/06	06/07	05/06	06/07	05/06	06/07
Racist	936	1,047	746	861	13.1	11.7	7.4	1.6	20.5	13.4
Homophobic	220	155	148	117	20.3	15.4	12.2	7.7	32.4	23.1
Faith/Religion	70	136	78	120	9.0	6.7	9.0	0.8	17.9	7.5
Sectarian	1,701	1,695	1,470	1,217	11.1	14.4	3.3	2.0	14.4	16.4
Disability	70	48	38	26	10.5	23.1	28.9	3.8	39.5	26.9
Transphobic	--- ⁴³	32	---	14	---	0	---	0	---	0

43. The PSNI established a baseline measure of incidents and crimes with a transphobic motivation in 2006/2007.

44. See footnotes 7-10 above for definitions.

As Table 3 demonstrates, overall, clearance rates for racist, homophobic, faith/religion and disability hate crime fell during 2006/2007. Only clearance rates for sectarian crime increased - from 14.4% in 2005/2006 to 16.4% in 2006/2007. Again, non-sanction clearance rates were affected by the change in counting rules.⁴⁴ Sanction clearance rates, however, were unaffected by the change and displayed a similar trend to overall clearance rates, with only those hate crimes with a sectarian and disability motivation indicating an increase in clearance rates.

Table 4 below records the number of recorded crimes with a hate motivation according to the type of offence in 2006/2007. It indicates that 52% of all recorded hate crime in 2006/2007 was sectarian hate crime. Racist hate crime constituted 37% of recorded hate crime. 50% of recorded hate crimes in 2006/2007 were of criminal damage, 32% were woundings and assaults and 7% were cases of intimidation or harassment. The most serious recorded hate crimes (i.e. murder and attempted murder) were cases of sectarian hate crime.

45. Criminal Justice Inspection Northern Ireland, *Hate Crime in Northern Ireland: A thematic inspection of the management of hate crime by the criminal justice system in Northern Ireland*, January 2007, (CJI Report 2007).

Table 4:
Recorded hate crimes according to type of offence, 2006/2007

Hate motivation/ Type of offence	Racist	Homophobic	Faith/ Religion	Sectarian	Disability	Total
Murder	0	0	0	1	0	1
Manslaughter	0	0	0	0	0	0
Attempted Murder	1	0	0	9	0	10
Threat or conspiracy to murder	10	4	10	37	0	61
All woundings/ assaults	251	63	34	392	12	752
Intimidation/ harassment	48	12	17	94	1	172
Robbery	9	6	0	8	1	24
Other violent crime	5	5	0	1	2	13
Burglary	11	1	0	11	1	24
Theft	13	2	4	19	2	40
Criminal damage	501	23	52	589	6	1,171
All other notifiable offences	12	1	3	56	1	73
Total	861	117	120	1,217	26	2,341

We intend to continue to monitor the PSNI's recording, investigation and monitoring of hate incidents and crime as part of next year's monitoring work.

Criminal Justice Inspection Report on Hate Crime

In January 2007, the Criminal Justice Inspection (CJI) for Northern Ireland published a report on hate crime in Northern Ireland.⁴⁵ The aim of the inspection was to review the effectiveness of mechanisms across the criminal justice system to combat hate crime. Specifically, the Report examined policies,

procedures and processes within the criminal justice system and services available to victims. The Report considered the reliability of hate crime reporting and the effectiveness of investigations, support processes and prosecution.⁴⁶ Where appropriate, the CJI Report identified areas of good practice and made recommendations for reform.

The CJI's findings in relation to the PSNI were generally positive. The Report indicated that the PSNI has a "sophisticated hate incident and crime recording system" and "good policies and procedures in place for managing hate crimes". The Report also stated that the PSNI had "engaged in very positive and well received consultation exercises with the communities" about its policies and procedures. The Report noted the PSNI's "excellent work" in providing interpreters and indicated that other agencies could learn from its example. However, the Report expressed a number of concerns and identified areas for improvement. In particular, the Report doubted the effectiveness of the PSNI's approach to making officers aware of policies and procedures, and indicated that emailing was not an effective means of communicating on a Service-wide basis. The Report, whilst commending the PSNI's appointment of Minority Liaison Officers at district level, identified inconsistencies in both resourcing levels across districts and in the approach of districts to managing hate crime.⁴⁷ Finally, the Report noted that the PSNI's performance in terms of hate crime clearance, while improving, was still not as good as it could be.⁴⁸

The Report made five specific recommendations for the PSNI:

- In response to its finding that officers were failing to categorise hate crimes properly, the CJI recommended that the PSNI clarify for their officers that the hate incident definition used for recording purposes is solely perception, not evidence, based.⁴⁹
- CJI recommended that the PSNI review how it communicates clearance rates and what they mean.⁵⁰
- The CJI referred to failings in the accuracy of crime recording and recommended that the PSNI ensure regular review of record entries on police systems relating to hate crime.⁵¹
- While identifying the role of Minority Liaison Officer as a key strength in managing hate crime, the CJI recommended

46. CJI Report 2007 at p.39.

47. CJI Report 2007 p.vii.

48. CJI Report 2007 p.viii.

49. CJI Report 2007 p.14.

50. CJI Report 2007 p.26.

51. CJI Report 2007 p.19.

52. CJI Report 2007 p.34.

53. CJI Report 2007 p.22.

54. The Criminal Justice (No.2) (Northern Ireland) Order 2004 made provisions for increased penalties for offences motivated by hostility towards a person's race, religion, sexual orientation or on the basis of a person's disability.

55. Including at district level, during the student officer training programme and as part of training delivered to CID officers.

that the PSNI re-examine MLO resourcing to further develop this critical role.⁵²

- Finally, the CJI recommended that the PSNI should undertake a review of its reporting system to address under reporting of hate crime incidents. The CJI identified the Recording Incidents of Hate (RIOH) project (piloted by South Belfast district) as an example of good practice in promoting the reporting of hate crime. The RIOH is a multi-agency project designed to provide information about the levels of hate crime in South Belfast. The project requires a range of agencies, including the Gay and Lesbian Youth Northern Ireland, the Northern Ireland Council for Ethnic Minorities and the South and East Belfast Health and Social Services Trust to provide dedicated computer terminals where victims of hate crime can anonymously complete the RIOH monitoring form. The CJI welcomed the initiative but highlighted the need for evaluation of the project.⁵³ The CJI recommended that before the project was extended, the RIOH working group should develop guidance and an action plan on how the data gathered by the project is to be used most effectively.

In response to more general concerns regarding the impact of the Criminal Justice No.2 (Northern Ireland) Order 2004,⁵⁴ the CJI recommended that the PSNI, the Policing Board and the NIO closely monitor and report on use and effectiveness of the legislation.

PSNI Response to CJI Report

In May 2007, ACC Criminal Justice updated us on the PSNI's progress in implementing the CJI Report recommendations.

- In response to CJI's recommendation to clarify the definition of hate crime, ACC Criminal Justice referred to PSNI policy on hate incidents, which defines a hate incident 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" and training PSNI officers receive at various levels on hate crime.⁵⁵ In addition, PSNI Community Safety branch holds twice yearly meetings with Minority Liaison Officers to ensure the PSNI's policy is implemented in front line policing.

- On the issue of crime clearances, ACC Criminal Justice referred to the recent change in definition of crime clearances which has reduced the circumstances in which a non-formal sanction can be regarded as cleared. Information on this change and detailed reference to crime clearances is included in the PSNI's annual statistical report. In addition, a new PSNI IT system for crime recording should promote the accurate recording of hate crime and facilitate the review of inputted data.
- PSNI has sought to address the issue of under reporting of hate crime by providing for reporting of hate incidents through the PSNI website. The PSNI also intends to consider how to improve and extend the processes by which hate incidents and crimes can be reported as part of the annual review of its hate incident policy.
- As regards MLO resourcing, ACC Criminal Justice indicated that each district is required to appoint MLOs according to the extent of the hate crime problem in that particular district. District Commanders continuously review the allocation of resources in this area and in doing so consider statistics on hate incidents and the views of the local community.⁵⁶

Research on hate crime

In our 2006 Annual Report, we reported on the findings and recommendations of the Institute for Conflict Research (ICR) 2006 reports.⁵⁷ As part of our monitoring work this year, we have reviewed recent research into hate crime in Northern Ireland, followed up on the PSNI's response to reports by NICEM and the ICR and continued our consultation with minority groups. We report our findings below.

Northern Ireland Council for Ethnic Minorities report on racist violence

A report published by the Northern Ireland Council for Ethnic Minorities (NICEM) in 2006 set out findings of research undertaken into experiences and perspectives of victims of racist attacks in Northern Ireland.⁵⁸ The report referred to individual's

56. Letter from ACC Criminal Justice to Policing Board's human rights advisors dated 8th May 2007.

57. 2006 Annual Report, pp.107-108.

58. NICEM, *The Next Stephen Lawrence?*, 2006.

59. NICEM Report 2006 p.53.

60. NICEM Report 2006 p.64.

61. 'Institutional racism' consists of the collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness, and racist stereotyping which disadvantage minority ethnic people. (MacPherson report, 1999)

62. NICEM Report 2006 p.53.

63. The MacPherson report was the final report of a public inquiry into the death of Stephen Lawrence, a black teenager who was murdered in April 1993. The report recommended a series of measures that would subject the police to greater public control, enshrine rights for victims of crime and extend the number of offences classified as racist.

64. NICEM Report 2006 p.68.

65. Institute for Conflict Research, *Policing, Accountability and the Black and Minority Ethnic Communities in Northern Ireland and Policing, Accountability and the Lesbian, Gay and Bisexual Community in Northern Ireland*, February 2006.

66. Delegates heard presentations from police officers and community representatives that demonstrated examples of initiatives that have enhanced community relations between minority ethnic communities and the PSNI.

67. Letter from ACC Criminal Justice to Policing Board's human rights advisors dated 8th May 2007.

68. Anti-racist training is delivered by the National Consultative Committee for Racism and Interculturalism and anti-homophobic training is delivered by SHOUT (a training organisation specialising in this area).

69. Letter from ACC Criminal Justice to Policing Board's human rights advisors dated 8th May 2007.

experiences of the PSNI in dealing with racist attacks and violence. The report's findings were mixed.⁵⁹ On the positive side, the research did not indicate any evidence of racist behaviour by police officers in the line of duty and acknowledged that the PSNI has made efforts to address the needs of minority ethnic communities at policy level.⁶⁰ However, the report recorded many allegations of institutional racism,⁶¹ concluding that "such racism is present in the commonplace unwillingness or inability to respond appropriately to racist violence". While recognising the obstacles faced by the PSNI in investigating 'opportunistic' crime and the under reporting of hate crime, the report emphasised the positive duty on the PSNI to encourage and support reporting.⁶²

The NICEM report made five specific recommendations for the PSNI, including that the PSNI review its response to racist incidents and police training on racist incidents, revise its hate crime policy to reflect the MacPherson⁶³ recommendations and reinvigorate its attempts to build relationships with minority ethnic communities and organisations.⁶⁴

PSNI Response to ICR and NICEM reports

In November 2006, the PSNI Equality and Diversity Unit hosted a conference entitled 'Dealing with racism in Northern Ireland' for Senior Officers and Minority Liaison Officers. The purpose of the conference was to present the findings of the research undertaken by NICEM and the ICR⁶⁵ into the experiences of black and minority ethnic communities in Northern Ireland and to share learning and good practice⁶⁶ across PSNI districts.⁶⁷

The PSNI has this year introduced a number of initiatives in response to the NICEM and ICR reports. Student officer training has been reviewed in light of the reports and officers now receive specific anti-racist and anti-homophobic training.⁶⁸ Police recruitment campaigns are monitored to examine the success of minority recruits and the PSNI has recently started to monitor the sexual orientation of recruits. A full equality impact assessment is being conducted on the police recruitment process, which will identify any existing inequalities. In addition, the PSNI Equality and Diversity Unit, in partnership with PSNI Professional Standards, review internal grievance and discipline cases to identify cases of homophobia in the PSNI.⁶⁹ We welcome the steps the PSNI has taken. We intend to examine in more detail

the training provided to Minority Liaison Officers (MLOs) and the activities of MLOs across PSNI's 8 districts as part of next year's monitoring work. We will also continue to monitor any external analysis of PSNI's approach to racial and homophobic hate crime and PSNI's response to it.

70. Based on meetings with groups outlined. We do not intend to suggest there are not other perceptions held.

Minority communities perceptions of the PSNI⁷⁰

In our 2006 Annual Report, we reported on our consultation with representatives of NICEM, The Rainbow Project and An Munia Tober, during which we discussed levels of contact with the PSNI, the effectiveness of partnership working with the PSNI and perceptions of the PSNI's awareness and understanding of the needs of particular minority groups. We met with representatives of NICEM and An Munia Tober and corresponded with the Rainbow Project again this year as part of our monitoring work. We set out the concerns they raised with us in the next sections.

NICEM

We met with NICEM in July 2007. NICEM welcomed the PSNI's efforts, through policy and training, to ensure officers were aware of the definition of hate crime, i.e. as based on the victim's perception. However, NICEM expressed concern that operational officers were not applying the definition and gave anecdotal accounts of cases where the PSNI had failed to pursue crimes perceived by victims as hate motivated.

We are concerned about this potential non-reporting of hate incidents. We therefore recommend that the PSNI should require all MLOs to review command and control logs on a monthly basis as a matter of standard practice to identify incidents which

may constitute hate incidents and crimes but which may not be recorded as such.

RECOMMENDATION 29:

The PSNI should require all Minority Liaison Officers to review the district command and control log on a monthly basis as a matter of standard practice to identify incidents which may constitute hate incidents and crimes but which may not be recorded as such.

71. Article 5(1)
Unauthorised Encampment
(Northern Ireland)
Order 2005.

72. Under Article 28A
of the Housing (Northern
Ireland) Order 1981 (NI 3).

73. Article 3(1)
Unauthorised Encampment
(Northern Ireland)
Order 2005.

74. Department for
Social Development,
*Guide to the Unauthorised
Encampments (Northern
Ireland) Order 2005*,
June 2006.

While recognising the progress the PSNI has made in tackling hate crime, NICEM raised concern about the PSNI's interaction with other public authorities, including the Public Prosecution Service and the Northern Ireland Housing Executive (NIHE). NICEM suggested that the PSNI and PPS's policies on hate crime should adopt standard definitions. We agree. We therefore recommend that the PSNI should work with the PPS to agree standard definitions and policies and a more integrated approach to the prosecution of hate crime.

RECOMMENDATION 30:

The PSNI should work with the PPS to agree standard definitions and policies and a more integrated approach to the prosecution of hate crime.

PSNI engagement with the Traveller Community

We met with An Munia Tober in July 2007. An Munia Tober raised with us concerns regarding the operation of the Unauthorised Encampment (Northern Ireland) Order 2005 (the 2005 Order). Article 5 of the 2005 Order gives police the power to evict trespassers intent on residing on land in a vehicle provided there is a suitable alternative site for them to move to within a reasonable distance.⁷¹ Where trespassers are members of the Irish Traveller community, an alternative site must be provided by the Northern Ireland Housing Executive (the NIHE).⁷² Article 3 of the 2005 Order expressly states that should a suitable alternative site not be available, the police may still evict trespassers if there are six or more vehicles, the trespassers use threatening, abusive or insulting language or behaviour or cause damage to the land.⁷³ Police powers under the 2005 Order are discretionary.

In June 2006, the Department for Social Development issued guidance on the 2005 Order.⁷⁴ The guidance states that the PSNI would produce a policy statement and operational guidance setting out how it intended to respond to incidents of unauthorised camping. The guidance also required that in all cases where unauthorised encampments are set up by Irish Travellers, the PSNI and NIHE should work closely together.

An Munia Tober queried whether PSNI officers were aware of the operation of the 2005 Order and the proper scope of their powers under the 2005 Order, specifically that police may not remove an unauthorised encampment by Irish Travellers unless there is an alternative suitable site or one of the conditions in Article 3 of the 2005 Order applies. An Munia Tober indicated that in light of NIHE's failure to provide the requisite number of the alternative suitable sites for the Irish Traveller community - the NIHE is obliged to provide five sites but to date there are only two sites available - police officers may be removing unauthorised encampments in contravention of the 2005 Order.

PSNI policy on unauthorised encampments

In March 2007, the PSNI issued a policy on unauthorised encampments.⁷⁵ The policy sets out the main provisions of the 2005 Order and provides guidance to officers on the procedure they should follow when reaching a decision to remove an unauthorised encampment. The policy includes a statement on human rights and equality which highlights that police action in dealing with unauthorised encampments potentially engages Articles 3, 8, 14 and Article 1 and 2 of Protocol 1 of the European Convention on Human Rights. A brief description of each Article is provided in the policy and officers are reminded that police action must be lawful, necessary and proportionate to the legitimate aim of preventing crime or protecting the rights and freedoms of others. These principles are referred to at appropriate points throughout the policy document. The policy also identifies relevant Articles of the UN Convention on the Rights of the Child and provides a brief description and refers to officers' statutory obligations under s.75 of the Northern Ireland Act 1998 and the Race Relations (Northern Ireland) Order 1997.

The PSNI policy requires that before police officers take a decision whether to remove an unauthorised encampment, they should conduct an initial site visit⁷⁶ and consider a range of factors, including the size and topography of the site, the availability of suitable alternative sites within a reasonable distance,⁷⁷ the number, age, gender and medical condition of the unauthorised campers, the number of vehicles on the site, the need to access local hospitals/doctors and schools, the views of the landowner, the trespassers and local community and health and safety, traffic, and public health considerations.⁷⁸

75. General Order No: 19/07 Unauthorised Encampments (Northern Ireland) Order 2005.

76. At this initial visit, those encamped should be provided with information on the standard of behaviour expected of them, the procedures that will be followed and what it means for the campers and the names and addresses of local services and support groups.

77. Police are advised to consult the Housing Executive on what constitutes a reasonable distance and take into account the social, welfare and other needs of the campers and local road and weather conditions.

78. These factors should be assessed at the initial site visit. A proforma is attached to the policy to assist this assessment.

79. The NIHE Traveller Unit will provide a report to the police, including general information on the site, the intention of the occupants and a housing assessment. The NIHE will also indicate the availability of an alternative site. The report should be considered by police prior to any decision to remove.

The PSNI policy requires that an officer of at least Inspector rank and the Northern Ireland Housing Executive Traveller Unit⁷⁹ be consulted prior to any police order to remove an unauthorised encampment. The PSNI's policy indicates that unacceptable behaviour by campers (including individual criminal activity that cannot be controlled by means other than removal), significant disruption to the life of the surrounding community, serious breach of the peace or disorder, detrimental impact on local business and the protection of health and environment may justify the exercise of police powers under the 2005 Order. The policy requires the submission of a report setting out information about the encampment and any police action taken in response to the district Minority Liaison Officer, the District Commander and PSNI Community Safety branch for monitoring.

The PSNI's policy indicates that it is preferable for police to deal with unauthorised encampments by negotiation in partnership with other agencies and recommends that officers establish relationships with Irish Travellers who regularly visit their district. It also suggests that consideration be given to appointment of a single point of contact within each district to liaise with partner agencies and gather information on unauthorised encampments.

The PSNI's policy is comprehensive and fully integrates human rights principles. The need for officers to respect the rights of Travellers and approach unauthorised encampments with sensitivity and proportionality is emphasised.

However, while the PSNI's policy sets out the legislative framework and discusses the need for an alternative site to be available for Travellers, the policy does not give sufficient emphasis to the requirement that Travellers are only removed if an alternative site is available or one of the conditions in Article 3 of the 2005 Order applies. Furthermore, the list of alternative suitable sites included in the appendix is not complete. We therefore recommend the PSNI should amend its policy to emphasise that an unauthorised encampment by Irish Travellers may not be removed unless a suitable alternative site is available or Article 3 of the Unauthorised Encampment (Northern Ireland) Order 2005 applies and ensure that officers are aware of the terms of the 2005 Order and the proper scope of their powers under it.

RECOMMENDATION 31:

The PSNI should amend its policy on unauthorised encampments to emphasise that an unauthorised encampment may not be removed unless a suitable alternative site is available or Article 3 of the Unauthorised Encampment (Northern Ireland) Order 2005 applies and ensure that officers are aware of the terms of the 2005 Order and the proper scope of their powers under it.

Furthermore, in order to facilitate monitoring of the exercise of police powers under the 2005 Order, we recommend that the PSNI should submit a report to the Policing Board on a six-monthly basis setting out the number of police orders issued under the 2005 Order and a short summary of the circumstances relating to each order.

RECOMMENDATION 32:

The PSNI should report to the Policing Board on a six-monthly basis setting out the number of police orders issued under the Unauthorised Encampment (Northern Ireland) Order 2005 and short summaries of the circumstances relating to each order.

An Munia Tober also informed us that organisations representing the Traveller community were not included in the PSNI's cultural awareness training to student officers. We recommend that the PSNI should ensure that the Traveller community is represented in its cultural awareness training to PSNI student officers.

RECOMMENDATION 33:

The PSNI should ensure that the Traveller community is represented in its cultural awareness training to PSNI student officers.

An Munia Tober indicated that a number of police forces in England and Wales and the Garda Siochana have appointed dedicated Traveller liaison officers and suggested that a dedicated officer within the PSNI focusing on Traveller issues would be beneficial. We endorse this suggestion and recommend that the PSNI should consider appointing a dedicated traveller liaison officer.

80. The lesson lasts approximately three hours and is delivered in week 12 of the student officer training programme.

81. 'Hate incident' is defined 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". 'Hate crime' is defined as "any hate incident, which is a criminal offence, perceived by the victim or any other person, as being motivated by prejudice or hate". Trainers emphasise to student officers that an incident or crime is treated as motivated by hate if that is the victim's or another's perception of the incident.

82. Disability, homophobic, racial, religious, sectarian and transphobic.

83. Officers are guided on the appropriate response when a report is made by emergency and non-emergency call and when reported in person.

84. Including Articles 2, 3, 8, 9, 10, 11, 14 and Article 1, Protocol 1.

85. The scenarios include criminal damage against a member of the Jewish community, youths causing annoyance against a member of the Indian community, bullying against a child from the Traveller community, verbal abuse towards a transgendered person, criminal damage against a disabled person and criminal damage of an Orange Hall.

86. The scenario involves criminal damage of property belonging to a same sex couple.

87. The assessment does not contribute to their final assessment.

RECOMMENDATION 34:

The PSNI should consider appointing a dedicated traveller liaison officer.

PSNI Student officer hate incident training

The Student Officer Training Programme includes specific training on hate incidents.⁸⁰ In May 2007, we attended the student officer training on hate incidents. Its aim is to develop student officers' understanding of the concept of hate incidents and to enable them to correctly respond to and deal with hate crimes and incidents. By the end of the training, student officers should be able to define what is meant by a hate incident,⁸¹ list the elements of prejudice upon which hate incidents may be based,⁸² outline the police response to hate incidents⁸³ and the appropriate records to be completed and identify which human rights are engaged when responding to hate incidents.

Throughout the lesson, the trainer consistently referred to the human rights engaged when dealing with a hate incident⁸⁴ and made repeated reference to PSNI's policy on (i) hate incidents and (ii) victims and witnesses. The trainer also emphasised the need for officers to be sensitive to the vulnerabilities of victims of hate incidents and keep victims fully apprised of the progress of their case. Student officers are required to prepare six scenarios involving potential hate incidents or crimes, in which they must consider the information they should acquire and record, the action they should take and the human rights which are engaged.⁸⁵

Following the training, student officers must complete a practical exercise requiring them to respond to a potential hate crime or incident.⁸⁶ They are assessed on their communication skills, crime scene preservation skills (where relevant), community and customer focus, respect for diversity and acceptance of personal responsibility.⁸⁷ We consider student officer training on hate incidents to be comprehensive. Its reference to PSNI policy ensures all officers are aware of their obligations and the correct procedures to adopt when responding to hate incidents.

PSNI Independent Advisory Groups

In our 2006 Annual Report, we recommended that the PSNI should develop and strengthen its relationships with the minority ethnic, lesbian, gay, bisexual and transgender (LGBT) and Traveller communities and work with the groups representing them.⁸⁸

In its Human Rights Programme of Action 2006-2007, the PSNI indicated that PSNI Community Safety branch hold independent advisory groups (IAGs) with minority ethnic communities, older persons, disabled persons, LGBT communities and young people. Each independent advisory group is made up of a panel of advisors⁸⁹ who meet on a quarterly basis. The PSNI has recently drawn up a policy on the role, structure and function of IAGs, which is currently in draft form. The PSNI District Commander or Head of Department is responsible for defining the role of an IAG, which may include advising on policy and strategy, assisting with critical incidents, participating in training and ensuring transparency in decision-making. While the PSNI administers and supports each IAG, in the main, an independent member of the IAG assumes the role of chairperson.⁹⁰

Case study: Greater Belfast and Lisburn LGBT Forum

In January 2007, we attended the Greater Belfast and Lisburn Forum for the LGBT community. The aim of the Forum is to:

- promote partnership between the PSNI and representatives of the LGBT community in tackling homophobic and transphobic hate crime;
- encourage confidence within the LGBT community;
- develop PSNI understanding of diversity within the community, and;
- to gather and share information to facilitate rapid and early intervention to reduce incidents of hate crime.

The Forum meets on a quarterly basis and is co-chaired by the PSNI and an elected member of one of the representative organisations.⁹¹ At the meeting we attended in January 2007,

88. 2006 Annual Report, Recommendation 36, p.162.

89. To a maximum of 20 members. PSNI draft policy states that advisors should be independent of each other (so they can give a range of views), independent of other organisations (in that they should not seek to promote the work of other organisations through the work of the IAG), and independent of the police. It is also important that advisors do not assume a role beyond that of giving advice and they should not act as a community intermediary, give media interviews, mediate between victims and police, visit scenes of crime or investigate offences.

90. Letter from ACC Criminal Justice to Policing Board's human rights advisors dated 8th May 2007.

91. Greater Belfast and Lisburn Lesbian, Gay, Bisexual and Transgender Forum, Terms of reference.

92. Lisburn and Greater Belfast LGBT Forum, 16th January 2007.

93. PSNI, A local initiative guide for engaging with minority ethnic groups and migrant workers, June 2006.

94. PSNI Community Safety Branch, *DCU initiatives dealing with hate crime*, February 2007.

95. PSNI, *Interpreting and Translating within the Police Service: A Guide for Police Officers and Interpreters*, August 2006.

members discussed statistics on homophobic and transphobic hate crime and particular incidents in the Belfast and Lisburn area, including incidents of criminal damage and harassment. Members referred to an example of successful partnership working in which officers in West Belfast DCU worked closely with the Housing Executive to re-house an individual subjected to hate crime. Members expressed concern about underreporting of hate incidents and Members suggested that the PSNI consider distributing posters on hate crime in areas with underreporting or persistent offenders. Members also referred to PSNI policy on policing unlawful public sexual activity and Foyle District's protocol on homophobic hate crime and questioned the level of awareness of both amongst officers. The PSNI agreed to review its approach to how it circulated policies and good practice to officers.⁹²

We consider that the establishment of IAGs is an important measure. We intend to monitor the activities of respective IAGs as part of our monitoring work next year. In the meantime, in light of our analysis in the preceding sections, we consider Recommendation 36 of our Annual Report to be implemented in full.

PSNI Guides

In June 2006, the PSNI issued a local initiative guide⁹³ to each of its districts outlining the various methods employed by the PSNI to engage, protect and support both migrant workers and minority ethnic groups. The guide invites Minority Liaison Officers to contact one another to learn more about the initiatives carried out in each district. The guide also refers to a number of PSNI corporate initiatives, including Project Recording of Incidents of Hate, which is a secure on-line reporting scheme for hate incidents established by the PSNI in partnership with the Northern Ireland Office Community Safety Unit. This project is currently being piloted in South Belfast. In February 2007, the PSNI issued a guide on DCU initiatives dealing with hate crime.⁹⁴ We commend the PSNI's efforts to circulate good practice in this area.

In August 2006, PSNI Community Safety branch published a guide⁹⁵ for officers and interpreters on the use of interpreters and translation services within the police service. The guide outlines

the general standards expected of officers and interpreters, including the need for a corporate approach to employing interpreter services and the requirement that interpreters provide an accurate, impartial and professional service and respect confidentiality requirements. Guidance is given to officers on the use of interpreters, including the need for confidentiality, the role of the interpreter and how to conduct an interview when an interpreter is present. The guide also provides instruction on the use of interpreters in court and outlines what is expected of the interpreter when acting as a witness.

96. 2006 Annual Report, Recommendation 37, p.162.

97. PSNI's Human Rights Programme of Action 2006-2007, p.17.

98. 2005 Annual Report, Recommendation 52, p.172.

TRAINING ON VICTIMS

In our 2006 Annual Report, we recommended 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.⁹⁶ In its Human Rights Programme of Action 2006-2007, the PSNI reported that it already provides appropriate training for officers undertaking specialist roles, for example Family Liaison Officers. Student officers also receive training on dealing with victims, which includes input from Victim Support Northern Ireland.⁹⁷ In our 2005 Annual Report, we recommended that the PSNI should develop training on the treatment of victims to be integrated as a core component of the Student Officer Training Programme.⁹⁸

Student officer training on victims

In March 2007, we observed two lessons delivered to student officers on victims and vulnerable witnesses. The lessons take place in weeks three and four of the student officer training timetable. A representative of Victim Support Northern Ireland delivers the first lesson which informs student officers of the role and work of Victim Support and its relationship with the PSNI. The lesson provides an insight into the needs of victims, emphasising that victims should be treated with dignity and given timely and appropriate information on their case. The lesson refers to relevant Articles of the PSNI Code of Ethics and the standards required by the PSNI Victims and Witnesses policy. Officers are reminded of the need to make appropriate referrals to relevant support organisations, including Victim Support, and are provided with contact information.

99. For this purpose, 'appropriate adult' was described as a parent or guardian, family member over 18, a person over 18 who is not a family member as long as they are not connected to the PSNI or a carer or social worker.

100. Defined as a child under the age of 17 at the time of a hearing and any person suffering from mental health problems, significant impairment of intelligence and physical disability or physical disorder.

101. Defined as "anyone whose quality of evidence is likely to be affected by stress or fear".

102. The Home Office Victims Code of Practice defines 'vulnerable victim' as someone under the age of 17 at the time of the offence or displaying one or more the characteristics outlined above in relation to vulnerable witness.

103. A powerpoint presentation to accompany the lesson includes this information. However, the presentation was not delivered during the lesson we observed.

The second lesson is delivered by PSNI trainers on victims and vulnerable witnesses. Student officers are reminded of the need to give priority to the medical needs of a victim or witness when attending the scene of a crime or accident. Student officers are instructed to be sympathetic to the views and needs of the victim at all times and in cases involving a vulnerable witness, to secure the attendance of an appropriate adult⁹⁹ during questioning. The lesson instructs officers on the definition of 'vulnerable witness'¹⁰⁰ and 'intimidated witness'¹⁰¹ and gives limited guidance on pre-trial and during trial screening of witnesses. However, the lesson did not explain the notion of 'vulnerable victim'¹⁰² or provide student officers with guidance on how to identify vulnerability.¹⁰³ Moreover, no substantive reference was made to the specific vulnerable groups such as older persons and children.

Against this background, we consider Recommendation 52 of our 2005 Annual Report to be implemented in full. However, we recommend that the PSNI internal evaluation team should evaluate the PSNI's student officer training on victims and witnesses taking into account the concerns we have identified. We will review the internal evaluation team's findings and report further in next year's annual report. We will also attend PSNI training for Family Liaison Officers and MLOs. Against this background, we consider Recommendation 37 of our 2006 Annual Report to be implemented in part.

RECOMMENDATION 35:

The PSNI internal evaluation team should evaluate the PSNI's student officer training on victims and witnesses.

Student officer training on specific victim groups

We have set out our observations on student officer domestic violence training and hate crime training earlier in this chapter. Our observations on probationary constable child protection training are included in chapter 15 of this report.

Specialist Training

We report below on the training of specialist officers appointed to support particular victim groups.

Youth Diversion Officer Training

In May 2007, we attended the PSNI's training for Youth Diversion Officers and other officers carrying out restorative processes within Districts.¹⁰⁴ PSNI Community Safety Branch is responsible for youth diversion officer training, which comprises a five day course on the restorative conferencing process. The course is delivered twice yearly by a training firm specialising in the use of restorative practices in the resolution of conflict. The purpose of the course is to prepare officers to facilitate restorative conferences in their own district. The course instructs officers how to conduct a restorative conference so as to ensure the process is (i) impartial, (ii) engages and protects all participants and (iii) leads to victim satisfaction and a restorative outcome for the offender. A significant proportion of the five day course involves lessons on the practical application of the facilitator's role. Officers must complete an assessed skills practice, which requires them to facilitate their own mock restorative conference.

We consider the PSNI's course on the restorative conferencing process to be rigorous. Its focus on the practical application of skills inspired confidence in officers. The emphasis on adopting a balanced approach and engaging all parties in the restorative conferencing process should ensure that officers carry out their role as facilitators professionally and sensitively.

During the course, officers raised a number of concerns regarding the PSNI's approach to restorative processes. First, officers were initially confused about the relationships between the restorative conferencing process, the youth conferencing system and the delivery of informed warnings. While a subsequent PSNI response addressed many of these concerns, we suggest that the PSNI include training on this point as a permanent feature of the training course. Officers were also concerned that they would not be given support in terms of resources or time at the district level to conduct restorative conferences. We intend to raise these concerns with ACC Criminal Justice.

CARE Officer Training

We set out initial analysis of the training provided by PSNI to CARE officers in chapter 15 of this report.

104. The course we attended was not restricted to Youth Diversion Officers and included neighbourhood policing officers and officers who adopt a relief Youth Diversion Officer role. A number of the officers had also received training on representing the PSNI at youth conferences run by the Youth Justice Agency.

Observations

We consider that the PSNI is making great efforts to ensure that its student officer training on victims is comprehensive and the training of PSNI specialist officers appointed to support particular victim groups is pertinent and focused. We will report further on this training in next year's annual report. Against this background, we consider Recommendation 37 of our 2006 Annual Report to be implemented only in part.

Chapter 11:

TREATMENT OF SUSPECTS

Detained suspects are particularly vulnerable to human rights infringements and there have been serious allegations of mistreatment in the past. The Patten Report recommended that responsibility for inspecting all custody suites should rest with the Policing Board and Lay visitors should be empowered not only to inspect the conditions of detention, but also to observe interviews on camera subject to the consent of the detainee. This recommendation was enacted in Section 73 of the Police (Northern Ireland) Act 2000¹ and in 2001 the Policing Board established the Independent Custody Visiting Scheme.



1. S. 73 Police (Northern Ireland) Act 2000, implementing Patten Recommendation 64.

2. Office of the Oversight Commissioner, *Report 19*, May 2007, p.80.

3. The two teams were amalgamated to enhance communication between custody visiting teams conducting visits to Antrim Serious Crime Suite to ensure that issues arising in the suite could be addressed.

4. Article 36 of the Police and Criminal Evidence (Northern Ireland) Order 1989 requires the Chief Constable to designate the police stations which are to be used for the purpose of detaining arrested persons. Article 32 requires that a person arrested elsewhere than at a police station shall be taken to a police station as soon as practicable after the arrest. The police station must be a designated police station unless (i) it appears that it will be necessary to hold the person for less than six hours and the locality in which the constable is working is covered by a police station that is not designated, (ii) the arresting constable has no assistance and it appears to the constable that he will be unable to take the arrested person to a designated police station without the arrested person injuring himself, the constable or

In 2005, a Government Order gave custody visitors the power to observe interviews with detained suspects on camera. In his final report, published in May 2007, the Oversight Commissioner confirmed that Patten Recommendation 64 had been implemented in full.²

INDEPENDENT CUSTODY VISITING SCHEME

The Policing Board's Independent Custody Visiting Scheme fulfils a valuable function in ensuring the protection of the human rights of detained suspects. In our 2005 and 2006 Annual Reports, we reported on the activities of the custody visiting teams. The custody visiting teams conduct a significant number of visits on an annual basis. Often, visits are conducted at weekends and during anti-social hours. We would like to commend the dedication of the custody visitors, which is all the more significant given that the Custody Visiting Scheme is serviced by volunteers.

In September 2006, the Belfast and Antrim custody visiting teams were amalgamated into one team.³ There are now four custody visiting teams operating across Northern Ireland, visiting 22 PSNI designated custody suites.⁴ Representatives from the Belfast/Antrim team also conduct visits to Antrim Serious Crime Suite. Visits are made to detainees held under the Police and Criminal Evidence (Northern Ireland) Order 1989, the Terrorism Act 2000 and the Immigration Act 1971.

Number of custody visits 2006-2007

As with our 2005 and 2006 Annual Reports, we have reviewed the number of visits made by each of the custody visiting teams against annual guidelines set by the Policing Board. Guidelines for numbers of visits are not strict and have been the subject of ongoing revision this year due to a number of custody suite closures. Given this context, no negative inference should automatically be drawn from a custody visiting team's inability to meet the annual guideline. We set out the results in Table 1 below.

Table 1:
Number of visits per custody visiting team, 2006/2007

Custody visiting team	Guideline ⁵ number of visits for 2006/2007	Actual number of visits in 2006/2007
Belfast/Antrim ⁶	522	392
Down/Armagh	212	277
North-West	198	202
Tyrone/Fermanagh	199	201
Antrim SCS	72	62
Total	1,203	1,134

some other person, or (iii) it appears to the constable that he will be unable to take the arrested person to a designated police station without exposing the arrested person or himself to unacceptable risk of injury. If the first station to which the arrested person is taken is not a designated station, he must be taken to a designated station not more than six hours after his arrival at the first police station unless he is released previously or the arrest was made by a police officer and the continued detention at the first police station is authorised by an officer not below the rank of Superintendent. Continued detention may only be authorised if the officer is satisfied on reasonable grounds that it would expose the person and those accompanying him to unacceptable risk of injury if he were taken from the first police station.

5. The guideline number of visits is based on the number of detainees held in each custody suite: the busier a custody suite, the more visits it should receive. The guideline number of visits were revised in June 2006 and on an ongoing basis throughout the year to reflect custody suites closures over the period.

6. Figures correspond to combined activity of Belfast and Antrim teams

In 2006/2007, custody visitors made 1,134 visits to custody suites across Northern Ireland. 1,119 of those visits were considered to be valid.⁷ Visits conducted by the Belfast/Antrim team fell below guidelines due to a shortage of team members. This has now been addressed. Given that custody visitors are volunteers, we commend them for continuing to conduct a high number of visits on an annual basis.

Days and times of visits, 2006-2007

When we met with custody visitors in preparation for our 2006 Annual Report, they expressed concern about the requirement that visits should be conducted between midnight and 6.00am.⁹ They were concerned that their personal safety was at risk when journeying to and from custody suites to conduct late night visits.⁸ In response to their concerns, we recommended that the Policing Board should review its guidelines for visits by custody visiting teams between midnight and 6.00am. In November 2006, the Policing Board amended the late night time slot for custody visits. Custody visitors are now requested to make a certain number of visits between midnight and 9.00am. This ensures that custody visitors are able to meet with detainees held overnight, while at the same time addressing custody visitors' concerns about personal safety.¹⁰ When we met with representatives of the custody visitor teams in May 2007, they indicated that morning visits (6.00 to 9.00am) were in any event more useful in monitoring treatment and conditions of detention because during late night visits, detainees were often asleep and therefore inaccessible to custody visitors.¹¹ We consider Recommendation 41 of our 2006 Annual Report to be implemented in full.

In 2005/2006, custody visitors conducted 21% of visits at weekends and 9% of visits during anti-social hours. As shown in Tables 2 and 3 below, the number of visits conducted in 2006/2007 at weekends increased to 24%, whilst those conducted during anti-social hours remained roughly static at 8%. Both periods are when custody suites are most busy.

prior to amalgamation in September 2006 and activity of Belfast/Antrim team post amalgamation, excluding visits to Antrim Serious Crime Suite.

7. Visits are not valid if custody visitors are unable to gain access to custody suites due to closure or other reason.

8. 2006 Annual Report, p.124.

9. 2006 Annual Report, Recommendation 41, p.162.

10. Submission from Policing Board's Service Monitoring branch, dated 23rd May 2007.

11. Meeting between representatives of the Policing Board's Custody Visiting Scheme and Policing Board's human rights advisors, 22nd May 2007.

Table 2:
Days of visits 2006/2007

Day of the week	Annual Total	Percentage of total
Monday	206	18
Tuesday	191	17
Wednesday	159	14
Thursday	160	14
Friday	154	14
Saturday	143	13
Sunday	121	11
Total	1,134	100

Table 3:
Times of visits 2006/2007

Time	Annual Total	Percentage of total
00:00-09:00	95	8
09:00-12:00	237	21
12:00-15:00	203	18
15:00-18:00	210	19
18:00-21:00	319	28
21:00-24:00	70	6
Total	1,134	100

Custody visiting team activity 2006-2007

Table 4 below sets out the number of visits by each custody visiting team in 2006/2007, with details of the number of detainees held at the time of the visit, the number of detainees seen by the custody visitors, the number who refused to be seen and the number not seen for another reason.

Table 4:
Custody visiting team activity 2006/2007

Custody visiting team	No. of visits	Detainees held	Detainees seen	Detainees who refused to be seen	Detainees not seen for another reason	Refusal rate %
Belfast/Antrim ¹²	392	751	433	152	166	20
Down/Armagh	277	247	132	51	64	21
North-West	202	284	145	58	81	20
Tyrone/Fermanagh	201	143	79	32	32	22
Antrim SCS	62	81	29	34	18	42
Total	1,134	1,506	818	327	361	22
2005-2006 Total ¹³	1,178	1,370	702	314	354	23

12. Figures correspond to combined activity of Belfast and Antrim teams prior to amalgamation in September 2006 and activity of Belfast/Antrim team post amalgamation, excluding visits to Antrim Serious Crime Suite.

13. Includes visits to Antrim Serious Crime Unit for the period 1st October 2005-31st March 2006.

As the table demonstrates, 1,506 detainees were held during the 1,134 custody visits and custody visitors saw 818 (54%) of those detained. 327 (22%) detainees refused to be seen by custody visitors and 361 (24%) detainees could not be seen for another reason, such as because they were consulting with a solicitor or being interviewed by the police. A comparison with last year's activity indicates that custody visitors saw a larger number of detainees in 2006/2007 (54% compared to 51% in 2005/2006).

Treatment of detainees and conditions of detention

Throughout 2006/2007, we have analysed the reports of the custody visitors, noting in particular where concerns were raised in relation to the treatment or condition of detainees. During 2006/2007, custody visitors classified 835 (75%) of all visits as satisfactory in that they raised no issues regarding either the treatment of detainees or conditions of detention. This compares with 79% of visits classified as satisfactory in 2005/2006, demonstrating a small decrease and a repeat downward trend from 2004/2005, when 82% of all visits were classified as satisfactory. This raises some concerns, most notably in relation to conditions of detention, which we discuss in more detail below.

Tables 5 and 6 indicate the number and types of concerns raised by each custody visitor team regarding the treatment of detainees and conditions of detention over the period. The two tables show that the majority of the concerns reported by custody visitors related to conditions of detention, rather than treatment, and that most concerns were reported by the Down/Armagh team. This correlates to the anecdotal reports concerning conditions of detention which we received from custody visitors during our meeting with them in May 2007, which we refer to in more detail below.

Treatment of Detainees

Table 5 below indicates that in 2006/2007, custody visitors raised a total of eight concerns about the treatment of detainees. This compares to just four complaints regarding the treatment of detainees in 2005/2006, although the nature of these four complaints was much more serious. The majority of complaints in 2006/2007 about treatment related to the PSNI's failure to

provide adequate food or drink. On one occasion, in Armagh custody suite, a detainee had not eaten for two days and on another occasion, the North West custody visiting team reported that a vegetarian detainee had not been given a vegetarian meal.

38% of all concerns related to treatment in Antrim Serious Crime Suite and included complaints about a detained person's ability to inform someone of their detention, access to toilets and washing and replacement clothing.¹⁴ Whilst we welcome the very small number of complaints about treatment of detainees - eight complaints arising out of 1,134 visits - we will continue to monitor the levels and types of complaints and ensure the Policing Board follows up on the complaints with the PSNI as a matter of routine.

Table 5:
Concerns relating to treatment of detainees,
April 2006 - March 2007

	Belfast/ Antrim	Down/ Armagh	North- West	Tyrone/ Fermanagh	Antrim SCS	Total
Informing somebody	0	0	0	0	1	1
Adequate food and drink	2	1	0	0	0	3
Dietary needs	0	0	1	0	0	1
Access to toilet/washing	0	0	0	0	1	1
Replacement clothes	0	0	0	0	1	1
Medical attention	0	0	1	0	0	1
Total	2	1	2	0	3	8

14. All concerns relate to April 2006. In particular, one detainee complained that he had not been given the opportunity to take a shower or a change of clothing and was still dressed in an issued paper suit.

15. The majority of these concerns related to cleanliness and the presence of a safety hazard.

Conditions of Detention

Custody visitors raised a more significant number of concerns about conditions of detention, reporting 339 instances of concern, relating to ventilation, cleanliness, safety hazard, sanitation problems, faulty equipment, lighting, heating and alarm malfunction. Table 6 sets out the numbers and types of concern raised by each custody visitor team in 2006/2007.

Table 6:

Concerns relating to condition of detention,
April 2006 - March 2007

	Belfast/ Antrim	Down/ Armagh	North- West	Tyrone/ Fermanagh	Antrim SCS	Total
Heating	1	1	1	0	0	3
Lighting	0	8	0	0	0	8
Ventilation	1	5	0	1	0	7
Alarm	0	1	0	0	0	1
Cleanliness	11	36	15	1	1	64
Safety/ security	55	59	18	11	6	149
Sanitation	16	16	14	3	21	70
Faulty equipment	3	7	17	2	1	30
Other	3	2	2	0	0	7
Total	90	135	67	18	29	339

As Table 6 demonstrates, the majority of concerns raised relate to cleanliness, safety and security and sanitation. Down/Armagh custody visiting team recorded the highest number of concerns about conditions of detention, accounting for 135 (40%) of all reports. The team's concerns related primarily to the presence of safety hazards and cleanliness. In total, Down/Armagh team and Belfast/Antrim team reported concerns relating to safety and security on 114 occasions. Down/Armagh team also reported 36 concerns relating to cleanliness. Custody visitors attending Antrim Serious Crime Suite reported concerns relating to sanitation on 21 occasions.

We were concerned about the numbers of reports made by custody visitors regarding safety and security. We raised this with the custody visitors when we met them in May 2007. Custody visitors reported that, in general, complaints by detainees regarding treatment, related to their arrest, rather than their experiences while in custody. This accorded with the position in 2005/2006. However, custody visitors again raised concerns about conditions of detention, including cleanliness of custody suites, accessibility of emergency call buttons, privacy in cells, the operation of CCTV systems and access to first aid and medical facilities.¹⁶ On an ongoing basis, the Policing Board's Service Monitoring branch raises the concerns reported by the custody visitors regarding conditions of detention directly with PSNI Operational Support.

A number of concerns regarding conditions raised by custody visitors related specifically to a custody suite recently opened by the PSNI in Newry. In January 2007, the Policing Board's Service Monitoring branch submitted a lengthy report produced by the Down/Armagh custody visiting team to the PSNI setting out its concerns about conditions in the new custody suite.¹⁷ The PSNI responded, referring to the risk assessments and reviews undertaken by PSNI Estate Services in relation to conditions in the custody suite. The PSNI also responded to the individual concerns raised, clarifying PSNI and ACPO policy on the issue of toiletries and privacy in cells, highlighting that risk assessments are conducted on detained persons prior to medical examination by the FMO and indicating that an emergency oxygen unit would be introduced in the custody suite. The Policing Board's Service

16. Meeting between representatives of the Policing Board's Custody Visitor Scheme and Policing Board's human rights advisors, 22nd May 2007.

17. Submission from Policing Board's Service Monitoring branch dated 23rd May 2007.

18. Report on Newry Custody Suite from Down/Armagh Panel, including PSNI response, 8th January 2007.

19. The custody suite is due to be refurbished.

20. Letter from the Chief Commissioner to the Chief Constable dated 5th April 2007.

21. 2006 Annual Report, Recommendation 40, p.162.

22. PSNI's Human Rights Programme of Action 2006-2007, p.20.

23. General Order No. 40/2006 Custody Visitors, 5th September 2006, reissued on 26th January 2007.

Monitoring branch has indicated to us that it is satisfied that the custody visitors' concerns have been addressed by the PSNI.¹⁸

During November and December 2006, representatives of the Northern Ireland Human Rights Commission paid visits to the custody suite at Musgrave Street PSNI station¹⁹ and identified a number of significant matters of concern. First, the Commissioners raised concern about the lack of privacy afforded to detained persons while they are processed by custody suite officers. Secondly, the Commissioners expressed concern about the condition of cells, particularly the suitability of cells for detaining children under 18 years, the condition and privacy of the cell allocated specifically for women and the absence of natural light or exercise facilities in the custody suite. The Commissioners also indicated that custody suite staff had informed them of a high rate of self harming, depression and stress amongst detained persons.²⁰ The Policing Board wrote to the PSNI in April 2007 to refer the concerns raised by the Northern Ireland Human Rights Commission. We will monitor the PSNI's response and report further in our next human rights annual report.

Delay in entry to custody suites

Our meeting with custody visitors in 2006 highlighted that custody visitors often experienced delay in gaining access to custody suites. While the custody visitors indicated that delays were in the main likely to occur during busy periods and through no fault of custody suite staff, we were concerned that a number of delays resulted due to custody suite reception staff not being aware that custody visitors were entitled to immediate access to custody suites. In our 2006 Annual Report we therefore recommended 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.²¹

In its Human Rights Programme of Action 2006-2007, the PSNI accepted our recommendation.²² In January 2007, the PSNI amended and reissued its policy on custody visitors.²³ The policy reminds custody officers of the role of custody visitors and the need to facilitate their visits. The PSNI's policy outlines the procedure to be followed when custody visitors visit places

of detention, emphasising that custody visitors should be given immediate access to custody suites and that delay will only be acceptable where immediate access places a person at risk of injury. The policy highlights that custody visitors must have access to *all* areas of the custody suite, including associated areas such as food preparation areas and medical rooms. The policy requires the custody officer or a member of the custody team to accompany the custody visitor at all times during the course of the visit. Where custody visitors raise concerns or make adverse comment on the custody facilities, such comments should be risk assessed and immediate action taken. Any concerns that cannot be remedied locally must be forwarded internally to the relevant PSNI department through the District Commander. An amended version of the policy issued in January 2007 indicates that a telephone interpreting service is available for custody visitors to communicate with detained persons who cannot understand English.

The policy on custody visitors is clear and meets the concerns we highlighted in our 2006 Annual Report. However, PSNI Operational Support has not indicated to us how the new policy has been brought to the specific attention of custody sergeants and custody officers. In these circumstances, we consider Recommendation 40 of our 2006 Annual Report to be implemented only in part. We intend to follow up this point with the PSNI and will report further in our next human rights annual report.

Delays in entry to custody suites 2006/2007

In 2006/2007, we analysed the reports of custody visitors to identify trends in delay²⁴ experienced when gaining access to custody suites. Table 7 sets out the number of delays experienced by custody visiting teams during 2006/2007.

24. Of more than 10 minutes.

25. Including eight occasions at Antrim Serious Crime Suite.

26. Letter from Policing Board's Service Monitoring branch to PSNI Operational Support dated 9th February 2007.

27. Letter from PSNI Operational Support to Policing Board's Service Monitoring branch dated 23rd February 2007.

Table 7:

Delays experienced by custody visiting teams, April 2006 - March 2007

	Belfast/ Antrim	Down/ Armagh	North- West	Tyrone/ Fermanagh	Antrim SCS	Total
Delay (>10 mins)	18	4	0	6	8	36

Custody visitors experienced a delay of more than 10 minutes in gaining entry to a custody suite on 36 occasions during April 2006 to March 2007. This represents 3% of the total number of visits conducted during the period. The Belfast/Antrim custody visiting team experienced the highest numbers of delays, reporting a delay on 26 occasions.²⁵ In line with previous years, the majority of delays were as a result of custody staff being busy or detainees being processed.

On 9th February 2007, the Policing Board's Service Monitoring branch wrote to the PSNI highlighting the number of delays experienced by custody visiting teams and inquiring whether the delays were as a result of the new computerisation of the processing of detainees. The PSNI response to the Policing Board indicated that while every effort is made to ensure custody visitors are not delayed in gaining entry to the custody suite, delays are sometimes unavoidable. The PSNI stated that although it could be a time consuming process, it was necessary to ensure the proper processing of detainees and careful completion of a risk assessment to ensure the safety of all persons in the custody suite. The PSNI indicated that the recent computerisation of this process had required a period of familiarisation for custody officers and that this may have impacted on the speed of processing for a short period. The PSNI recorded that delays experienced by custody visitors to particular custody suites would not be investigated by the PSNI unless a pattern developed.²⁷

As well as the letter to PSNI Operational Support, referred to above, a question was also asked about such delays of the Chief Constable at a Policing Board meeting on 2nd May 2007. The question required the Chief Constable to explain the reasons for the delays and inform the Policing Board of what steps the PSNI were taking to minimise delay. Policing Board officials are meeting with the Head of PSNI Operational Support Branch on an ongoing basis to discuss improving mechanisms for feedback to custody visitors and the Policing Board where delays occur.²⁸ An amendment will be made to the reporting form used by custody visitors to require DCU Commanders to respond to issues and concerns within four weeks of the custody visit.

When we met with custody visitors in May 2007, they raised with us concerns about delays in gaining access to custody suites (including one delay of two hours) but acknowledged that the problem had recently improved. In general, custody visitors reported that custody staff were helpful and that they were usually able to conduct their inspections without restriction or supervision.²⁹

Meeting between custody visitors and District Command Teams

When we met with representatives of the then five custody visiting teams as part of our monitoring work in 2005/2006, they indicated a general lack of communication and/or liaison between their respective teams and District Command Teams. We therefore recommended that 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.³⁰

In its Human Rights Programme of Action 2006/2007, the PSNI indicated that correspondence with the Policing Board's Service Monitoring branch had confirmed that established practice, which enabled formal contact between the PSNI and Policing Board, provided an appropriate and adequate means of addressing concerns regarding the treatment of persons in custody.³¹ In light of this, the PSNI did not consider it necessary to introduce a policy *requiring* all District Commanders to meet their respective custody visiting teams. Instead, the PSNI has left it to District Commanders to decide whether to meet with their respective

28. Submission from Policing Board's Service Monitoring branch dated 23rd May 2007.

29. Meeting between representatives of the Policing Board's Custody Visitor Scheme and Policing Board's human rights advisors, 22nd May 2007.

30. 2006 Annual Report, Recommendation 39, p.162.

31. PSNI's Human Rights Programme of Action 2006-2007, p.20.

32. Meeting between representatives of the Policing Board's Custody Visitor Scheme and Policing Board's human rights advisors, 22nd May 2007.

33. PSNI's Human Rights Programme of Action 2006-2007, p.20.

custody visiting teams. We therefore consider Recommendation 39 of our 2006 Annual Report to be implemented but continue to have concerns in this area which we discuss further below.

When we met with the representatives of the custody visitor teams in May 2007, they indicated that their interaction with District Commanders continues to be minimal. The custody visitors agreed that an annual meeting between representatives of the custody visiting team and the District Command Team would be useful and indicated that they would be prepared to facilitate such a meeting by providing an agenda of matters of concern in advance.³²

It is apparent that communication and/or liaison between the custody visiting teams and their respective District Command Teams could and should be improved. We are unconvinced that the established practice referred to by the PSNI in its Human Rights Programme of Action 2006/2007 is an appropriate and adequate means of addressing concerns regarding the treatment of persons in custody.³³ Against that background we feel obliged to recommend that the PSNI should *reconsider* 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 36:

The PSNI should reconsider 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.

DISCONTINUATION OF THE ROLE OF INDEPENDENT COMMISSIONER FOR DETAINED TERRORIST SUSPECTS

In our 2006 Annual Report, we reported on the discontinuation of the role of the Independent Commissioner for Detained Terrorist Suspects in September 2005 and the transfer of responsibility for independent oversight of the detention of persons suspected of terrorist offences to the Policing Board's Independent Custody Visiting Scheme. At the time of the discontinuation of the Commissioner's role, the Secretary

of State indicated that custody visitors would not be taking on *all* of the functions of the Commissioner.³⁴

In our 2006 Annual Report, we considered whether the discontinuance of the office of the Commissioner left any gaps in the protection of terrorist suspects detained by the PSNI.³⁵ Although the role of the custody visitors was extended in September 2005 to enable them to monitor interviews, our analysis indicated that none of the other powers and functions of the Commissioner had been subsumed by custody visitors. We considered that this left significant gaps in the protection of terrorist suspects detained by the PSNI and recommended that the Policing Board, in liaison with the PSNI and the Northern Ireland Office, address the question of how these gaps in the protection of terrorist suspects detained by the PSNI could be filled.³⁶

While our recommendation was primarily for the Policing Board, we indicated that the PSNI should work with the Policing Board and the Northern Ireland Office (NIO) to progress its implementation. In its Human Rights Programme of Action 2006-2007, the PSNI accepted its role in implementing our recommendation and indicated it would work closely with the Policing Board and the NIO.³⁷

In March 2007, the NIO wrote to the Policing Board indicating that the former Independent Commissioner for Detained Terrorist Suspects has been performing a wider role than that actually laid down in his formal terms of reference. The NIO suggested it was this informal extension of his role which had given rise to a perception that the discontinuation of his role had resulted in gaps in the oversight of the detention of terrorist suspects. The NIO stated that it was satisfied that the Policing Board's Independent Custody Visiting Scheme could perform the functions undertaken by the Commissioner as defined in his formal terms of reference. However, the NIO invited the Policing Board to bring to its attention any gaps which it considered remained.³⁸

In a letter to the Policing Board in June 2007, the PSNI concurred with the NIO's position. The PSNI consider that custody visitors can and do perform very much the same

34. Commissioner's Concluding Report 2005, p.10.

35. 2006 Annual Report, pp.116-117.

36. 2006 Annual Report, Recommendation 38, p.162.

37. PSNI's Human Rights Programme of Action 2006-2007, p.22.

38. Letter from Northern Ireland Office Policing Division to Policing Board's Director of Planning dated 6th March 2007.

39. Custody visitors may check the CCTV to ensure it is functioning properly.

40. Letter from PSNI ACC Operational Support to Policing Board's Director of Planning dated 8th June 2007.

functional role as that performed by the Commissioner. The PSNI indicated that it facilitates the custody visitors' statutory role, striving where operationally possible to meet requests over and above statutory requirements in order to enhance the effectiveness of the Custody Visiting Scheme. In addition, the PSNI indicated that it has introduced additional measures to improve the conditions under which terrorist detainees are held, including CCTV coverage of custody suites³⁹ and a room from which custody visitors can view live interviews of terrorist suspects. The PSNI indicated that it would be willing to give consideration to any gaps in the oversight of detained terrorist detainees if identified by the Policing Board.⁴⁰

Whilst we consider Recommendation 38 of our 2006 Annual Report to be implemented, we do not accept the analysis of the NIO or the PSNI. The comparison we carried out in 2006, as recorded in our Annual Report, compared the functions of the former Independent Commissioner for Detained Terrorist Suspects by reference to the terms of reference drawn up for the post with the functions of the Policing Board's Independent Custody Visiting Scheme. That analysis highlighted clear gaps in protection that were uninfluenced by the scope of any wider role that the former Independent Commissioner for Detained Terrorist Suspects may or may not have been performing.

The Policing Board's Service Monitoring branch has considered the question of whether significant gaps have been left in the protection of terrorist suspects as a result of the discontinuation of the role of the Independent Commissioner for Detained Terrorist Suspects and analysed the possible need for an extension of the Independent Custody Visiting Scheme. This is set out at Table 8 on page 234.

Table 8:
Roles of the Independent Commissioner for Detained Terrorist
Suspects and Independent Custody Visitors

Role of Commissioner	Role of Independent Custody Visitors	Comments
To inspect the area where detainees are held or to which they have access, including toilet facilities, cells and interview rooms.	To inspect the area where detainees are held or to which they have access, including toilet facilities, cells and interview rooms.	Identical roles and functions.
To inspect the arrangements for monitoring interviews by CCTV.	Do not currently inspect.	Could be brought within remit of Custody Visitor Scheme.
To inspect the arrangements for electronic time-stamping of interview notes.	Do not currently inspect.	Could be brought within remit of Custody Visitor Scheme.
To scrutinise custody records to ensure adherence to the Codes of Practice on detention, treatment, questioning and identification of detainees.	To scrutinise custody records to ensure adherence to the Codes of Practice. Custody visitors currently have no role regarding identification of detainees.	Similar functions.
To conduct interviews with detainees (with permission).	To conduct interviews with detainees (with permission).	Identical roles and functions.
To observe interviews of detainees via CCTV monitor with the permission of the detainee.	To observe interviews on downstream monitoring with the permission of the detainee.	Once CCTV is available in all suites, protocol could be discussed with PSNI on these terms, subject to issue of consent.
Following observation of an interview by CCTV monitor, Commissioner granted immediate access to detainee where he has grounds for concern.	Only have access to the detainee with the detainee's permission. Custody visitors record concerns and raise these with the PSNI and the Policing Board.	Current system is adequate.
Attendance as an observer at any police interview with a suspect (subject to certain conditions).	No such powers.	Current system of downstream monitoring adequate.
To bring complaints by detainees to the attention of the custody sergeant and copy to the Chief Constable.	Custody visitors bring complaints by detainees to the attention of custody staff to be dealt with by the PSNI or, if necessary, referred to the Police Ombudsman.	Current system is adequate.
To receive complaints from persons who are, or who have been detained, or from their solicitors. Such complaints are referred to Chief Constable who will inform Commissioner of the outcome.	Custody visitors bring complaints by detainees to the attention of custody staff to be dealt with by the PSNI or, if necessary, referred to the Police Ombudsman.	Current scheme is adequate.
To keep under review the Codes of Practice governing the detention, treatment and questioning of persons detained and to make recommendations to the Secretary of State for their revision.	No such responsibility.	The Policing Board keeps under review the Codes of Practice and will make recommendations for revision as and when appropriate.
To report annually to the Secretary of State.	No such responsibility. Custody visitors report on an ongoing basis to the Policing Board.	The Policing Board publishes an annual report on the Custody Visiting Scheme.

41. 2006 Annual Report, Recommendation 38, p.162.

42. Office of the Oversight Commission, *Report 19*, May 2007, p.80-81.

43. This information could only be accessed by examining each individual custody record.

It is clear from this table that there are gaps in the protection of terrorist suspects detained by the PSNI. It may well be that those gaps can be filled by adjustment to the Independent Custody Visiting Scheme. But that has not yet happened. It may well also be that the number of terrorist suspects is low at the moment, but that does not diminish the need for full protection, particularly if the permitted period of pre-charge detention is extended (as it may be). In the circumstances, we recommend that the Policing Board, in liaison with the PSNI and the Northern Ireland Office, *reconsider* the question of how these gaps in the protection of terrorist suspects detained by the PSNI can be filled.⁴¹

RECOMMENDATION 37:

The Policing Board, in liaison with the PSNI and the Northern Ireland Office, should reconsider the question of how these gaps in the protection of terrorist suspects detained by the PSNI can be filled.

NON-DESIGNATED DETENTION CELLS

The final report of the Oversight Commissioner highlighted that a number of non-designated detention cells exist in Northern Ireland, which are not included within the remit of the Board's Independent Custody Visiting Scheme. The Oversight Commissioner suggested that consideration should be given to extending the role of the custody visitors to apply to non-designated detention cells.⁴²

In June 2007, we wrote to ACC Operational Support, requesting information on the number and location of non-designated detention cells, the number of persons detained in those cells over the past year and the duration of detention on each occasion. In response, ACC Operational Support indicated that the Chief Constable has classified 22 police stations as designated, thus rendering all other police stations non-designated. Between 1st April 2006 and 31st March 2007, 527 persons were detained in non-designated police stations, compared to 32,976 in designated police stations. ACC Operational Support was unable to provide us with information on the duration of detention in each case.⁴³ ACC Operational Support indicated that persons held in non-designated police stations, as with persons detained in designated police stations,

are subject to safeguards contained within the Police and Criminal Evidence (Northern Ireland) Order 1989 and associated Codes of Practice and have access to legal advice, medical assistance, appropriate adults and interpreters. Moreover, any complaints from persons held in non-designated police stations are referred to the Police Ombudsman for investigation.⁴⁴

We recognise that the numbers of persons detained in non-designated police stations is small and that they are subject to safeguards contained within the Police and Criminal Evidence (Northern Ireland) Order 1989 and associated Codes of Practice and have access to legal advice, medical assistance, appropriate adults and interpreters. But nonetheless the protection afforded to them is less than those detained in designated police stations. There is no good reason for this and, in keeping with the suggestion of the Oversight Commissioner, we recommend that the Policing Board, the PSNI and the NIO should consider extending the Independent Custody Visiting Scheme to include non-designated detention cells.

Recommendation 38:

Consideration should be given by the Policing Board and the PSNI to extending the role of custody visitors to apply to non-designated detention cells.

VULNERABLE PERSONS IN CUSTODY

During the course of this year, we undertook to examine the PSNI's approach to the detention of vulnerable persons and, in particular, potential self-harmers, persons held under immigration legislation and minority ethnic detainees. The PSNI's approach to the detention of vulnerable persons is based on ACPO Guidance on Safer Detention and Handling of Persons in Police Custody.⁴⁵ The PSNI has established a working group to implement the ACPO Guidance into PSNI policy and procedure.⁴⁶ It has also indicated that it intends to issue a custody policy directive that will provide instructions and guidance to officers.⁴⁷ In addition, the PSNI maintains custody risk assessments. We discuss these in more detail next.

44. Letter from ACC Operational Support to Policing Board's human rights advisors dated 24th July 2007.

45. ACPO Guidance on Safer Detention and Handling of Persons in Police Custody 2006.

46. The working group is chaired by Chief Superintendent Operations Branch and includes representatives from PSNI Headquarters, PSNI Urban and Rural regions, Estate Services, Procurement and Logistics Services, Training, Education and Development, Health and Safety Unit and the PSNI Horizon Team (responsible for implementing the NICHE custody record system). A gap analysis of current PSNI policy and procedure has been conducted and where gaps exist, the PSNI intends to issue further direction or update current policy as necessary.

47. Letter from Policing Board's human rights advisors to ACC Operational Support dated 12th April 2007.

48. An enterprise records management system.

PSNI Custody Working Group

The preliminary meeting of the PSNI custody working group was held on 6th April 2006. The group's membership includes representatives of PSNI Operational Support and Support branch, Urban and Rural Regions (including one custody sergeant from each Region), the Police College, Health and Safety branch, Supplies branch, Estate Services Business Unit, Crime Operations branch, Criminal Justice department and the Horizon Project.⁴⁸ The group is chaired by the Head of PSNI Operations branch. Its terms of reference are to provide a forum to develop and disseminate policy, guidance and best practice in relation to treatment of persons in custody; to provide a framework for managing the implementation of the ACPO Guidance on Safer Detention and Handling of Persons in Police Custody; and to liaise with other organisations involved in custody provision. The group meets every six weeks.

We have reviewed the minutes of the custody working group. The minutes indicate that the group discusses a wide range of issues relating to the detention of persons in custody. As well as dealing with practical issues such as the effective use of IT systems and equipment, staffing issues and building and furnishing matters, the custody working group considers issues impacting on the welfare of detainees, for example, the presence of ligatures, the role of Medical Officers, protection of detainees rights to privacy and the cleanliness of cells. As concerns are discussed, remedial action points are allocated to members of the custody working group and status reports provided at subsequent meetings.

The Policing Board's Service Monitoring branch suggested to the PSNI that one of its members attend the PSNI custody working group. This suggestion was rejected by the PSNI. We consider that the Policing Board's membership of the working group would be of value to both the work of the custody working group and the effectiveness of the Board's Custody Visiting Scheme, providing a direct communication link between the PSNI and the Policing Board on matters relating to treatment of detainees. We therefore recommend that a member of the Policing Board's Service Monitoring branch should represent the Policing Board on the PSNI's custody working group.

Recommendation 39:

A member of the Policing Board's Service Monitoring Branch should represent the Policing Board on the PSNI's custody working group.

PSNI Custody Risk Assessment

The PSNI conducts and maintains a generic risk assessment in relation to each PSNI detention facility.⁴⁹ We have reviewed the PSNI's risk assessment template⁵⁰ which we consider to be comprehensive and rigorous. The risk assessment requires custody staff to consider risks associated with:

- the general working environment of the custody suite;
- staffing levels;
- the processing, handling and searching of detainees;
- young children in custody;
- the condition and treatment of persons during detention;
- the provision of first aid;
- visits by appropriate adults, custody visitors and solicitors; and
- supervision of detainees when using toilet facilities.

The risk assessment sets out the duties of custody suite staff to implement control measures to avert any risks identified. Specific control measures are outlined to prevent detainees suffering from ill health or self harm. These include regular inspection of cells and other areas to which detained persons have access and an obligation on all PSNI staff to report hazards to custody suite staff, particularly ligature points and unsafe storage. The risk assessment also outlines several other control measures to be implemented during detainee processing. These expressly include the requirement that arresting officers notify custody officers (i) where a risk of self harm exists; (ii) where the detainee has been violent; (iii) where CS spray has been used during arrest and (iv) whether the detainee has been searched or first aid administered. The custody officer is required to question each detainee to determine if he or she is suffering from illness, on medication or has a propensity to self harm. All such information gathered must be recorded on the custody record and used to

49. Letter from ACC Operational Support to Policing Board's human rights advisors dated 8th May 2007.

50. PSNI Risk Assessment, Detainee/Custody Duties, Form RA3 11/04.

51. The ACPO guidance requires that all persons entering police custody should be assessed to consider whether they are likely to present specific risks, either to staff or to themselves. The results of risk assessments should be incorporated in detainees' custody records. The record should highlight identified risks in such a way as to be obvious to all those responsible for the detainee's custody. Details of such risks should be given and reports attached where appropriate.

Where no specific risks are identified by the assessment, this should be noted in the custody record. As risk assessment is an ongoing process, where circumstances of risk change these should be reflected on custody records.

52. NICHE is an overarching IT solution incorporating crime reporting, command and control, and custody and case preparation.

53. Questions include: (i) do you have any illness or injury; (ii) have you seen a doctor for this illness/injury; (iii) are you taking any medication or drugs of any kind; (iv) are you suffering from any mental health problems; (v) have you ever tried to harm yourself; (vi) have you consumed alcohol recently; (vii) do you have any special dietary needs; (viii) do you have any drug/alcohol dependencies; (ix) do you require help with reading and writing. These questions are outlined as necessary under ACPO guidance.

determine the level of supervision given to the detainee during the period of detention.

The PSNI's risk assessment outlines several measures to be taken by custody staff to avert the risk of self harm by detainees while in custody. These include supervision of detainees and restrictions on movement within the custody suite, particularly in areas which are not ligature free, weekly testing of cell alarms and regular checking and monitoring of detainees via CCTV. Several control measures are also identified to avert the risk of visitors passing items to detainees that could be used for the purposes of self harm or assault. Such measures include supervision of visits and searches of visitors.

Implementation of each of these control measures is recorded and monitored on the risk assessment. Where further action is required, this is allocated to an appropriate individual to action. A senior officer must sign off the risk assessment.

The PSNI's generic risk assessment is adapted by each District to reflect local conditions and conducted on an annual basis. PSNI Health and Safety department conducts an annual audit of risk assessments conducted by DCUs, including the custody risk assessment.

Individual risk assessments for detainees

Individual risk assessments of detainees are conducted by custody suite staff on a continuing basis throughout the period of detention. Risk assessments are conducted on the basis of guidelines contained in the ACPO Manual of Guidance for Safer Detention.⁵¹ During the processing of detainees on first entry to the custody suite, the PSNI's electronic processing system⁵² requires custody staff to ask detainees a series of questions to establish risk.⁵³ The answers to these questions and any other evidence of vulnerability or risk are recorded on the detainee's electronic custody record. Recorded risks will be flagged during subsequent processing of the detainee.

Suicide and self harm

In March 2007, following a visit to Enniskillen custody suite, custody visitors expressed concern that a detainee had managed

to gain access to tablets while in custody. The detained person had to be admitted to hospital following consumption of the tablets. Custody visitors also reported discrepancies in the custody record. The Policing Board's Service Monitoring branch raised the findings of the custody visitors with the PSNI's Head of Operational Support. The Head of Operational Support indicated that the detainee had gained access to the tablets from her own property which was under the control of an appropriate adult at the time. A local enquiry, conducted by an Inspector, resulted in a management discussion with the custody sergeant responsible for failing to secure the detained person's property. The Police Ombudsman was informed of the incident and agreed with the disciplinary action taken. The discrepancies in the custody record were rectified. The Head of Operational Support indicated that following the incident a directive had been issued to all custody officers reiterating the importance of securing property belonging to detainees.⁵⁴

When we met with custody visitors in May 2007, they raised concerns regarding the detention of persons with a history of, or propensity to self harm. Custody visitors suggested that such detainees were not given adequate supervision by custody suite staff whilst in custody. Custody visitors also expressed concern about the failure of PSNI to respond with urgency to their concerns about potential ligature points and recounted cases when detained persons had been able to obtain razor blades and medication for the purpose of self harming.⁵⁵ This anecdotal evidence is corroborated by concerns raised by custody visitors in relation to safety and security in their reports to the Policing Board over the course of the year.

The issues raised by the custody visitors obviously need to be addressed. Rather than make a formal recommendation at this stage, we suggest that all relevant concerns on this issue should be formally raised with the PSNI by all interested parties (with evidence where possible). The PSNI should then consider the matters raised and formally respond. We will then consider the response in next year's annual report.

Immigration and minority ethnic detainees

When we met with the Human Rights Commission in April 2007, the Commission raised concerns regarding the conditions

54. Letter from PSNI ACC Operational Support to Policing Board's Service Monitoring branch dated 16th April 2007.

55. Meeting between representatives of the Policing Board's Custody Visiting Scheme and Policing Board's human rights advisors, 22nd May 2007.

56. Meeting between Northern Ireland Human Rights Commission and Policing Board's human rights advisors, 4th April 2007.

57. Letter from Policing Board's human rights advisors to ACC Operational Support dated 12th April 2007.

58. Protocol for the use of PSNI custody facilities by HM Customs and Excise and protocol for the use of PSNI custody facilities by the UK Immigration Service.

59. Service Procedure 51/2004 Protocols for the use of PSNI custody facilities by (a) HM Customs and Excise staff and (b) the UK Immigration Service.

in which persons are held in police custody on behalf of immigration authorities (immigration detainees).⁵⁶ The Commission raised particular concerns in relation to the PSNI's Musgrave Street custody suite, which it had recently visited. In response, to the concerns raised we wrote to ACC Operational Support to request a report on PSNI policy and procedures for dealing with immigration detainees, a schedule of the PSNI facilities where such detainees are routinely held and an outline of the structures in place to ensure immigration detainees are given access to adequate treatment and services, including legal and medical assistance, while they are in police custody. We raised particular concerns about the treatment of immigration detainees during transfer from police custody in Northern Ireland to immigration holding centres in Scotland and England and queried whether the PSNI had agreed protocols in place with other agencies for the transfer of immigration detainees and how these protocols operated in practice.⁵⁷

In May 2007, ACC Operational Support informed us that the PSNI has agreed a protocol with the Borders and Immigration Agency for the use of PSNI custody facilities to detain immigration detainees.⁵⁸ The protocol is contained in a PSNI service procedure on the interaction between the PSNI and Borders and Immigration Agency.⁵⁹ The service procedure states that an external organisation's use of police facilities does not detract from the responsibility of custody officers and custody staff in upholding the rights of those in custody and that any interference with a potential human right must be lawful, necessary, proportionate and justified. Immigration detainees held in police custody suites are therefore afforded the same treatment and conditions as non-immigration detainees. The PSNI guidance also reminds custody officers of their positive duty to act where they consider an individual's human rights are infringed.

The PSNI's protocol deals with the following matters:

- liaison between the Borders and Immigration Agency and the PSNI on the arrest of immigration detainees;
- access of immigration staff to custody suites, arrival at custody suites;

- medical examinations;
- the use of interpreters;
- attendance of solicitors;
- the use of audio tapes and CCTV;
- complaints;
- custody visitors; and
- financial considerations.

On arrival at a custody suite, the protocol requires PSNI custody sergeants to ensure that all detainees arrested by the Borders and Immigration Agency are medically examined. Custody sergeants must also complete a custody record of detention.⁶⁰ Where an interpreter is required, the PSNI has responsibility for contacting the National Interpreting Service. It is the responsibility of the Borders and Immigration Agency to arrange for a suitable solicitor to attend the custody suite. Where a complaint is made about an immigration detainee's detention in custody, the protocol states that it must be referred to the Immigration Service, or where it relates to the PSNI, to the Police Ombudsman. Where a complaint is of a criminal nature, the police must investigate the matter. A full note should be made in the custody record of any complaints made. The protocol also states that custody visitors should be given full access to immigration detainees.

The PSNI's protocol with the Immigration Service is currently under review. A revised version will be issued in late 2007. On its issue, we will review the revised protocol and report further in next year's annual report.

We discussed the treatment of immigration detainees with representatives of the custody visiting teams when we met with them in May 2007. The custody visitors raised a number of matters in relation to both immigration detainees and minority ethnic detainees, including concerns around access to interpreters and the appropriate use of language line. The custody visitors also suggested that the dietary, cultural and religious needs of minority ethnic detainees could not always be met by custody suite staff. Custody visitors also indicated

60. Copies of all documentation presented by the Immigration Service should be attached to the custody record.

61. Meeting between representatives of the Policing Board's Custody Visiting Scheme and Policing Board's human rights advisors, 22nd May 2007.

62. Submission by Policing Board's Service Monitoring branch dated 23rd May 2007.

63. Including the Police and Criminal Evidence (Northern Ireland) Order 1989 and relevant Codes of Practice, the Terrorism Act 2000, the Human Rights Act 1998.

64. Form PACE 16.

65. Letter from ACC Operational Support to Policing Board's human rights advisors dated 8th May 2007.

that children of immigration detainees were being detained with their families in inappropriate conditions. Finally, custody visitors referred to a case of a DNA sample being taken from a minority ethnic detainee who did not speak English when an interpreter was not present.⁶¹

The Policing Board's Service Monitoring branch has indicated to us that the PSNI has taken some action to safeguard the position of immigration detainees. A list of specialist legal advisers on immigration is now available in each custody suite and the PSNI has indicated that every effort will be made to ensure that custody visitors have access to language line should they have significant concerns about the detention of a non-English speaking detainee. In addition, in June 2007 the Policing Board wrote to the Secretary of State highlighting the need for a dedicated holding centre for immigration detainees.⁶²

The PSNI considers that immigration detainees and non-English speaking detainees are adequately protected by the PSNI's adherence to current statutory requirements.⁶³ The PSNI has put in place procedures for contacting appropriate adults, interpreters and solicitors who deal specifically with immigration issues and for securing medical assistance where necessary. In addition, when an immigration detainee is transferred to the Immigration Authorities, the PSNI will make such authorities aware of any vulnerability⁶⁴ suffered by the detainee and where necessary, medical reports will be forwarded.⁶⁵

We will continue to monitor the treatment of immigration detainees and report further on this issue in next year's annual report.

Chapter 12: HUMAN RIGHTS AWARENESS IN THE PSNI

A tangible human rights culture will only be firmly entrenched within the PSNI through the continued promotion of human rights awareness of PSNI officers at all levels and an explicit on-going commitment by the PSNI to a human rights agenda and focus.

12

HUMAN RIGHTS QUESTIONNAIRE 2004

In our 2006 Annual Report, we noted that Recommendations 55 and 56 of our 2005 Annual Report remained outstanding or had been implemented only in part. These recommendations¹ related to the results of the Human Rights Questionnaire we issued to all officers in 2004 to assess their awareness of human rights law and principles. We report on progress towards implementation of these recommendations in detail below.

In our 2006 Annual Report, we recommended that the PSNI implement outstanding Recommendations 55(a) to (d) of our 2005 Annual Report as a matter of priority.² In its Human Rights Programme of Action 2006/2007, the PSNI accepted this recommendation and indicated that the Police College would take the results of the 2004 Human Rights Questionnaire into consideration as part of its human rights audit of training materials. We discuss the Police College's human rights audit in detail in chapter 2 of this report.³ In addition, Recommendation 55(b) of our 2005 Annual Report was incorporated into the Policing Board's review of the Code of Ethics by the joint PSNI/ Policing Board working group, as noted in chapter 5 of this report.⁴ Against this background, we consider Recommendations 55(a) - (c) of our 2005 Annual Report to be implemented in full.

In our 2005 Annual Report, we also recommended that the PSNI consider the results of Question 9 of our Human Rights Questionnaire 2004 which concerned covert human intelligence sources. We further recommended that the PSNI amend policy and training on the use of covert human intelligence sources to ensure that all officers understand informants cannot be used where they incite criminal offences.⁵ Again, we reiterated this recommendation in our 2006 Annual Report.⁶

In its Human Rights Programme of Action 2006-2007, the PSNI indicated that it did not accept this recommendation.⁷ In November 2006, the PSNI wrote to us outlining its concerns with the recommendation. The PSNI considers that the issue of incitement to criminality in the context of covert human intelligence sources is too complex an area in which to train student officers. The PSNI's current lesson delivered to student officers by the PSNI Special Operations Branch's Intelligence Skills Group is based on ACPO National Source Working Group Covert Human Intelligence Source Awareness standards. The ACPO standards do not require instruction for student officers on incitement, again due to the complexity of this area of work. Furthermore, PSNI policy on interaction with members of the public specifically discourages police officers without experience of managing covert human intelligence sources from making any assessment about such matters. The PSNI believes that to give student officers training on incitement in this area may undermine this policy. The

1. 2005 Annual Report, Recommendations 55(a) to (d), p.173. Recommendation 55(a) related to officers' confusion as to the absolute status of Article 3 ECHR. Recommendation 55(b) concerned officers' understanding of discrimination. Recommendation 55(c) concerned officers' lack of clarity on the test for lethal force. Recommendation 55(d) related to officers' knowledge on the use of covert human intelligence sources. Recommendation 56 required the Police College to incorporate suggestions made by officers in response to our Human Rights Questionnaire in the delivery of training.

2. 2006 Annual Report, Recommendation 42, p.127.

3. At pp.9-13.

4. At pp.78-79.

5. 2005 Annual Report, Recommendation 55(d), p.173.

6. 2006 Annual Report, Recommendation 42, p.162.

7. PSNI's Human Rights Programme of Action 2006-2007, p.30.

PSNI therefore defers training on incitement until recruits reach the probationary phase of their training.⁸ In light of the considerations listed above, we agree with the PSNI's approach to training in this area and withdraw Recommendation 55(d) of our 2005 Annual Report.

We therefore consider Recommendation 42 of our 2006 Annual Report to be implemented in full.

In our 2006 Annual Report, we also noted that Recommendations 55(e), (g) and (h) and Recommendation 56 of our 2005 Annual Report remained outstanding or had been implemented by the PSNI only in part. In its Human Rights Programme of Action 2006-2007, the PSNI indicated that a chief inspector from PSNI Criminal Justice, the PSNI human rights legal adviser and the Police College's human rights training adviser would be involved in implementation of these outstanding recommendations.⁹ A report on progress towards implementation of the specific parts of these recommendations is set out below.

Officers' views and experiences of human rights

Recommendation 55(e) required the Police College to analyse the results of Questions 11-14 and factor the results into its design and development of training programmes and materials.¹⁰ In its Human Rights Programme of Action 2006-2007, the PSNI accepted our recommendation.¹¹ The PSNI considers that its substantive response to Recommendation 8 of our 2006 Annual Report (considered in chapter 2 of this report) satisfies this outstanding recommendation. In light of our finding that Recommendation 8 of our 2006 Annual Report has been implemented only in part,¹² we consider Recommendation 55(e) to remain outstanding. We will monitor its implementation as PSNI proceeds to implement Recommendation 8 of our 2006 Report in full and report further in next year's annual report.

Dissemination of information on human rights to officers

Recommendation 55(g) of our 2005 Annual Report required the PSNI to disseminate human rights information to officers using specified channels (whilst being sensitive to the volume of information disseminated to officers). In addition, we recommended that officers should be kept up to date

8. Letter from the Police College to Policing Board's human rights advisors dated 27th November 2006.

9. Meeting between Policing Board's human rights advisors and the Police College 5th October 2006.

10. 2005 Annual Report, Recommendation 55(e), p.173. Questions 11-14 of the Human Rights Questionnaire asked officers for their views and experiences in relation to knowledge of human rights, human rights training, the frequency with which human rights issues arise in their work and reference points for addressing their human rights queries.

11. PSNI's Human Rights Programme of Action 2006-2007, p.31.

12. At pp.26-29.

13. 2005 Annual Report, Recommendation 55(g), p.173.

14. PSNI's Human Rights Programme of Action 2006-2007, p.31.

15. At pp.26-29.

16. 2005 Annual Report, Recommendation 55(h), p.173.

17. PSNI's Human Rights Programme of Action 2006-2007, p.31.

on human rights developments and provided with updates on changes in legislation.¹³ In its Human Rights Programme of Action 2006-2007, the PSNI accepted our recommendation.¹⁴ The Police College's human rights training adviser has been working with the PSNI human rights legal adviser to develop an appropriate mechanism to satisfy this recommendation. The PSNI has linked its response to this recommendation with its implementation of Recommendation 9 of our 2006 Annual Report, considered in chapter 2 of this report.¹⁵ We consider Recommendation 55(g) of our 2005 Annual Report to be implemented in full.

Positive portrayal of human rights

Recommendation 55(h) of our 2005 Annual Report required the Police College to review how to encourage officers to look at human rights more positively.¹⁶ In its Human Rights Programme of Action 2006/2007, the PSNI accepted our recommendation.¹⁷ The Police College's human rights training adviser has been given responsibility for implementation of this recommendation, but the PSNI considers that the recommendation will be satisfied once all of the 2006 recommendations made in relation to training have been implemented.

We consider that over the course of this year, the Police College and, in particular, its human rights training adviser and Human Rights Compliance Officer, have looked imaginatively at how to encourage officers to view human rights more positively. The recent success of the human rights training for trainers is a pertinent example of this creative approach. We therefore consider Recommendation 55(h) of our 2005 Annual Report to be implemented in full but remind the PSNI of the continuing importance of encouraging a positive approach to human rights by officers to the development of a tangible human rights culture within the PSNI.

Officers' views of human rights training

Recommendation 56 of our 2005 Annual Report required the Police College to incorporate the suggestions made by officers in response to our Human Rights Questionnaire on the delivery of training. Specifically, that (i) training should be more interactive and relevant to officers' duties, ranks and roles, (ii) that more scenario-based case studies should be included in training materials and

programmes, (iii) that the Code of Ethics should be taught by using practical examples (iv) officers' confusion regarding the right to life should be clarified and (v) that officers should be taught how human rights legislation protects them.¹⁸ In its Human Rights Programme of Action 2006-2007, the PSNI accepted our recommendation.¹⁹ The PSNI indicated that it would satisfy the recommendation through full implementation of Recommendations 5, 6, 7, 8, 9 and 10 of our 2006 Annual Report. We consider the PSNI's response to these recommendations in detail in chapter 2 of this report. We consider Recommendation 56 of our 2005 Annual Report to be implemented in full.

18. 2005 Annual Report, Recommendation 56, p.173.

19. PSNI's Human Rights Programme of Action 2006-2007, p.31.

20. Letter from PSNI Media and Public Relations department to Policing Board's human rights advisors dated 24th April 2007.

PUBLIC PERCEPTION OF POLICING

In our 2006 Annual Report, we reported that the PSNI Media and Public Relations department would continue its work to ensure that the public has a full understanding of the complexities and constraints involved in providing a policing service. We indicated that we would review the effectiveness of the measures taken and report our findings in our next annual report. In March 2007, we wrote to PSNI Media and Public Relations department requesting an update on the action taken to implement our recommendation.

In April 2007, the PSNI Media and Public Relations department reported to us, providing illustrative examples of how the department has used the media, external and internal publications, strategic engagement and marketing and advertising to educate and inform the public about the challenges and intricacies involved in policing and police operations.²⁰ We outline some of the measures taken in more detail below.

PSNI Annual Report: The PSNI produces an Annual Report which outlines the main issues facing policing, provides insight into how the service is delivered and highlights the main policing successes in the previous year. The report is delivered to 750,000 homes across Northern Ireland. A readership survey carried out following issue of the report indicated that 78% of those interviewed said they had a clearer understanding of the work of the PSNI having read the report.

The management of sex offenders: The PSNI, in partnership with other agencies, is a member of the Northern Ireland Sex Offender Strategic Management Committee. The Committee has established a media sub-group and developed a communication strategy to explain this area of work to the public. As Chair of the Committee, ACC Criminal Justice has carried out a wide range of media interviews to explain the multi-agency approach to the management of sex offenders and the PSNI's responsibilities in protecting the public.

Fatal road accidents: Following a fatal road traffic accident in February 2007, the PSNI issued a detailed statement and conducted numerous TV and radio interviews, during which the incident was explained in detail, stressing the legal, investigative and human rights considerations officers must comply with during the investigation of a road traffic incident. A statement rebutting allegations of police ineffectiveness and mismanagement was issued and published in full in the internal PSNI magazine.

As well as the specific initiatives set out above, senior PSNI officers regularly give interviews on crime figures, key issues of concern and proactive initiatives. Reporters are regularly invited to accompany operational police officers on routine patrol and other operations. The PSNI Media and Public Relations department considers that such initiatives have been extremely useful in creating a better understanding and awareness of the range of policing areas and situations that confront officers on a daily basis.

PSNI APPRAISAL SYSTEM

Patten Recommendation 5 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. In our 2005 Annual Report, we reported that we were dissatisfied with the effectiveness of the PSNI's appraisal system as a tool for monitoring or rewarding the human rights performance of PSNI officers. While we noted that the PSNI's appraisal form included a discrete human rights element, we did not consider it adequate and therefore recommended that the human rights element be reviewed and revised to provide a more effective tool to monitor and assess the human rights performance

of individual officers and that the behavioural statements within each of the competencies be reconsidered and amended to include a human rights component, thereby integrating human rights standards.²¹ 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 (APR).²²

In our 2006 Annual Report, we indicated that the PSNI was undertaking a full review of the appraisal system and that the existing human rights element of the system would be replaced by identifying and including the relevant human rights elements/behaviours in an integrated competency framework.²³

To this end, the PSNI established an APR Project Board to review and revise the appraisal system to bring it up-to-date and align it with HMIC recommendations and the recommendations we made in our 2005 Annual Report, ensuring that human rights and the Code of Ethics were fully integrated throughout the APR.²⁵ The APR Project Board was made up of representatives from the Police Federation, the Superintendents' Association, the Police College, the Professionalising Investigation Programme, the Links Project, PSNI Operational Support, PSNI Urban and Rural Regions, PSNI Reward and Recognition department and PSNI IT department.²⁶ The APR Project Board recognised that the appraisal system should link the organisation's strategic goals to individual performance objectives and pledged to implement the new appraisal system with openness and transparency, allowing for feedback, regular evaluation and providing officers with the necessary guidance to use the system correctly and effectively.²⁷

In developing its new appraisal system, the APR Project Board conducted a bench-marking exercise with PSNI's 'most similar force' group to identify best practice and commissioned PriceWaterhouseCoopers to carry out an on-line officer survey. A number of recommendations emerged from these initiatives, including that the PSNI should treat its review of the appraisal system as a change management process, support it with a clear communication and a marketing strategy and ensure senior officers lead on its implementation. The on-line officer survey indicated that the revised appraisal system should include the establishment of new structures and training to enable

21. 2005 Annual Report, Recommendations 59 and 60, p.173.

22. 2005 Annual Report, Recommendation 21, p.169.

23. A competency framework is a model or template outlining the behaviours and attributes relating to any role.

24. The system was last reviewed on 1st April 2003.

25. PSNI Annual Performance Review Project Brief.

26. Email from PSNI to Policing Board's human rights advisors dated 9th January 2007.

27. PSNI's Annual Performance Review Project Brief.

28. Policy Directive PD 05/07 Police Annual Performance Review.

29. The Personal Performance Agreement (PPA) is used to record the officer's work objectives against which performance is assessed at the end of the reporting year. The PPA is used to establish a link between organisational, DCU/Departmental and individual objectives.

30. Each officer has a line manager who is responsible for agreeing a PPA and a Personal Development Plan with the officer, reviewing progress, providing formal and informal feedback on performance throughout the year and providing an assessment of performance at the end of the year.

31. Only the behavioural competencies required by the officer to achieve their work objectives should be identified. A minimum of 4 and maximum of 6 are identified in the officer's PPA. However, officers are expected to demonstrate all competencies relevant to their role.

line managers to manage staff effectively and promote officer engagement in the appraisal system.

The PSNI issued a revised, computer-based APR to police officers in April 2007. A policy was issued at the same time to guide officers on use of the new system.²⁸ We have reviewed the PSNI's policy to identify how human rights considerations are integrated throughout the appraisal system.

As part of the new appraisal system, each officer is required to complete a 'role details' form which clarifies how the officer's role contributes to the achievement of the DCU or department business plan. This form contains explicit statements regarding an officer's compliance with the Code of Ethics and with human rights, diversity and equality standards. These are identified as standards which are integral to all police roles and responsibilities. The form is used as a basis for the officer's Personal Performance Agreement (PPA).²⁹ In developing his or her PPA, the officer and their reporting officer³⁰ identify draft objectives, including work objectives and relevant behavioural competencies,³¹ which should be achieved by the officer in the next year. Respect for race and diversity must be included within the selected behavioural competencies and a human rights indicator identified for each competency.

On review of the officer's performance at the end the year, the reporting officer must consider whether the officer has achieved his or her objectives to the standards required, whether sufficient evidence has been presented to indicate achievement of objectives, whether the officer has considered and respected human rights and adhered to the Code of Ethics in their work and how the officer has demonstrated relevant behaviours and activities related to their role/rank profile. The officer must also reflect on his or her own performance, assessing whether objectives were achieved and identifying any weaknesses in performance. Once all evidence has been considered, the reporting officer assesses the officer's overall performance and awards the officer with an appropriate performance award.

To achieve a performance award of 'outstanding performance', 'exceeds expectations' or 'acceptable performance',³² the officer must evidence that they have demonstrated during the course of their work the behaviour and human rights competencies relevant to their role. Failure to demonstrate behaviour and human rights competencies may lead to an officer receiving an award of 'weaknesses in performance'³³ or 'unacceptable'. A countersigning officer reviews and signs each officer's APR report.

The PSNI has developed a document which maps human rights indicators and associated Articles of the Code of Ethics onto the APR's integrated competency framework. The document, which has been posted on the PSNI APR website, acts as a guide to line managers and is intended to be used in conjunction with the Integrated Competency Framework as part of the APR assessment. By relating (where appropriate) the behavioural indicators to Articles within the Code of Ethics, the PSNI intends to assist officers to identify linkages and to reinforce how human rights and the Code of Ethics are integral to police work. The guide instructs officers to apply Article 1.1³⁴ of the Code of Ethics as a thread throughout all competencies and apply Article 10³⁵ where supervision is involved. Other Articles of the Code of Ethics are identified for specific behavioural competencies.

We are satisfied that the PSNI's new appraisal system integrates human rights considerations. As stated in our 2006 Annual Report, human rights considerations have been identified as relevant in seven of the 12 behavioural competencies and associated human rights indicators have been developed. By mapping relevant Articles of the Code of Ethics to the human rights indicators, the PSNI has heightened the relevance of the Code of Ethics to the appraisal system. We therefore consider Recommendations 59 and 60 of our 2005 Annual Report to be implemented in full. We are aware, however, that the effectiveness of the appraisal system in monitoring the human rights performance of individual officers will depend on how it is implemented in practice. The PSNI is currently conducting an evaluation of the new APR system and will report its findings in late 2007. In our next human rights annual report, we will report on the outcome of the PSNI's evaluation and assess the extent to which the new APR system contributes to monitoring individual officers' performance in terms of human rights and adherence to the Code of Ethics.

32. There are four possible performance awards: (i) outstanding performance, (ii) exceeds expectations, (iii) weaknesses in performance and (iv) unacceptable.

33. An officer awarded a performance award of 'weaknesses in performance' will be given an opportunity to improve their performance through the setting of a corrective action plan.

34. Duty of police officers under s.32 Police (NI) Act 2000 and in carrying out their duties to protect human dignity and uphold the human rights of all persons as enshrined in the European Convention on Human Rights and other relevant international instruments.

35. Duty of supervisors.

Chapter 13: POLICING WITH THE COMMUNITY

Policing with the community has become the recognised model of policing over the last decade. Its central foundation is police/community engagement, based on the twin principles of community consent and police accountability. The protection and promotion of human rights is integral to the policing with the community model: police should be effective and efficient, representative and accountable within a framework of human rights.

1. PSNI Neighbourhood Policing Guidance, Executive Summary, p. 1.

2. The branch reports to ACC Criminal Justice and consists of a superintendent (head of branch), one occupational psychologist, one chief inspector, two inspectors and an administration officer.

3. PSNI ACC Criminal Justice presentation to Policing Board, August 2007.

4. PSNI Policing with the Community branch presentation to Policing Board's Community and Human Rights Committee, October 2006.

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In our 2006 Annual Report, we added an additional chapter specifically looking at the PSNI's approach to policing with the community. We reviewed the PSNI's policy on policing with the community, conducted an initial audit of the implementation and operation of this policy at the district level and committed ourselves to reporting further on the PSNI's work on policing with the community this year. We set out our findings below.

The Criminal Justice Inspection for Northern Ireland has indicated that it will undertake an inspection of policing with the community in late 2007-2008. HMIC has also indicated an inspection of neighbourhood policing within the new eight DCUs within the same period.¹

PSNI POLICING WITH THE COMMUNITY BRANCH

In 2006, the PSNI established a new Policing with the Community branch² within Criminal Justice department to give renewed impetus to implementation of its policing with the community programme. The objective of the branch is to make policing with the community the "core function"³ of the PSNI through the development and implementation of a work programme (with specific targets and performance indicators) to promote and embed policing with the community as the dominant style of policing within the PSNI.⁴

The HMIC 2006 Baseline Assessment of the PSNI included a number of recommendations relating to neighbourhood policing.⁵ The Oversight Commissioner's 18th report in December 2006 also identified a number of outstanding recommendations and performance indicators relevant to neighbourhood policing. The Policing Plan Objectives for 2007-2008 requires the PSNI "to ensure that policing with the community is at the core of the delivery of the policing service." The target requires the PSNI to demonstrate the extent to which its neighbourhood policing model has been implemented by reporting to the Board twice annually.⁶

In August 2007, ACC Criminal Justice provided a report to the Policing Board on the current status of implementation of the PSNI's neighbourhood policing model. The PSNI Policing with the Community branch has devised a corporate model for neighbourhood policing and neighbourhood policing teams based on 25 recommendations developed to reflect ACPO Principles of Neighbourhood Policing.⁷ The aim of the model is to produce dedicated, knowledgeable and responsive neighbourhood policing teams who will provide the local community with an accessible, identifiable point of contact. The model was agreed by the PSNI CORE Steering Group on 18th June 2007.⁸

5. Office of the Oversight Commissioner, Report 18, December 2006, pp. 14-15.

6. Policing Plan 2007-2010, p.17.

7. The proposed model is an organisational strategy which facilitates the police and its partners, as well as the wider community, working closely together to solve problems of crime and disorder and to provide reassurance to the public. The model is intended to provide a corporate approach to neighbourhood policing whilst allowing sufficient flexibility to enable Districts to deliver a local service meeting local needs.

8. PSNI ACC Criminal Justice presentation to Policing Board, August 2007.

The PSNI has now established a Neighbourhood Policing Programme Governance Board, which comprises senior PSNI personnel and a number of PSNI's strategic partners.⁹ The Governance Board is responsible for setting the direction for the evolution of neighbourhood policing and for monitoring the progress of implementation of the neighbourhood policing model. A corporate implementation team reports to the Governance Board.

During June and July 2007, the Policing with the Community branch held eight workshops, one within each of the new eight DCUs, to outline the new model for neighbourhood policing. The workshops were attended by PSNI personnel, as well as local councillors, DPP members, community safety partnership representatives, housing executive officers and members of other community organisations.¹⁰

The PSNI has spent time this year putting in place structures for the development and governance of its new neighbourhood policing model. We will continue to monitor the work of the Policing with the Community branch and report further on progress towards implementation of the neighbourhood policing model in next year's annual report.

PSNI KNOWLEDGE SHARING PROJECT

In 2006, the PSNI commissioned a team¹¹ to develop a one year knowledge sharing project as part of its reinvigoration of the policing with the community policy. The purpose of the project was to encourage the exchange of ideas and problem-solving initiatives both within the PSNI and between the PSNI and other partner agencies in order to promote public co-operation with policing. As part of the initiative, the PSNI held a series of knowledge sharing workshops for DPP Managers in August 2006. The first of these events focused on issues involving young people. The second workshop focused on problems of criminal damage, violent crime and domestic burglary.

We observed the second of the two workshops. The workshop included three 'story telling' sessions by PSNI personnel, including a community police officer, a crime prevention officer and a crime analyst. Each PSNI representative recounted

9. PSNI ACC Criminal Justice presentation to the Policing Board, August 2007.

10. PSNI ACC Criminal Justice presentation to the Policing Board, August 2007.

11. Including a sergeant and two police civilian staff members.

12. Letter from Deputy Chief Constable to Policing Board's human rights advisors dated 4th May 2007.

initiatives they had undertaken to combat anti-social behaviour, the fear of crime amongst older people or violent crime. DPP Managers were then invited to share their experiences and a useful exchange of ideas followed. During the course of the day-long workshop, DPP Managers were encouraged to consider what steps should be undertaken to promote community engagement.

The PSNI knowledge sharing project was completed on 1st April 2007. We consider that the knowledge sharing workshop is a very positive initiative, demonstrating pro-active partnership development by the PSNI. The creation of a forum for promulgating good practice and discussing problems of community engagement is a productive exercise. We recommend that the PSNI consider extending this model to a variety of partnership agencies.

RECOMMENDATION 40:

The PSNI should consider extending the knowledge sharing project model to a variety of partnership agencies.

PSNI COMMUNITY OUTREACH AND PARTNERSHIP AT THE DISTRICT LEVEL

In our 2006 Annual Report, we identified various types of consultative forums with which the PSNI engage at the district level. The PSNI's new model of neighbourhood policing impacts on these forums. We outline the changes below.

Beat forums

Each DCU has identified geographic neighbourhoods along locally defined and recognised boundaries and developed a profile for each neighbourhood. Each neighbourhood will have a dedicated police neighbourhood team led by a sergeant or a senior constable.¹²

Community/consultative forums

The PSNI intends to establish neighbourhood consultative forums within each neighbourhood and to conduct a review of established consultative structures to ensure they reflect the requirements of each neighbourhood. District Policing

Partnerships, Community Safety Partnerships and partner agencies, (including the Fire Service and Social Services) will be invited to participate in the neighbourhood consultative forum.¹³

PSNI Best Value Review of Partnerships

In 2007, in conjunction with the Policing Board, the PSNI undertook a best value review of partnerships.¹⁴ The objectives of the review were to make recommendations resulting in more effective and efficient PSNI involvement in current partnerships and to make proposals for the design of a generic partnership model to improve the effectiveness of future PSNI partnerships. The review included consultation with internal and external PSNI stakeholders. In addition, 27 other police forces and organisations recognised as high performing in partnership working were considered as comparators.

The review considered the following partnerships: drug and alcohol, road safety, PPS, anti-social behaviour partnerships, Community Police Liaison Committees, District Policing Partnerships and Neighbourhood Watch schemes. In general, the review found the PSNI representative attending the particular partnership to be an appropriate choice, with specific roles at meetings handled well and a high degree of consensus in decision-making.¹⁵ However, the review found that partnership working within the PSNI lacked a corporate vision, strategic direction and structure¹⁶ and highlighted a perceived lack of commitment by PSNI senior command towards partnerships. 13 strategic recommendations and 12 associated supporting actions were made, including the appointment of an operational lead for partnership strategy and policy implementation and the introduction of a performance management and service delivery system for all partnerships. In addition, a number of specific recommendations were made for each of the partnerships reviewed. The Policing Board has indicated that it will monitor the implementation of the recommendations contained in the partnership review.¹⁷

13. Letter from Deputy Chief Constable to Policing Board's human rights advisors dated 4th May 2007.

14. PSNI, *Best value review of partnerships: Final Report*, 17th May 2007.

15. PSNI Best Value Review p.20.

16. PSNI Best Value Review p.21

17. Policing Board Press Release, 17th May 2007.

18. While the agenda was adapted to reflect the particular characteristics of OCU, the standard agenda and format is maintained as far as possible.

ACCOUNTABILITY MEETINGS

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 with each of their respective DCUs on a six-monthly basis. This year, we observed Accountability Meetings in Rural and Urban Regions as well as Rural Operational Command Unit’s Accountability Meeting. We were interested to observe the impact of the PSNI internal restructuring on accountability mechanisms at district level.

As we reported in our 2006 Annual Report, accountability meetings adopt a standard format. The ACC sets the context for the meeting and then hands over to the District Commander and his team to present the DCUs performance over the previous six months. The presentation addresses, amongst other issues, compliance with national and local policing plans, crime rates and clearance rates, stop and search statistics, staff sickness levels, complaints, strategic plans and risk registers. The PSNI restructuring to eight DCUs has not negatively impacted on monitoring of performance. At each of the Accountability Meetings we observed, ACC Urban and ACC Rural examined performance at both district and area command level. The ACC questions the District Command team on any failures to meet targets but also recognises successful performance, particularly highlighting positive examples of successful partnership work with local agencies. The Operational Command Unit Accountability Meeting assumes a similar structure and agenda.¹⁸ On this occasion, as the meeting was held at the end of the recording year, the OCU Commander and his team were asked to account for their performance over the entire year. As we reported in our 2006 Annual Report, DPP and Policing Board Members may attend Accountability Meetings.

POLICING BOARD'S COMMUNITY ENGAGEMENT COMMITTEE

Monitoring the implementation of PSNI's Policing with the Community strategy is an important and extensive area of work. In June 2007, the Policing Board established a Community Engagement Committee.¹⁹ Two of the key responsibilities of the Committee are to (i) secure, support and monitor the implementation of policing with the community as the core function of the PSNI and (ii) consider police performance at DCU level as it impacts on policing with the community. We will follow the activities of the Board's Community Engagement Committee as it proceeds to develop this significant area of the Board's monitoring work and will report further in next year's annual report.

19. Following its decision to separate the work strands of the Policing Board's former Community and Human Rights Committee.

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. In our 2006 Annual Report, we conducted an audit of PSNI 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. This year, we have expanded this area of our monitoring work to examine the PSNI's approach to records management.

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DATA PROTECTION

The Data Protection Act 1998 gives people the right, subject to exemption, to access personal information held about them by businesses and organisations in the public and private sectors. In our 2006 Annual Report, we examined PSNI policies and training on data protection and analysed the number and outcome of data protection requests made to the PSNI and the number and outcome of complaints against the PSNI's handling of such requests. We also had extensive discussions with the PSNI's Access to Information Team, which has primary responsibility for ensuring the effective implementation of the PSNI's duties under both the Data Protection Act and the Freedom of Information Act.

Data Protection training

In our 2006 Annual Report, we reported that the PSNI's data protection training consisted of awareness raising lessons for student officers and support staff and an online training package for other members of staff. We also reported that there was no requirement that staff complete the online course. While we recognised that the PSNI Data Protection Unit would deal with most data protection issues, we emphasised that those likely to deal with data protection issues should be properly trained. We therefore recommended that the PSNI should consider whether its on-line data protection training should be made compulsory for some staff.¹

In its Human Rights Programme of Action 2006-2007, the PSNI accepted our recommendation.² PSNI reviewed its e-learning training package on data protection, making a number of amendments. The e-learning training package has now been installed on the PSNI intranet site and a pilot of the information security aspect of the training is being conducted with student officers.³ The training package is accessible by any member of PSNI staff, however, the PSNI has not yet made it compulsory for officers or support staff to complete the training.⁴

We welcome the PSNI's revision of its e-learning training package on data protection and the fact that it is accessible to all staff. We therefore consider Recommendation 44 of our 2006 Annual Report to be implemented in full. However, we consider that the PSNI should identify those members of staff most likely to encounter data protection issues and make training compulsory for them.

RECOMMENDATION 41:

The PSNI should identify those members of staff most likely to encounter data protection issues and make training compulsory for them.

1. 2006 Annual Report, Recommendation 44, p.162.

2. PSNI's Human Rights Programme of Action 2006-2007, p.21.

3. Letter from PSNI Data Protection Unit to Policing Board's human rights advisors dated 20th June 2007.

4. Email from PSNI Data Protection Officer to Policing Board's human rights advisors dated 11th July 2007.

Once the PSNI's pilot with student officers is over, the PSNI should further consider whether data protection training should be made compulsory for student officers.

Breaches of the Data Protection Act

Under s. 55 of the Data Protection Act it is an offence for a person to knowingly or recklessly, without the consent of the data controller, obtain or disclose personal data or information contained in personal data.⁵ In chapter 6, our analysis of the number of officers convicted of criminal offences in the period 1st April 2006 to 31st March 2007 indicated that eight officers were convicted of breaches of the Data Protection Act. In addition, in April 2007, it emerged that a member of the PSNI support staff had been allegedly involved in breaches of the Data Protection Act and found in possession of names and addresses likely to be of use to terrorists. This is obviously a serious concern that needs to be addressed by the PSNI.

One way in which the PSNI is attempting to identify officers and members of police support staff who commit breaches of the Data Protection Act is through random daily audits of the use of the PSNI's computer system conducted by the PSNI's Data Protection Unit. The audits randomly select individuals and question them about their use of the computer information system, including how the information they extracted was recorded and whether it was passed to any other individuals. The PSNI has indicated that it intends to expand on this initiative.⁶ We will keep this situation under review and report further in our next human rights annual report.

Requests for personal data

Between 1st April 2006 and 31st March 2007, the Data Protection Unit received 6,377 requests for personal data.⁷ The outcome of the requests are outlined in Table 1.

5. Section 55(1) Data Protection Act 1998.

6. Question from Alex Attwood to Deputy Chief Constable at Policing Board meeting, May 2007.

7. Letter from PSNI Data Protection Unit to Policing Board's human rights advisors dated 31st May 2007.

8. Cases not related to criminal record checks.

9. Cases not related to criminal record checks.

10. Data Protection Act 1998, s.29(1).

11. Data Protection Act 1998, s.7(4).

12. Data Protection Act 1998, s.31.

13. Data Protection Act 1998, sch. 7, ss.7, 8 and 10.

14. Letter from PSNI Data Protection Unit to Policing Board's human rights advisors dated 20th June 2007.

Table 1:
Requests for personal data, April 2006 - March 2007

Outcome of requests	No. of requests
Information does not exist	6
Existence of information neither confirmed nor denied	11
No criminal record	4,551
Criminal record disclosed	1,320
All requested information disclosed ⁸	283
No information held	17
Information exempt from disclosure	20
Police National Computer only	15
Unable to process	155
Disclosed in part ⁸	35
Abandoned by the applicant	8
Total	6,421*

* The discrepancy in the total number of requests and the recorded outcome of requests is due to the 40-day process overlapping.

As the table demonstrates, the PSNI refused to supply personal information on the basis of exemptions under the Data Protection Act in only 20 of the 6,421 requests over the period. In these cases the exemptions applied were crime and taxation,¹⁰ right of access,¹¹ regulatory activity¹² and other miscellaneous exemptions relating to negotiations, examinations and legal professional privilege.¹³ On other occasions, information was not released because it did not relate to the person making the request, its release would have had a prejudicial and detrimental effect or a disproportionate effort would have been required to meet the request.¹⁴

Data Protection complaints

A total of 17 complaints were made against the PSNI regarding the disclosure or non-disclosure of personal data in the period 1st April 2006 to 31st March 2007. Eight of the complaints were made directly to the Information Commissioner. The other nine complaints were made via the PSNI's internal complaints mechanism. None of the complaints were upheld and no enforcement action was taken or recommended.¹⁵

As we reported in our 2006 Annual Report, the number of complaints upheld against the PSNI in relation to data protection indicates that, in general, the PSNI is continuing to meet its obligations under the Data Protection Act 1998. We note, however, that the number of complaints in the 12 month period between April 2006 and March 2007 has more than doubled on the last 12 month period we reported on: when there were only six complaints.¹⁶ While we recognise that this could be a result of greater awareness of the complaints system amongst applicants, we will continue to monitor the number and types of complaints received as part of our ongoing work.

FREEDOM OF 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 information within 20 days. There are, however, exemptions. In our 2006 Annual Report, we examined PSNI's Freedom of Information policies, training and publication scheme. We also analysed the number and outcome of requests to the PSNI and the number and outcome of complaints.

PSNI Publication scheme

The Freedom of Information Act requires public authorities to adopt, implement, operate and maintain a publication scheme.¹⁷ The purpose of a publication scheme is to ensure that a large amount of information is readily available to members of the public without the need for specific application under the Freedom of Information Act, and to inform the public of the extent of the material available. The PSNI has established a publication scheme which includes seven classes of information.¹⁸

15. Letter from PSNI Data Protection Unit to Policing Board's human rights advisors dated 31st May 2007.

16. From 1st January 2005 to 31st December 2005.

17. Freedom of Information Act 2000, s.19.

18. Including Who's Who and Where, Objectives and Plans, Chief Constables Annual Report, Executive Decision Meetings, Policies, How are we going?, Chief Officers Expenses and Significant Public Interest Category.

19. Policy Directive PD 03/04 Freedom of Information Policy.

20. 2006 Annual Report, Recommendation 45, p.162.

21. PSNI's Human Rights Programme of Action 2006-2007, p.21.

22. In July 2007, the PSNI had posted 46 policies on its publication scheme.

23. The disclosure log will be back dated to requests dating from September 2006.

24. Email from PSNI Freedom of Information Unit to Policing Board's human rights advisors dated 23rd May 2007.

25. Ibid.

PSNI policy indicates that the PSNI publication scheme manager will review its publication scheme from time to time.¹⁹ In our 2006 Annual Report, we reported that the PSNI's publication scheme had not been reviewed. We therefore recommended that the PSNI should review its publication scheme within three months of the publication of our report.²⁰

In its Human Rights Programme of Action 2006-2007, the PSNI accepted our recommendation.²¹ In 2006/2007, the PSNI conducted a review of its publication scheme, focusing on three areas: an update to the classes of information, the adoption of a disclosure log and review of the practice of releasing information on a discretionary basis. As part of its review, the PSNI added up-to-date information to all seven of its classes of information contained within its publication scheme, including a number of policies and general orders.²² The PSNI also decided to introduce a disclosure log in the 'significant public interest' category within the publication scheme. The disclosure log will include information that is in the public interest and has been the subject of a freedom of information request as long as it is not of a sensitive nature so as to make release inappropriate.²³ The PSNI's publication scheme manager will be responsible for ensuring that all material is captured for possible inclusion on the disclosure log on an ongoing basis. The PSNI considers that development of the disclosure log will contribute to the PSNI's ongoing disclosure of information on a discretionary basis.²⁴

The PSNI's publication scheme manager has ongoing responsibility for ensuring information on the publication scheme is up-to-date and that new information is regularly posted. The publication scheme manager liaises on an ongoing basis with PSNI Publications department to ensure that all policy directives are uploaded onto the PSNI's website as appropriate.²⁵

We welcome the PSNI's review of its publication scheme and consider Recommendation 45 of our 2006 Annual Report to be implemented in full. However, we think it important that a timeline be implemented for introducing a disclosure log in the public interest section and recommend this be done. We also emphasise as a matter of general principle, the obligation of the PSNI to review its publication scheme is ongoing.

RECOMMENDATION 42:

The PSNI should implement a timeline for introducing a disclosure log in the public interest section of its publication scheme.

Requests for information

When a request is made for information, the PSNI's Freedom of Information Unit will consider the request and identify the PSNI personnel who may hold or have access to the relevant information. In consultation with the department which holds the information, the Freedom of Information Unit will establish whether compliance with the request can be met, within the statutory fee limit.²⁶ A response to all information requests should be made within 20 days of receipt of the request.²⁷

In the period 1st April 2006 to 31st March 2007, the PSNI received 682 requests for information under the Freedom of Information Act. Of those, 456 (66%) were closed within 20 days and 226 (34%) were closed outside the 20-day timeframe. Of the cases in which an extended timeframe was agreed, 101 were closed within the agreed timeframe and 125 were closed outside the timeframe. Timeframes were exceeded due to the complexity of requests, the application of the public interest test and the need to consult with other parties or seek legal advice. The types of request received by the PSNI related to PSNI budgets, finance and procurement, policies and procedures, personnel issues, operational issues, high profile events, criminal investigations, job selection and proposed organisational changes.²⁸

Of the requests received, 164 were refused. Requests were refused because the information was not held by the PSNI (60), an absolute exemption²⁹ applied (53) or the case exceeded the statutory fee limit (51). Exemptions from publication were applied in 102 cases.³⁰ The most frequently used exemptions were law enforcement, health and safety and personal information. During the period 1st April 2006 to 31st March 2007, no charges were levied by the PSNI for information provided in response to a freedom of information request.

In terms of the timeframe afforded under the Freedom of Information Act, we welcome the fact that 66% of requests were closed within 20 days and that 101 were closed within

26. The PSNI may impose charges for providing information. Fees are applied in compliance with the National Fees Regulations published by ACPO. If the cost of responding to the request would exceed the appropriate limit, the applicant is given the opportunity to refine the request. Otherwise, the request may be refused.

27. Freedom of Information Act 2000, s. 10.

28. Email from PSNI Freedom of Information Unit to Policing Board's human rights advisors dated 23rd May 2007.

29. If an absolute exemption applies there is no obligation under the Act to consider the request for information further.

30. Includes the number of absolute and qualified exemptions applied. Qualified exemptions do not justify withholding information unless, following a proper assessment, the balance of the public interest comes down against disclosure.

31. One complaint was carried over from the previous year.

32. Information Commissioner, Freedom of Information Act 2000 (section 50) Decision Notice, 11th May 2006.

33. The PSNI stated that the information was exempt under s. 30(2)(a)(ii) and s. 30(2)(b) Freedom of Information Act. This decision was later reviewed, following a complaint by the applicant, and the PSNI's changed its justification for its decision to exemptions under s.30(1)(a)(i)(b), s.31(1)(a)(g), s.31(2)(a-d), s.38(1)(a-b), s.40(1)(2)(3)(a) and s.41 of the Freedom of Information Act.

an agreed extended framework. We recognise that some requests are complex and that it may in reality be impossible to close all requests within agreed timeframes, but nonetheless we consider the PSNI should strive to reduce the number of requests closed outside the agreed timeframe.

Freedom of Information complaints

The PSNI's Freedom of Information Unit received 33 complaints between 1st April 2006 and 31st March 2007. In general, the complaints expressed discontent with the nature of the PSNI's response or with the PSNI's withholding of information. 24 of the complaints were processed and 10 are subject to ongoing investigation.³¹ In 2006, 24 of the complaints received by the PSNI concerned the exemptions applied, three concerned the PSNI's determination that the appropriate fee limit had been exceeded and six expressed discontent about the PSNI's response to the request. Of the complaints processed, 17 of the PSNI's original decisions were upheld, two decisions were discontinued, with one overturned completely. Three complaints were withdrawn by the requester and two were discontinued due to the failure of the requester to respond to requests for clarification. Four complaints were referred to the Information Commissioner, all of which are pending.

During the course of the year, the Information Commissioner passed judgment on one complaint relating to the PSNI.³² This complaint related to the PSNI's refusal to meet a request on the basis that the information requested was subject to an exemption.³³ The Information Commissioner upheld the PSNI's decision to withhold the requested information, finding that the PSNI had properly concluded that the information was exempt and had dealt with the request in accordance with the Act.

Against this background, we have no specific concerns about the way the PSNI is dealing with requests under the Freedom of Information Act. However, we will continue to monitor complaints and report again in our next human rights annual report.

ACPO REVIEW OF PSNI FREEDOM OF INFORMATION AND DATA PROTECTION FUNCTIONS

In June 2006, ACPO completed a review³⁴ of PSNI freedom of information and data protection functions.³⁵ The ACPO review commended the PSNI as the first police service in the UK to request a review of its processes since the implementation of the Freedom of Information Act. ACPO stated that the request reflected the PSNI's forward thinking.³⁶ The review focused on freedom of information and data protection processes, information used by PSNI in its freedom of information decision-making, resource requirements for implementation of data protection and freedom of information policies, the co-ordination of freedom of information policy with other elements of the PSNI policy framework and the PSNI's freedom of information communication strategy, including its training, publication scheme and communication of freedom of information policy decisions.³⁷

ACPO reported that, in 2005, the PSNI dealt with the third highest number³⁸ of freedom of information requests of all UK police services behind the Metropolitan and West Midlands Police.³⁹ In spite of this surge in activity, overall, the ACPO review found that the PSNI was operating at a satisfactory or high standard in its compliance with the Data Protection and Freedom of Information Acts and made seven formal recommendations.⁴⁰

ACPO reported a number of concerns with the PSNI's freedom of information decision making process. One such concern related to the PSNI's practice of dividing responsibility for decision making between record owners and the central freedom of information team. The PSNI's approach gives the record owner responsibility for deciding whether requested information is held, while giving the central freedom of information team responsibility for deciding whether the information is released. ACPO indicated that this approach was problematic because the central freedom of information team did not always see the information on which it was making decisions and there was no consistency in the grades and responsibilities of record owners.⁴¹ ACPO indicated that the PSNI's approach might explain why, in the last three quarters of 2005, the PSNI's average for refusing

34. ACPO Freedom of Information Central Referral Unit, *Review of the Freedom of Information and Data Protection Act Functions of: Police Service of Northern Ireland*, concluded June 2006 (ACPO review).

35. The review was conducted by officers from Hampshire Constabulary on secondment to the ACPO Freedom of Information Central Referral Unit. The review team held interviews with the PSNI Corporate Information Manager and Freedom of Information Manager, PSNI Data Protection Unit, PSNI Crime Operations, PSNI Professional Standards, PSNI Roads Policing, PSNI Human Resources and staff from the Access to Information team. The report compared PSNI performance against data from all other UK police forces.

36. ACPO review, para. 1.2.

37. ACPO review Terms of Reference, Appendix 1.

38. 596 requests in total.

39. ACPO review, para. 2.6.

40. ACPO review, para. 1.4.

41. ACPO review, para. 3.1.7.

42. ACPO review, para. 3.1.8.

43. ACPO review, Recommendation 2.

44. ACPO review, para. 3.1.9.

45. ACPO review, Recommendation 3.

46. ACPO review, Recommendations 5, 6 and 7.

requests because information was not held was 29%, while the national average was 7.5%.⁴²

In light of this concern, ACPO recommended that the PSNI central freedom of information team should take responsibility for liaising directly with record owners to establish whether information is held and establish an audit function to check 'no information held' responses from record owners. Moreover, ACPO recommended that the role of record owner should be undertaken by a head or deputy head of each department and established as a standard staff function throughout the PSNI.⁴³

PSNI Crime Operations and PSNI Professional Standards both adopt different approaches to responding to freedom of information requests to the approach adopted by the central freedom of information team. This is due to the sensitive nature of the information held by both departments. ACPO's review identified problems with PSNI Crime Operations' approach. In PSNI Crime Operations, a record owner or freedom of information liaison officer undertakes decision making functions in response to freedom of information requests. However, the ultimate decision is attributed to the central freedom of information team, who are held legally responsible for the decision. The ACPO review indicated that neither ACPO nor the Information Commissioner consider this approach to be best practice because of the risk that it could lead to a named decision maker being held to account for a decision they did not take on information they did not see. While the ACPO review acknowledged that there may be concerns relating to the identification of personnel employed in PSNI Crime Operations, it also observed that this had not affected the approach taken by the Metropolitan Police Special Branch and Counter Terrorism officers.⁴⁴ In light of this concern, ACPO recommended that PSNI Crime Operations adopt the model used by PSNI Professional Standards which requires record owners to take named responsibility for their own freedom of information decisions.⁴⁵

ACPO made a number of recommendations relating to the central freedom of information unit, including training and development for its staff. ACPO also reported that training for PSNI record owners had ceased, but indicated that it would be reintroduced following completion of ACPO's review.⁴⁶

ACPO concluded that staff in the central freedom of information team, as well as those engaged in decision making in PSNI Professional Standards and PSNI Crime Operations, were motivated and capable decision makers.⁴⁷ ACPO commended the PSNI's general transparency and openness, although highlighted that it was not endemic to the whole organisation and noted, in particular, that PSNI Human Resources had not adapted as successfully as other PSNI departments to the requirements of the Freedom of Information Act.⁴⁸

⁴⁷. ACPO review, para. 3.3.3.

⁴⁸. ACPO review, para. 3.4.4.

We are concerned that these ACPO recommendations, made as long ago as 2006, do not appear to have been implemented yet. We recommend that the PSNI indicate to us within three months of this report which of the ACPO recommendations it accepts and how it intends to implement them. We will monitor the PSNI's implementation of ACPO's recommendations made following ACPO's review of PSNI's Freedom of Information and Data Protection functions and report further in next year's annual report.

RECOMMENDATION 43:

The PSNI should indicate within three months of this report which of the ACPO recommendations made following ACPO's review of PSNI Freedom of Information and Data Protection functions it accepts and how it intends to implement them.

However, overall, we are satisfied with the PSNI's discharge of its obligations under the Freedom of Information Act. We consider that it is vitally important that the PSNI continues to build upon the openness and transparency it has shown to date. By proactively keeping the public informed and up-to-date, the PSNI will not only continue to meet its statutory responsibilities, but help to raise the public's awareness and understanding of the roles and responsibilities of police officers. This is key to gaining public confidence and co-operation.

RECORDS MANAGEMENT

A public authority can only fully comply with its obligations under the Freedom of Information Act if the quality of the records to which the Act provides access is maintained. The right to

49. 2006 Annual Report, chapter 14, p.145.

50. Policy Directive No. 06/04 Records Management Policy.

51. Defined as recorded information created, received or maintained by the PSNI as part of its day-to-day business and kept as evidence of a decision or action that was undertaken. The term 'record' can refer to information recorded by any means in form of words, symbols, images or impressions, existing in electronic or physical formats.

52. Letter from ACC Operational Support to Policing Board's human rights advisors dated 20th July 2007.

information is of little use if reliable records are not created in the first place, if they cannot be found when needed or if the arrangements for their eventual archiving or destruction are inadequate. It is therefore necessary for a public authority to have an effective records management system in place. In our 2006 Annual Report, we indicated that we would review the PSNI's records management processes.⁴⁹ We have now reviewed the PSNI's records management policy, the roles and responsibilities of the central PSNI Records Management Unit and records management training. We outline our findings in detail below.

PSNI records management policy

The PSNI's records management policy was published in October 2004.⁵⁰ The policy is intended to ensure compliance with the PSNI's statutory obligations under the Public Records (NI) Act 1923, the Data Protection Act 1998 and the Freedom of Information Act 2000. The PSNI human rights legal adviser was consulted on the drafting of the policy. The policy applies to all records⁵¹ created or received by the PSNI, whether maintained at departmental or district level. It aims to present a consistent and clear approach to the creation, use, management, disposal and preservation of records. The PSNI's policy also outlines the roles and responsibilities of the staff members tasked with implementation of its records management programme. Compliance with the records management policy at District and Department level is monitored by the PSNI's Records Management Unit and through an ongoing process of auditing by Records Auditors. We discuss this in more detail below. The PSNI last reviewed its records management policy in December 2004 and intends to review it again in 2007.⁵² We will report on the outcome of its review in our next human rights annual report.

PSNI Records Management Unit

ACC Operational Support has overall responsibility for monitoring the implementation of the PSNI's records management policy. A Records Manager and Deputy Records Manager carry out the day to day oversight of the policy's implementation. Based in Operational Support department, the Records Manager and Deputy Records Manager's main responsibilities are to monitor and audit the creation and management of records within the PSNI, ensure the organisation's compliance with legislative

requirements in relation to records management, maintain policies and procedures relating to records management, provide advice and guidance to districts and departments, oversee training and monitor the regular review and destruction of records in line with authorised disposal schedules.⁵³

In light of the large volume of information created and maintained by the PSNI, a number of designated posts have been established to undertake audit responsibilities at district and departmental level. Record auditors liaise with and provide advice to districts and departments and perform record management audits. Records reviewers have delegated authority to manage information within their areas to ensure consistency across the Service. They have responsibility for creating information folders, providing assistance and advice to staff and reviewing, destroying and transferring physical records in accordance with PSNI policy and disposal schedules. The PSNI has appointed two records auditors and 264 record reviewers.⁵⁴ In addition, the PSNI Records Management Unit has appointed six record reviewers on a temporary basis to review historical files. A further six reviewers have been appointed at district level.⁵⁵

PSNI policy also recognises that all staff have a role to play in ensuring an effective and efficient records management system.

Records management audit

The PSNI's records management policy requires that audits are conducted of records management systems on a regular basis to ensure the PSNI's records management programme is adhered to. The Records Manager, Deputy Records Manager and record auditors have responsibility for conducting audits. An audit will consider maintenance of the PSNI's electronic document records management system (EDRMS)⁵⁶ electronic file plan,⁵⁷ how documents and records are created, record registration, version control, record security, folder and document titling and record review and disposal. Following completion of the audit, a report is produced detailing the actions audited and highlighting any deviation from standard procedures. The report will also identify if a training or other response is required.⁵⁸ An audit is to be carried out in 2007.⁵⁹ We will report on the findings and recommendations of the audit in our next human rights annual report.

53. Policy Directive No. 06/04 Records Management Policy.

54. Staff are nominated from within their department or district to become record reviewers.

55. Letters from ACC Operational Support to Policing Board's human rights advisors dated 20th July 2007 and 23rd August 2007.

56. See further below.

57. PSNI policy defines a file plan as a systematic and logical arrangement of folders into functions or subjects based on defined relationships. It enables documents relating to a specific subject to be grouped and managed together.

58. Policy Directive No. 06/04 Records Management Policy.

59. Letter from ACC Operational Support to Policing Board's human rights advisors dated 20th July 2007.

60. Records auditors initially received on-the-job training and have now been trained in Records Management I and II and completed a Diploma in Management (NVQ Level 5).

61. Letter from ACC Operational Support to Policing Board's human rights advisors dated 20th July 2007.

62. See p.263 above.

63. Letter from ACC Operational Support to Policing Board's human rights advisors dated 20th July 2007.

64. Ibid.

Records management and information security training

The PSNI's records management policy requires that all staff are made aware of their records management responsibilities and are given training according to their role. In June 2007, we wrote to PSNI Operational Support, requesting information on the level of training given to officers and support staff and querying whether that training is compulsory. In response, the PSNI indicated that its two record auditors have been trained to carry out their role⁶⁰ and have in turn provided training to all record reviewers.⁶¹ However, the PSNI indicated that training is not mandatory for all officers and support staff.

Training on information security is provided to student officers and support staff. As reported above, the PSNI is currently conducting a pilot of its e-learning information security training package with student officers.⁶²

The PSNI has taken steps to raise officers' awareness of records management and information security responsibilities. Initiatives include presentations to DCU Commanders and records reviewers (for dissemination amongst all PSNI officers and staff) and the introduction of mouse mats and aide memoires, outlining protective security marking requirements. The PSNI is currently in the process of posting all information regarding records management on the PSNI intranet site.⁶³

Electronic document records management system

The PSNI is in the process of introducing an electronic document records management system (EDRMS) on a departmental and district basis. As the EDRMS is introduced in each district and department, PSNI staff are given records management awareness training by members of the Records Management Unit and training on the use of EDRMS by specialist consultants. The EDRMS project team and Records Management Unit monitor the use of EDRMS and circulate lessons learned amongst officers and support staff. The EDRMS system will be reviewed in the coming year.⁶⁴ We will report on the outcome of this review in our next human rights annual report.

Chapter 15: CHILDREN AND YOUNG PEOPLE

As part of our monitoring work this year, the Policing Board's Human Rights and Professional Standards Committee commissioned us to examine the PSNI's approach to policing children and young people. To this end, during the course of this year, we have reviewed PSNI policies on children and young people, examined the PSNI's interaction with agencies working with children and young people, observed police training on children and young people and considered the role of the specialist officers who work closely with children and young people in the investigation of abuse or in the delivery of safety education in schools.

15

We have also consulted several non-governmental organisations that represent children and young people in Northern Ireland to gauge their views and concerns about the policing of children and young people. We set out our analysis below.

AUDIT OF POLICIES ON POLICING WITH CHILDREN AND YOUNG PEOPLE

PSNI policy on policing with children and young people

The PSNI issued its policy on policing with children and young people in October 2006.¹ The policy is based on the aims and objectives of the ACPO strategy for children and young people and seeks to apply the standards of the UN Convention on the Rights of the Child. The PSNI's policy expressly recognises the need to engage with children and young people in an open minded way and to understand and address their concerns in a bespoke and appropriate manner. The policy identifies neighbourhood policing teams as key to engaging with children and young people, emphasising the need for officers to be visible and accessible. The policy also highlights that young people, while often coming into contact with the police through offending or anti-social behaviour, are also more likely to be victims of crime.

The aim of the PSNI policy is to assist police officers in managing children and young people coming into contact with the criminal justice system by providing a general framework for interaction with children and young people to make officers more confident. The framework is based on five core themes: (i) engagement, (ii) children and young people as victims and witnesses, (iii) crime prevention and safety, (iv) crime reduction and police intervention and (v) human resource development in supporting specialist police roles and all officers in policing children and young people. We discuss the policy in more detail below.

Engagement with children and young people

The PSNI's policing with children and young people policy states that it will seek to build and maintain positive relationships with children and young people using a variety of consultative measures and constructive dialogue. Such consultation will take place at both Service and district level and will involve partnerships with other agencies providing services to children and young people. The PSNI recognises that its outreach work must go beyond consultation and extend to active engagement.

Bullying

The PSNI's policy on policing children and young people requires officers to ensure the robust investigation of all reported incidents of bullying where there is evidence of a crime having been committed. This is reiterated by the PSNI child protection

1. PD 13/06: PSNI Policing with Children and Young People.

policy.² The policy highlights that failure to address incidents of bullying with sufficient seriousness has the potential to profoundly damage the victim and allow the offensive behaviour to continue. It indicates that Article 19³ of the UN Convention on the Rights of the Child is the benchmark for police action. The policy also encourages officers to engage in a partnership response to reported incidents of bullying, where possible involving other relevant agencies such as social services, the youth service, schools and voluntary and community based organisations. Officers must also refer all incidents of bullying to the Youth Diversion Scheme.

Children as witnesses to crime

The Criminal Evidence (Northern Ireland) Order 1999 makes special provision for the gathering of evidence from vulnerable witnesses. Children under the age of 17 are included in the definition of vulnerable witness. These measures are known as 'special measures'. In 2002, the Home Office issued guidance on the use of special measures.⁴ The PSNI's policy on policing children and young people instructs that maximum use should be made of special measures. Practical guidance for officers is provided in the PSNI's child protection policy, which outlines the main provisions of the achieving best evidence guidance. PSNI policy requires that only officers who have undertaken specialist investigative interview training be permitted to interview children.⁵

Vetting and selection of officers

The PSNI's policy on policing children and young people outlines its approach to vetting and selecting officers to work with children and young people. The PSNI aims to clearly define roles and responsibilities for those areas involving significant interaction with children and young people and to pursue external evaluation and validation of policies relating to children and young people.

PSNI child protection policy

The PSNI's child protection policy was issued in August 2005⁶ and is based on ACPO guidance.⁷ The PSNI's policy provides the overarching standards for conduct in all situations involving interaction with children and young people against which all PSNI officers and civilian staff will be measured.⁸ Detailed guidance is provided on, amongst other issues, disclosure,

2. PD 2005/2006. The policy requires that all reports of bullying are treated in the first instance as potentially criminal and recorded and investigated accordingly.

3. Article 19: Every child/young person has the right to be protected from harm, including mental and physical abuse.

4. Home Office, Achieving Best Evidence in Criminal Proceedings: Guidance for Vulnerable or Intimidated Witnesses, including Children, January 2002.

5. PSNI Child protection policy.

6. Policy Directive PD 2006/2005 Police Service of Northern Ireland Child Protection Policy.

7. ACPO Guidance on Child Protection and Safeguarding Children (2005).

8. The standards relate to the following areas: investigation of child abuse; information sharing for the purpose of child protection; police attendance at child protection case conferences; interaction with children as members of the community; vetting requirements for officers and support staff coming into contact with children and young people; children as victims of crime; children as perpetrators of crime; children as witnesses of crime; children as covert human intelligence sources; children in domestic incidents; procedures for dealing with allegations of child abuse made against police officers and police support staff; dealing with bullying; child protection training; and, personnel

issues, supervision and management.

9. Where there is an immediate risk to a child or pregnant women, the duty social worker must be informed.

the child protection case conference procedure, health and safety requirements when working with children, investigative interviews with children and how to respond to bullying.

Where appropriate, the policy cross-refers to relevant PSNI policies which provide more detailed guidance on a particular aspect of policing or protection of children, for example, the PSNI Youth Diversion Scheme. However, several parts of the policy do not refer to or are not entirely consistent with other PSNI policy and guidance. Whilst these findings do not warrant a recommendation, we highlight them to PSNI Operational Support for consideration.

Children in domestic incidents

The PSNI's child protection policy highlights the significance of domestic violence to child protection and outlines the approach police officers should adopt. PSNI policy highlights the psychological impact of domestic violence on children and its link to poor educational achievement, social exclusion, juvenile crime, substance abuse, mental health problems and homelessness. Domestic violence is also identified as an indicator of risk of physical harm to the child. PSNI policy identifies six principles as relevant to police officers in dealing with domestic incidents involving children. These are protection, confidentiality, support, partnership, prevention and the needs of the child as paramount. PSNI policy requires that officers attending domestic incidents must take note of children who are resident or present at the home and if the alleged victim is pregnant. While PSNI policy requires that officers respect victim confidentiality and refrain from information sharing with other agencies without the victim's consent, it recognises that this must be waived where there is significant risk of harm to a child. In such cases, officers must notify Social Services at the earliest possible opportunity and advise the victim that it is police policy to do so.⁹

Children as covert human intelligence sources

The PSNI's child protection policy provides guidance on the use of children as covert human intelligence sources. A juvenile source is defined as a source under 18 years old. The policy states that PSNI practice on the use of juvenile sources, must

comply with the ACPO Manual of Minimum Standards for Covert Human Intelligence Sources.¹⁰

Special safeguards apply to the authorisation of the use of juvenile sources. On no occasion can authorisation be given for a child under 16 years old and living with their parents to give information against their parents. In all other cases, authorisation may be given, but only according to the following additional safeguards. First, only in exceptional circumstances may a juvenile source be used to provide information about members of their immediate family. Second, a parent, guardian or other appropriate adult must be present at meetings with the juvenile source. In addition, the safety and welfare of the juvenile source must be considered and any risk explained to and understood by the juvenile prior to authorisation. A risk assessment must also be undertaken.

Authority for the use of a juvenile source must be given by an officer at Assistant Chief Constable rank. The authorisation is valid for one month, with the possibility of renewal for a further month. PSNI policy requires that only advanced handlers are used for juvenile sources and stresses the vital role played by the controller and authorising officer in ensuring that the management of the juvenile source is closely monitored. PSNI policy refers handlers, controllers and authorising officers to the implications of *Gillick v. North West Wisbech Area Health Authority* (1985) and the duty to protect children at risk under the Children (Northern Ireland) Order 1995. The policy also outlines a number of fundamental considerations for officers working with or authorising the appointment of juvenile sources.

Training

The PSNI's child protection policy requires all police staff to be provided with child protection training, including training on the identification of possible abuse, handling disclosures and reports of abuse, recording and reporting information about abuse and supporting children who have been abused.

PSNI policy on Child Abuse and Rape Enquiry Units

In March 2007, the PSNI issued a policy on Child Abuse and Rape Enquiry (CARE) units and the liaison between the PSNI and

10. Manual of Minimum Standards for Covert Human Intelligence Sources, s.6.24-6.28.

11. General Order
No: 17/2007.

12. Such as
indecent exposure.

13. The service level
agreement requires crime
analysts in each DCU to
monitor minor cases of
sexual offence and inform
the DCU Crime Manager
of emerging trends.

the Social Services Board.¹¹ The policy outlines the locations, command and control and principal functions of the CARE units. The PSNI has appointed an officer of Detective Chief Inspector rank to lead on the PSNI's approach to vulnerable witnesses and sexual offences. The officer is based within PSNI Criminal Justice and acts as the PSNI's representative on all policy and procedure relating to the investigation of child abuse and adult sexual offences.

The PSNI's policy outlines the principle functions of CARE units. We set these out below.

- (a)** To investigate reported cases of child abuse, unexplained deaths of infants and serious sexual assaults.
- (b)** To conduct interviews with child witnesses.
- (c)** To comply with the protocol for joint investigations by social workers and police officers of alleged and suspected cases of child abuse.
- (d)** To represent the PSNI on Area Child Protection Committees.
- (e)** To assist in the collation and maintenance of records relating to sexual offenders and suspects.

The PSNI's policy provides limited guidance on the liaison between the PSNI and Social Services in the investigation of child abuse. However, it cross-refers to the joint investigation protocol. The policy identifies the Detective Inspector responsible for the daily management of each CARE unit as the central contact point for Social Services.

A service level agreement between the PSNI's CARE units and DCUs has been agreed and is attached as an appendix to the PSNI's policy. The agreement states that CARE units provide a 24 hour investigative response to allegations of child abuse and sexual offences. In responding to a report of child abuse or sexual offence, officers are instructed to contact CARE investigators through the DCU Crime Manager. More minor cases of sexual offence¹² are investigated by DCU investigators.¹³ CID or Serious Crime officers investigate cases of alleged rape where the perpetrator is not known to the victim. In both cases, CARE officers may be contacted to conduct interviews with vulnerable victims and witnesses.

PSNI policy on children in custody

The PSNI policy on children in custody instructs officers on the treatment of children who are in the care of persons arrested and detained.¹⁴ The policy outlines the steps that should be taken to ensure the welfare of the child. All reasonable steps should be taken to place the child in the care of a responsible adult or relative. Where this is not possible, and it is necessary for the child to remain with a detained person, the child must be admitted to the custody office. Where possible, custody offices with suitable facilities should be used and seven stations across Urban and Rural Regions have been allocated for this purpose.¹⁵ Social Services must be informed where a child is brought to a custody office. However, the detained person should remain the sole carer of the child unless there is a risk of harm. Police officers should take responsibility for caring for a child only if a detained person is unable to and only until Social Services arrive.¹⁶ PSNI policy stresses that any removal of the child into the care of Social Services must be compliant with Article 8 of the European Convention on Human Rights.

PSNI policy on youth diversion

Through its Youth Diversion Scheme, the PSNI intends to provide an effective, equitable and restorative response to offending behaviour.¹⁷ We reported on the PSNI's policy on its Youth Diversion Scheme in our 2006 Annual Report.¹⁸

Table 1 sets out the numbers and types of cases dealt with by Youth Diversion Officers recorded over the first 19 months of operation of the PSNI's Youth Diversion Scheme (from September 2003 to March 2005).¹⁹

14. General Order No: 9/2005 Children in the company of detained persons brought to custody offices, dated 4th May 2005.

15. Musgrave Street and Antrim in Urban region and Banbridge, Coleraine, Dungannon, Enniskillen and Strand Road in Rural region.

16. In these circumstances at least one officer involved in such care should be the same sex as the child and in the absence of CCTV coverage, two police officers must assist in the care of the child.

17. Policy Directive PD 2006/2005: Police Service of Northern Ireland Child Protection Policy, p.19.

18. 2006 Annual Report, chapter 10, pp.109-110.

19. The Youth Diversion Scheme was established in September 2003 to replace the former Juvenile Liaison Scheme. The intention of the Youth Diversion Scheme was to provide a framework within which the PSNI can respond to all children and young people aged over 10 and below 17, who come into contact with police for a variety of reasons, including non-offending behaviour, risk of offending, anti-social behaviour, or the commission of an offence.

20. PSNI, *Section 75 Equality Impact Assessment: Youth Diversion Scheme*, published in May 2007.

21. North Belfast, South Belfast, East Belfast, West Belfast, Fermanagh, Omagh, Dungannon and South Tyrone, Cookstown, Strabane, Foyle, Craigavon, North Down, Antrim, Ballymena and Newry and Mourne.

22. A reasonable approximation of religion/community background was gained by reference to data such as the individual's address, the school attended, their name or information from the case file.

Table 1:
Numbers and types of cases recorded over the first 19 months of operation of the Youth Diversion Scheme

Referrals	Total offence referrals	12,723
	Total non-offence referrals	10,017
	Total referrals	22,740
Onward referrals	Referrals to other agencies	2,271
Diversiory disposals	Informed warnings	2,054
	Restorative cautions – with victims present	386
	Restorative cautions – without victims present	1,058
	Total restorative cautions	1,444

The figures in table 1 relate only to cases referred to the YDS and disposals carried out by police. They do not include decisions on prosecution or the outcome of prosecutions. This data is not routinely collated by the PSNI.

The PSNI conducted an Equality Impact Assessment (EQIA) of its Youth Diversion Scheme in 2007.²⁰ The EQIA report included research on Youth Diversion Scheme case files, interviews with Youth Diversion Officers and consultation with young people and other interested parties. The research considered a sample of 915 Youth Diversion Scheme case files from 15 DCUs.²¹ This constituted approximately 5% of the total Youth Diversion Scheme caseload in those DCUs for the first 24 months of the operation of the Scheme. Information relating to only two of the section 75 categories - age and sex - is regularly recorded by the PSNI and therefore available to the researchers. Researchers extracted information on the religion of those referred to the Scheme on the basis of proxy measures.²²

The research considered the number of cases resulting in referrals to the Youth Diversion Scheme, Youth Diversion Officer recommendations for case disposals²³ and case outcomes²⁴ according to age, sex and religion. This information was compared to the percentage of the population of Northern Ireland represented by each group.

The following findings were reported:

- 1.** A substantial imbalance existed in the number of male juveniles referred to the Youth Diversion Scheme;²⁵
- 2.** A minor imbalance existed in the number of Protestant juveniles referred to the Scheme;²⁶
- 3.** Males fare worse under the Scheme than females, being recommended for (and subsequently receiving) higher tariff disposals;
- 4.** Substantial imbalances exist in the recommendations for case disposal made by Youth Diversion Officers, with greater percentages of Catholics tending to be recommended for prosecution, and greater percentages of Protestants tending to be recommended for diversionary disposals (i.e. lower tariff outcomes);
- 5.** Substantial imbalances exist in the decisions for case disposal made by the PPS and PSNI Criminal Justice Managers, with greater percentages of Catholics tending to be prosecuted, and greater percentages of Protestants tending to receive diversionary disposals.

The initial analysis indicated that Catholics appeared to fare less well under the Youth Diversion Scheme with regard to case outcomes than Protestants. However, the report noted that following a secondary analysis of the cases, the researchers concluded that the imbalance between Catholic and Protestant juveniles was not as a result of any judgmental bias on behalf of the PSNI or PPS. In each case, secondary research indicated that the PSNI and PPS had made recommendations and decisions in line with Scheme protocols and statutory requirements.

The gender imbalance indicated by the statistical analysis was also explained. It was considered likely to represent the differing

23. YDO recommendation as to disposal type, i.e. an informed warning, a restorative caution or prosecution. In some cases the recommendation was pending or not known.

24. Decisions by PPS or PSNI Criminal Justice Managers as to disposal type.

25. Males constituted 71.4% of persons referred.

26. Protestants constituting 35% of persons referred but only 32% of the juvenile population.

27. From 7th July 2006 to 29th September 2006.

28. Three with young people and four with a mix of individuals (mainly adult).

29. Organisations represented on adult focus groups included the Youth Justice Agency, the Probation Service, Social Services, NIACRO, local Health Boards, Education and Welfare Officers, the Indian Community, the Chinese Community, local schools, community workers, youth workers, residential homes, victims of youth offending and parents of youth offenders.

types of offending behaviour of males and females - males tend to commit more offences as well as more serious offences than females.

Interviews with Youth Diversion Officers and other stakeholders indicated differences in the application of the Scheme. In particular, variations were highlighted between DCUs in (i) referrals to other agencies, (ii) Youth Diversion Officer recommendations, (iii) the amount of training for Youth Diversion Officers and (iv) resourcing arrangements. The report recommended that these differences between DCUs needed to be addressed in the development of the Scheme.

The EQIA also involved a 12 week period of consultation,²⁷ which included seven focus groups²⁸ and 26 meetings with individuals.²⁹

The report indicated that during the consultation, the following points were highlighted as important for the effective functioning of the Youth Diversion Scheme:

- (a)** Early intervention with young people;
- (b)** Information sharing;
- (c)** Early decision making;
- (d)** The need for officers to be sensitive in their approach to children and young people.

In response to concerns arising from reported negative interactions between police and young people, the PSNI indicated that a monitoring strategy in respect of children and young people would be established. In addition, youth issues would be further integrated into the student officer training programme. PSNI also indicated that it would take steps to identify potential training needs on learning disability and young people. Procedures and protocols with the PPS would be reviewed to ensure there is minimal delay between referral and decision. The PSNI also stated that it would revise its policy on the Youth Diversion Scheme to provide greater clarity and to integrate standardised protocols with the PPS. The PSNI has also undertaken to improve training for its Youth Diversion Officers and to examine their caseloads and work patterns to ensure a more consistent approach.

We welcome the PSNI's report on its EQIA on the Youth Diversion Scheme. The research and consultation provides detailed information on the Scheme and a useful insight into its operation by those who have directly experienced it. We note the PSNI's response to the points raised by the EQIA, many of which reflect concerns raised with us when we attended Youth Diversion Officer training in May 2007.³⁰ We intend to follow up on the issues raised by the EQIA and the PSNI's progress in implementing the initiatives it has outlined as part of next year's monitoring work.

PSNI policy on anti-social behaviour orders

In August 2006, the PSNI issued a policy on anti-social behaviour orders and acceptable behaviour contracts.³¹ Its purpose is to highlight the introduction of the Anti-Social Behaviour (Northern Ireland) Order 2004 and to outline procedure and guidance in relation to the use of anti-social behaviour orders³² (ASBOs) and acceptable behaviour contracts (ABCs).³³ The PSNI's policy is intended to be read in conjunction with the Northern Ireland Office's Guide to Anti-Social Behaviour Orders. The PSNI policy states that ASBOs and ABCs are not intended to punish the alleged offender, but to protect the public by prohibiting a person from acting in a manner that is anti-social or is likely to lead to anti-social behaviour. In a statement on human rights, the PSNI's policy highlights that use of an ASBO potentially engages several Articles of the European Convention on Human Rights, including Articles 8, 10 and 11. While we welcome the PSNI's reference to relevant human rights standards and principles, we found the references somewhat general and a little confused. We suggest that PSNI Operational Support review the human rights statement in its policy.

Anti-social behaviour orders

The PSNI's policy outlines the approach which officers should adopt when proceeding with an ASBO against a child or young person.³⁴ A number of key guidelines inform this approach, including that the primary aim is to divert children and young people from the criminal justice system, that parents and guardians of the child or young person should be included at all stages of the ASBO process, and that an appropriate balance should be struck between publicity and the safety and rights

30. See p.216.

31. General Order No: 35/2006 Anti-social behaviour orders and acceptable behaviour contracts. Issued 18th August 2006.

32. A civil order made by the magistrate's court which prohibits the defendant from doing anything described in the order. ASBOs can only be obtained in respect of persons aged ten years or over.

33. A voluntary written agreement that aims to curb nuisance behaviour and stop further acts of anti-social behaviour by an individual.

34. Defined as 10 to 17 years inclusive.

35. Officers are directed to be aware that publication of information about young offenders may lead to involvement of paramilitaries and this could engage Article 2 and 3 of the European Convention on Human Rights.

36. An acceptable behaviour contract may also require positive behaviour, for example regular attendance at school or at a local youth club.

37. Liaising with Youth Diversion Officers and disseminating information to neighbourhood and response officers.

38. Letter from ACC Urban to Policing Board's human rights advisors dated 18th July 2007.

of the child or young person.³⁵ A central focus of the PSNI's approach is consultation with other agencies. The PSNI's policy recommends that relevant agencies, including the Probation Service, Health and Social Services and the Youth Justice Agency meet police on a regular basis to share information, discuss problems, agree a joint approach to resolving anti-social behaviour and consider any human rights issues that might arise from the application of an anti-social behaviour order.

Acceptable behaviour contracts

Acceptable behaviour contracts are intended for 10-17 year olds, but in exceptional circumstances, may be used for children under the age of 10. The aim of the ABC is to act as an early intervention to secure the agreement of the child or young person from committing anti-social behaviour. The ABC should be written in a language which is easy for the child to understand and clearly specify the behaviours the individual must not engage in.³⁶ Any conditions must be reasonable, justified, proportionate, realistic and practical. PSNI policy instructs officers to secure the involvement of the child's parents and guardians, as well as relevant agencies, in pursuing an ABC. It requires officers to ensure that the child has a full understanding of the ABC process and action required by the terms of the contract. The initiating officer is required to monitor the completion of the ABC.³⁷ The officer must also meet the child or young person and their parent or guardian on at least two occasions during the ABC. On successful completion of the ABC, a certificate of recognition is awarded.

Anti-Social behaviour statistics

There were 48,292 anti-social behaviour incidents recorded by the PSNI in the period 1st January 2007 to 30th June 2007. These included reports on noise, rowdy/nuisance neighbours, street drinking and vehicle nuisance/inappropriate vehicle use and of animal problems. Table 2 sets out the number of ASBOs and ABCs currently applying in Urban and Rural Regions.³⁸

Table 2:
ASBOs and ABCs currently applying across PSNI districts

Region and District	ASBOs	ABCs
Urban Region	19	60
A District	6	14
B District	3	0
C District	4	0
D District	6	46
Rural Region	23	49
E District	3	8
F District	4	16
G District	4	3
H District	12	22
Total	42	109

The PSNI Best Value Review of Partnerships conducted in 2006/2007 considered the workings of Anti-Social Behaviour Partnerships.³⁹ The review acknowledged that the establishment of Anti-Social Behaviour Partnerships is in its infancy in Northern Ireland but reported inconsistencies across DCUs.⁴⁰ The review also reported that whilst the PSNI recently issued a policy on ASBOs and ABCs, it does not provide officers with any guidance on the aims and objectives of Anti-Social Behaviour Partnerships.⁴¹ The review referred to the establishment in January 2007 of the first tri-partite agreement in relation to anti-social behaviour between the Northern Ireland Housing Executive, Belfast City Council and the PSNI and reported that “pockets of good practice and expertise are emerging”.⁴²

39. PSNI *Best Value Review of Partnerships*, Final Report, May 2007 (PSNI Best Value Review), chapter 10.

40. PSNI Best Value Review p.38.

41. PSNI, Best Value Review p.11.

42. PSNI Best Value Review p.11.

43. The action plan may include further research, visits to the complainants or resort to an ABC or ASBO.

44. PSNI, Northern Ireland Housing Executive and Belfast City Council, *Anti-social behaviour (Northern Ireland) Order 2004, Information Sharing Protocol*, January 2007.

45. Letter from ACC Urban to Policing Board's human rights advisors dated 18th July 2007.

46. General Order No:58/2002 Relationships of trust.

47. A relationship of trust is described as one in which one party is in a position of power or influence over another by virtue of their work or the nature of their activity.

There are currently four anti-social behaviour forums operating in Belfast which meet on a monthly basis to discuss cases of anti-social behaviour. Following discussion of a case, forum members decide on an action plan.⁴³ The PSNI, Belfast City Council and the Housing Executive have agreed an information sharing protocol⁴⁴ to ensure the confidentiality of any information exchanged during the discussion of cases at a forum.⁴⁵

PSNI policy on relationships of trust

In November 2006, the PSNI reissued a revised version of its policy on relationships of trust.⁴⁶ The policy's purpose is to protect police officers from potential complaints arising from relationships of trust⁴⁷ and to ensure the police provide a professional and impartial service that is also open and transparent. Relationships of trust can be fitted in to one of two categories: a police officer comes into contact with a vulnerable person in the course of their duties or a police officer obtains personal information about a vulnerable person in the course of their duties. PSNI policy highlights that relationships of trust with those under 18 are particularly open to abuse. Officers, particularly Youth Diversion Officers and CARE officers, are instructed not to form relationships going beyond professional relationships or use personal information or influence obtained in the course of their duties for any reason other than the performance of their duties. Police officers are also advised to record all dealings with vulnerable persons in their notebooks. PSNI policy refers officers to the Code of Ethics for further guidance.

Observations

The PSNI has developed a package of broad policies dealing with children and young people. Overall, we consider that the policies are clear and comprehensive and provide useful guidance for officers on their engagement with and treatment of children and young people. We intend to investigate officers' familiarity with these policies as part of next year's monitoring work.

MOSQUITO DEVICE

In 2006, a number of interested parties expressed concern regarding the PSNI's use or endorsement of the Mosquito device. The device is used to deter young people from congregating in certain areas through the emission of a high pitched noise.⁴⁸ The noise causes discomfort to those who hear it and is more audible (and therefore causes greatest discomfort) to those under the age of 20.⁴⁹ In November 2006, we wrote to ACC Criminal Justice to establish the PSNI's position on the use of the Mosquito device. ACC Criminal Justice indicated that the PSNI would neither use nor recommend the Mosquito device and that a direction had been issued to officers highlighting the PSNI's position.⁵⁰ We endorse the PSNI's position.

RETENTION OF DNA

During 2006/2007, several groups and individuals raised significant concerns with the Board in relation to the PSNI's retention of the DNA of children and young people. We discuss the PSNI's policy on the retention of DNA in greater detail in chapter 3 of this report.

CHILD ABUSE AND RAPE ENQUIRY UNITS

The PSNI has established specialist Child Abuse and Rape Enquiry (CARE) units to investigate allegations of child abuse and other sexual assault. CARE Units are managed by PSNI Crime Operations. There are currently 11 units with 77 staff distributed across Northern Ireland.⁵¹ Three principles guide the investigation of allegations of sexual assault. First, it is PSNI policy to accept any allegations made by a victim as genuine.⁵² Second, a CARE detective should make contact with the victim within one hour of being informed of the crime, or as soon as possible thereafter. Third, the victim's wishes as to whether to proceed with the case will be taken into account. However, where there is a named offender, the PSNI will interview the individual and forward a report to the PPS.⁵³ While a victim of a serious assault is dealt with by a member of CARE, the CARE officer will not necessarily investigate the crime. An example of this is stranger rape, which is currently dealt with by CID in districts. The role and structure of the CARE unit and its investigative practices are currently under review to ensure compliance with national standards.

48. An 80 decibel pulsing frequency.

49. The device works due to a natural health phenomenon called presbycusis or age related hearing loss. Age related hearing loss begins after the age of 20, but is usually only significant in persons over 65. Most people under the age of 20 have undiminished hearing and therefore a heightened awareness of noise.

50. Letter from ACC Criminal Justice to Policing Board's human rights advisors dated 27th November 2006.

51. No CARE personnel, with the exception of a very small number of secondments, come from DCU staff.

52. Unless there is clear evidence to suggest otherwise.

53. PPS protocols make clear that where a named offender exists, only the PPS that can make a decision.

54. Her Majesty's Inspectorate of Constabulary, *Baseline Assessment Police Service of Northern Ireland*, October 2006.

55. The HMIC report identified ACC Crime Operations as the lead on investigation of child abuse offences and operations relating to the management of sex offenders, ACC Criminal Justice as the lead for child protection policy and DCUs as lead managers of registered sex offenders and domestic violence issues.

56. Her Majesty's Inspectorate of Constabulary, *Baseline Assessment Police Service of Northern Ireland*, October 2006, p.49.

57. Ibid.

58. Letter from ACC Criminal Justice to Policing Board's human rights advisors dated 5th July 2007.

59. Letter from ACC Crime Operations to Policing Board's human rights advisors dated 28th August 2007.

In its March 2007 baseline assessment,⁵⁴ HMIC expressed concern about the PSNI's approach to child protection and the investigation of child abuse, noting that responsibility is spread across three departments of the PSNI.⁵⁵ HMIC expressed concern that a "silo approach" to the management of vulnerable people had developed and encouraged the PSNI to develop "effective linkage between staff dealing with child abuse to ensure that intelligence is shared and that opportunities for proactive investigation are not missed".⁵⁶ HMIC also recommended that the PSNI should review its arrangements to supervise registered sex offenders, particularly those not identified as high risk. HMIC indicated that the PSNI needed to ensure a consistent approach between DCUs and CARE units and that staff undertaking CARE duties in DCUs should receive proper training. HMIC also noted that there are no IT prompts to inform child abuse investigators regarding children at risk and indicated that either more officers should be trained in the use of current IT systems or an IT solution developed to remedy this problem.⁵⁷

We wrote to PSNI in June 2007 asking for its response to the HMIC assessment. The PSNI acknowledged that several reports had identified the need for it to address the variety of supervision and management structures in place across the PSNI. Sex offender management is currently conducted by the MASRAM Unit within PSNI Criminal Justice, in tandem with districts. In order to introduce a more consistent approach, the PSNI intends to establish Public Protection Units in each of its eight new DCUs. Each unit will be responsible for child abuse, sex offender management, domestic violence and missing persons. PSNI Criminal Justice will provide policy support. The PSNI's central Sexual Offences Unit will also be based within PSNI Criminal Justice.⁵⁸ The PSNI consider that this framework will ensure a joined up approach to the investigation of child abuse. The PSNI recently informed us that despite efforts to purchase and implement a specialised IT system to facilitate case management and information sharing in the investigation of child abuse, this has not been successful to date.⁵⁹

We intend to monitor the PSNI's implementation of the various initiatives discussed above and report further in next year's annual report. However, in addition, we recommend that the PSNI should report by January 2008 on its progress

in establishing the Public Protection Units within each of its eight DCUs.

RECOMMENDATION 44:
The PSNI should report by January 2008 on its progress in establishing the Public Protection Units within each of its eight DCUs.

INTER-AGENCY PARTNERSHIP WORKING

Area Child Protection Committees

The role of the Area Child Protection Committees (ACPCs) is to develop a strategic approach to child protection within children's services.⁶⁰ In May 2003, the Department of Health, Social Services and Public Safety published guidance to assist ACPCs to develop strategies, policies and procedures to safeguard children who are assessed to be at risk of significant harm (ACPC guidance).⁶¹ The ACPC guidance outlines a number of general principles that must apply to child protection. These include that the child's welfare is the paramount consideration; that children have a right to be heard, listened to and taken seriously; that investigations should be sensitive and avoid causing unnecessary distress; that consideration be taken of the child's individual circumstances and characteristics and that any intervention should respect the needs of the family and, where possible, avoid causing disruption to the family unit.⁶² The guidance envisages an inter-agency approach to child protection.⁶³ In carrying out investigations of criminal offences against children, the PSNI must ensure that the child's welfare is the overriding consideration and that the investigations are carried out sensitively, thoroughly and professionally. The guidance emphasises that while PSNI CARE units will primarily deal with cases of child abuse, safeguarding children must not be seen as exclusively within the CARE remit but as a fundamental part of the duties of all police officers.⁶⁴

Case management reviews⁶⁵

The PSNI plays a full and active role in the ACPC case management review process.⁶⁶ A case management review is undertaken when a child dies (including death by suicide) and abuse or neglect is known or suspected to be a factor in the child's death.⁶⁷ An officer of at least inspector rank represents

60. Specifically, its duties include developing, agreeing and reviewing policies and procedures for inter-agency work to protect children; improving outcomes for children by setting objectives, performance indicators and establishing appropriate thresholds for intervention; ensuring that equality of opportunity is central to the development of child protection policies and procedures; creating and implementing a strategy for developing effective working relationships between services; monitoring and evaluating how well services work together to protect children on a regular and continuing basis; developing an inter-agency/inter disciplinary training and development strategy with the aim of improving child protection work and undertaking case management reviews to make sure that lessons learned are clearly communicated, understood and actioned.

61. Department of Health and Social Services, *Co-operating to safeguard children*, May 2003. (DHSS Report).

62. DHSS Report, pp.11-12.

63. DHSS Report, p.12.

64. DHSS Report, p.28.

65. General Order No: 22/2005 Child Protection - Case Management Reviews.

66. The purpose of the case management review is to establish the facts of the case and whether there are lessons to be learned.

67. An ACPC will also consider undertaking a case management review where a child sustains a potentially life-threatening injury through abuse, serious and permanent impairment of health or development through abuse or neglect.

68. Agencies involved in the case review must undertake an individual agency review of the agency's involvement with the child and family.

69. A joint investigation will be undertaken where there is an allegation or reasonable suspicion that one of a number of criminal offences has been committed against a child, including (1) any sexual offence; (2) serious neglect or ill-treatment actionable under the Children and Young Person Act 1968; (3) serious physical injury against a child and (4) any injuries sustained by a child on the Child Protection Register or a child in the care of Health and Social Services Trust.

70. Protocol for Joint Investigation by Social Workers and Police Officers of Alleged and Suspected Cases of Child Abuse - Northern Ireland, September 2004 (4th edition). The protocol was introduced in Northern Ireland in November 1991.

71. General Order No:10/99 Area Children and Young People's Committees and Children's Services Plans.

the PSNI on the case management review panel. Any officer undertaking this role must have completed case management review training. The liaison officer's role is to ensure that the panel is given access to any PSNI staff, policies, procedures, records or information which it requests and has responsibility for carrying out the individual agency review on behalf of the PSNI.⁶⁸

Protocol for joint investigation of child abuse by social workers and police officers

A central facet of the PSNI's inter-agency approach to child protection is its joint protocol with Social Services in carrying out joint investigations⁶⁹ of alleged and suspected cases of child abuse.⁷⁰ The protocol is designed to ensure that staff from the PSNI, Social Services and the NSPCC work together in the best interests of the child. The protocol provides detailed guidance on the procedures to be followed during a joint investigation, including those relating to information exchange, investigative interviewing (including safeguards for children with disabilities), investigation of organised abuse and special measures for witnesses. The protocol requires each agency to ensure that its staff are appropriately trained, supervised and supported by managers.

Area Children and Young People's Committees

The Children (Northern Ireland) Order 1995 required each of the four Health and Social Services Boards in Northern Ireland to review services provided for children within their respective Board areas and produce a plan to promote the welfare of children, integrate the provision of services and ensure the effective use of resources. The Health and Social Services Boards must liaise with relevant agencies, including the PSNI in developing its plan. As part of this consultative process, each Board has established an Area Children and Young People's Committee. A representative of the PSNI sits on each Area Committee. PSNI policy outlines in detail its role as a member of the Committee and its contribution to the development of the children's service plan.⁷¹ The policy instructs officers to work closely with other officers and external agencies to ensure co-ordination of activities. PSNI CARE officers and PSNI Community Safety branch are identified as the primary PSNI representatives on the Committees.

PSNI CASE programme

One of the main ways in which the PSNI is actively engaging with children and young people is through the Citizenship and Safety Education (CASE) programme. The PSNI developed the CASE programme to establish close links between the PSNI and the school community. Police officers work in partnership with teachers and parents to promote skills, attitudes and values that encourage responsible behaviour and empower young people to make informed lifestyle choices. The programme informs young people of their rights and responsibilities, promotes personal safety and cultivates respect for the rights of others by exploring multiculturalism and sectarianism. The Northern Ireland Curriculum Council has recently accredited the CASE programme and officers receive several weeks of training at Stranmillis College, Belfast. To date, 200 PSNI officers have received CASE training.⁷²

Other partnerships and outreach work⁷³

The PSNI has developed a number of smaller scale multi-agency initiatives which provide health and safety guidance to children and young people. We describe a number of these initiatives below.

Student officer interaction with young people: In May 2007, the PSNI Youth Issues Team and PSNI Police College held an event for student officers and young people. The purpose of the event was to promote mutual respect and to enhance student officers' awareness and understanding of the issues faced by young people. Representatives of a PSNI Youth Independent Advisory Group, a Prince's Trust Team from East Belfast and a YMCA group attended the event,⁷⁴ along with 45 student officers.⁷⁵ During the event, the student officers and young people were invited to discuss five topics relevant to policing and young people, including the drugs and alcohol culture, issues of safety for young people, the parading season, diversity in the PSNI and police officers' attitudes to young people.⁷⁶ Each discussion was facilitated by a member of the PSNI Youth Issues Team or PSNI Police College. We observed several of the discussions and were impressed by the open and candid exchange of views, which gave each group a useful insight into the concerns and challenges faced by the other. The student officers appeared

72. Meeting of the Policing Board, September 2006.

73. Details of these initiatives are provided in the PSNI policy on policing with children and young people.

74. 24 young people attended the event.

75. The student officers were in week 10 of their 21 week training programme.

76. While these particular themes were selected, the young people were encouraged not to feel restricted in what they wanted to discuss. The discussions also covered issues such as internet safety and views on the gender composition of the PSNI.

77. Three events are planned for 2007/2008.

78. Including a DVD and workbook.

79. The PSNI appointed an Education Adviser in partnership with the Department of Education to identify local problems and issues relating to children and young people to be addressed at a Service-wide level.

80. Based on meetings with groups outlined. We do not intend to suggest that there are not other perceptions held.

81. Policing Board, *Young people's attitudes and experiences of policing, violence and community safety in North Belfast*, June 2005 (Policing Board's Young People's Report 2005).

82. The research was based on the findings of a questionnaire completed by 2,486 young people and interviews and focus groups with young people, police officers and community representatives in the North Belfast area.

to benefit from the experience. PSNI will issue a report on the event in due course. In light of the success of the event, the PSNI intends to introduce it as a regular feature of the student officer training programme.⁷⁷ We welcome this development and encourage the PSNI Youth Issues Team and PSNI Police College to continue to work together to develop student officer engagement with young people and awareness of the challenges faced by young people today.

Road safety: The PSNI has developed a memorandum of understanding with the Department of the Environment that allows it to deliver road safety education to school pupils.

Urzone: The Urzone website compliments lessons delivered through the CASE programme and deals with issues such as bullying, drug abuse and underage drinking. The website is targeted at 10 to 14 year old children. An interactive element to the website allows children and young people to seek online advice from police officers.

West Belfast Essential Services Support Group: The PSNI is involved in a multi-agency initiative with representatives from the Northern Ireland Fire and Rescue Service, the Northern Ireland Ambulance Service, Translink and West Belfast Taxis to reduce attacks on services in the West Belfast area. One element of the initiative is an education package⁷⁸ developed by Education Advisers⁷⁹ from the PSNI and Fire and Rescue Service and aimed at children in primary seven. The education package is given to children at an information day, involving all five services.

PERCEPTIONS OF PSNI'S APPROACH TO CHILDREN AND YOUNG PEOPLE⁸⁰

Policing Board report on young people's experiences of policing in North Belfast

In June 2005, the Policing Board published a report into young people's attitudes and experiences of policing, violence and community safety in North Belfast.⁸¹ The report was based on research undertaken by the Institute for Conflict Research (ICR) on behalf of the Policing Board between September and December 2004.⁸² The research was conducted in response

to the widespread and sustained interface violence and tension in North Belfast which peaked in June and November 2001 during the Holy Cross dispute.

The report indicated that many young people had poor experiences and negative views of the police. Over 40% of young people living in North Belfast stated that they had been stopped and questioned by the police for no apparent reason or had experienced verbal harassment by the police.⁸³ 65% of respondents thought that the police did not understand the issues and problems experienced by young people in North Belfast.⁸⁴ The report indicated significant differences between young people living within and outside North Belfast: young people living outside North Belfast generally had more positive experiences. The report made a series of recommendations, a number of which related to the need for the PSNI to communicate and engage more effectively with young people. The report commended a number of initiatives undertaken by the police in North Belfast to engage with children and young people, including work with local schools and partnership with Translink and recommended that such initiatives continue and develop.⁸⁵ It also suggested the establishment of a consultative forum for young people in North Belfast and that the PSNI should review its overall training programme on communicating and interacting with young people.

In August 2005, North Belfast DCU responded to the findings and recommendations of the research report. North Belfast DCU indicated that it would engage a youth worker to work with police officers and young people in North Belfast with the aim of bringing the two together in joint activity.⁸⁶ The PSNI considered that this initiative directly addressed several of the report's recommendations relating to its engagement with young people⁸⁷ and complimented its ongoing work with schools in North Belfast. We welcome the PSNI's response to the report and consider that this initiative, known as the Young Voices Project (discussed further below) meets several of the recommendations made by the Policing Board's report.

Young Voices North Belfast Project

In 2006, the PSNI and Include Youth established a young voices project in North Belfast funded by the policing with the

83. Policing Board's Young People's Report 2005, p.2.

84. Policing Board's Young People's Report 2005, p.5.

85. Policing Board's Young People's Report 2005, p.8.

86. Submission from North Belfast DCU attached to a letter from Chief Superintendent Urban OCU to the Policing Board, dated 28th September 2005.

87. In particular, Recommendations 1, 2, 4 and 5 of the Policing Board's Young People's Report 2005.

88. This took the form of 31 focus groups with 300 young people.

89. Activities include a tour of a police station, experience of a drive in a police land rover, meeting with new police recruits in Garnerville and a range of sporting activities.

90. Aged between 12 and 18.

91. Marginalized children and young people who have left mainstream education were particularly targeted.

community fund. The purpose of the project is to work and consult with young people about their experiences and views of the police and vice versa in order to enhance the relationship between police and young people in North Belfast. The approach of the project was two-fold. First, a project worker consulted independently with young people to establish their views and concerns.⁸⁸ From this initial consultation, a number of general themes emerged, including the propensity of police to stereotype and label young people, the police's poor communication with young people, excessive use of force and threatening behaviour, abuse and misuse of status and authority and discrimination. Include Youth's consultation further indicated that 61% of young people were either dissatisfied or very dissatisfied with policing. Secondly, a more in-depth exercise was undertaken with three groups of young people to identify how the young people and police could work together to improve relations and engender mutual respect.⁸⁹ Approximately 300 young people⁹⁰ have been engaged in the project.⁹¹ During the first year of the project, a training programme for operational officers in North Belfast was developed and delivered by Include Youth personnel. The training programme is designed to challenge the attitudes and beliefs of police officers towards young people and to explore more positive ways of engaging with young people in an operational environment.

Now in its second year, the project continues to consolidate the work undertaken to date and develop new networks between police and young people. The training programme will now incorporate officers from across 'A' District (North and West Belfast).

As part of this year's monitoring work, during May and June 2007, we met with representatives of the Northern Ireland Commissioner for Children and Young People, the NSPCC and Include Youth to discuss their views on the PSNI's approach to children and young people. One issue of concern which was raised with us by a number of our consultees was the PSNI's use of force and its impact on children and young people. We consider this in greater detail in chapter 8 of our report. We outline the other comments of our consultees on page 296.

NICCY

NICCY raised concerns regarding the PSNI's use of force, particularly its approach to training on and use of AEPs. NICCY also expressed concern about the PSNI's use of juvenile covert human intelligence sources, indicating that the risk posed to young people may constitute abuse. NICCY further indicated that it had received a number of complaints regarding the PSNI's retention of children and young people's DNA and expressed its opposition to the PSNI's current policy. NICCY referred to research it had commissioned in 2004 into children's rights in Northern Ireland.⁹² In general, the research recounted negative experiences of the police, with focus groups in Belfast and Londonderry alleging incidents of aggressive policing, including assaults. NICCY identified several key issues emerging from the research, including the use of intimidation and unreasonable force against children and young people and police training in children's rights.

NSPCC

The NSPCC indicated that it was generally satisfied with the PSNI's approach to children and young people and that it had a positive experience of working with the PSNI on initiatives such as the Young Witness Service and in contributing to PSNI Child Protection training. However, the NSPCC stated that the PSNI needed to improve information-sharing with the NSPCC and other agencies working in child protection. The NSPCC indicated that it has been working on the development of an information-sharing protocol. It also commented that the PSNI needs to develop child protection training beyond student officer training. The NSPCC also expressed some concern about the PSNI's approach to the management of sex offenders, particularly the training given to officers and the PSNI's implementation of recommendations from case reviews. While the NSPCC recognised that individual officers often displayed drive and commitment in the management of sex offenders, the PSNI lacked a corporate approach to the issue. The NSPCC raised concerns about the role of the PSNI in working with the Borders and Immigration Agency in detaining and deporting children of illegal entrants and highlighted the need for proper policy development in this area, which incorporated child protection

⁹² NICCY, *Children's Rights in Northern Ireland*, 2004. The research included interviews with over 1000 children and young people.

93. The lesson on the Children (Northern Ireland) Order and the offence of cruelty under the Children and Young Persons Act (Northern Ireland) 1968 are delivered by PSNI trainers.

issues. It also questioned the PSNI's use of juvenile covert human intelligence sources.

Include Youth

Include Youth works closely with all organisations within the criminal justice system on issues relating to children and young people. It has provided training to the PSNI on children and young people's issues. Include Youth expressed some concerns about the approach of PSNI response officers to children and young people which, combined with young people's perception that police stopped and questioned them for no apparent reason, led to feelings of harassment and a strained relationship. Include Youth referred to the Young Voices Project in North Belfast and commended the PSNI for engaging in such projects. However, it was critical that the PSNI had failed to develop the project to share such good practice across the Service.

TRAINING

Child protection training

Child protection training is delivered to probationer officers during a three week intensive probationer development course. The training is made up of three lessons, covering the Children (Northern Ireland) Order 1995, the offence of cruelty under section 20 of the Children and Young Persons Act (Northern Ireland) 1968⁹³ and a lesson delivered by an NSPCC trainer.

The lesson on the Children's Order instructs officers on their roles and responsibilities in relation to child protection. The lesson addresses the general principles of the Order, emphasising the primacy of the child's welfare and the importance of inter-agency working. The lesson covers the statutory definitions of parental responsibility and significant harm, employing case study examples to illustrate and contextualise the principles. The crucial importance of the police's role in preventing abuse is set in context by reference to the case of Victoria Climbié. Officers are encouraged to adopt a proactive approach and notify appropriate individuals and agencies where they suspect abuse. Regular reference is made to the importance of maintaining the integrity of the family unit, emphasising that any interference with the right to family life must be justified by the existence of police powers. Officers are taught

about the relevant police powers in detail.⁹⁴ Officers also receive a short lesson on the offence of cruelty, which covers the statutory definition of the offence and the applicable police powers of arrest and entry.

The NSPCC's input to PSNI child protection training aims to encourage understanding of the concept of child abuse. This is achieved by developing the officer's understanding of the applicable legal framework and relevant definitions, raising awareness of the signs of child abuse and appropriate responses and highlighting the role of other agencies in cooperating with the police to tackle child abuse. During the lesson, officers are required to consider ten scenarios involving possible child abuse, including emotional, physical and sexual abuse and neglect, and identify which cases they consider are of most concern. In considering the scenarios, officers must apply a number of factors,⁹⁵ which they can draw upon to assess the seriousness of abuse in real life situations. Officers must then categorise a further set of scenarios according to whether there is actual harm, likelihood of significant harm or no abuse. By requiring officers to consider the indicators of abuse and the statutory definitions of actual harm and significant harm by reference to case study examples, the lesson successfully contextualises the key principles and signs of abuse.

Overall, the training programme for child protection is comprehensive, with the external input from the NSPCC adding particular value. While relevant Articles of the European Convention on Human Rights are not specifically referenced, the rights of all parties are emphasised throughout, particularly in the discussion of the need to balance protection of the child with maintaining the family unit and the requirement that any interference with family life must be supported by appropriate police powers.

94. Articles 63, 65 and 69 Children's (Northern Ireland) Order 1995 and powers under PACE and common law breach of the peace.

95. The factors include the seriousness of the alleged harm, the type and site of any injury, the age of the child, the duration and frequency of abuse, the context in which the harm takes place, the needs of the individual child, the presence of factors such as premeditation, threats or coercion, and the family's willingness to address issues.

96. The NEXUS Institute works across Northern Ireland to respond to the needs of adults who have experienced sexual abuse by providing counselling, training and raising awareness.

97. Letter from ACC Criminal Justice to Policing Board's human rights advisors dated 8th May 2007.

98. At p.216.

CARE officers

PSNI CARE detectives complete a specialist child abuse investigators development programme, which includes input from Barnardos, the Children's Law Centre, NEXUS⁹⁶ and PSNI's Family Liaison Officers. The development programme covers personal attitudes to child abuse, how to identify child abuse and thresholds for intervention, the legal framework, managing and developing the investigation, charging and case disposal and pre-trial issues.⁹⁷ CARE inspectors are trained as senior investigating officers. We intend to observe the CARE training programme as part of next year's monitoring work.

Youth Diversion Officers

We review the training given to Youth Diversion Officers in detail in chapter 10 of this report.⁹⁸

Appendix 1

2007 RECOMMENDATIONS

HUMAN RIGHTS ANNUAL REPORT RECOMMENDATIONS 2007

CHAPTER 1: THE PSNI PROGRAMME OF ACTION

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| 1 | The PSNI should draw up and publish an annual Human Rights Programme of Action within three months of our human rights annual reports on an ongoing basis. |
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CHAPTER 2: TRAINING

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| 2 | The PSNI should produce a report in March 2008 setting out the outcomes and findings to date of the audit of district training materials. |
| 3 | The PSNI should report in January 2008 on its progress in establishing the Professional Development Units within each of its eight DCUs and the establishment of a central team based within the Police College at Gamerville to assist and support district trainers in the provision of training at district level. |
| 4 | The PSNI internal evaluation team should evaluate the effectiveness of the human rights and use of force element of the firearms refresher training within nine months of this report. |
| 5 | The PSNI should appoint human rights champions within each of its specialist training teams, and make a mandatory requirement of the role that all human rights champions complete the human rights short course in the first year of their appointment. |

CHAPTER 3: POLICY

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| 6 | The PSNI should formally report to the Policing Board within three months on its policy review explaining the situation and detailing the methodology adopted for the review so far with a strict and detailed timetable for completion of the policy review exercise. |
| 7 | The PSNI should monitor how police officers access and make reference to PSNI policies and what steps are taken by PSNI Operational Support department to highlight the introduction of new or amended policies to officers. |
| 8 | The PSNI should speed up the process of making more of its policies available to the public. |

CHAPTER 4: OPERATIONS

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| 9 | The PSNI should include reference to the rights, vulnerabilities and issues faced by children and young people in operational briefings relating to anti-social behaviour, youths causing annoyance and other operations involving children and young people. |
| 10 | The PSNI should consider adopting Coleraine DCU's policy and deployment log as its standard operational planning log. |
| 11 | The PSNI should consider amending its policy on policing unlawful public sexual activity to include specific guidance to officers on how they can ensure arrest operations are conducted sensitively and with the least interference with Article 8 of the European Convention on Human Rights. |
| 12 | The PSNI should take steps to establish an effective method of monitoring the use of stop and search powers across districts. |

CHAPTER 5: ADHERENCE TO THE CODE OF ETHICS

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| 13 | The PSNI should carry out further analysis of statistics on breaches of the Code of Ethics to clarify the patterns or types of behaviour in question. |
| 14 | The PSNI should ensure that all new policies, procedures and guidance include relevant reference to the Code of Ethics as a matter of standard practice henceforth. |

CHAPTER 6: COMPLAINTS, DISCIPLINE AND CIVIL ACTIONS

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| 15 | The PSNI should investigate the behaviour or conduct resulting in the high number of Superintendents' Written Warnings under Articles 1.5 and 2.2 of the Code of Ethics. |
| 16 | The PSNI and the Policing Board should investigate the possible causes of the increase in the overall number of complaints made against officers receiving three or more complaints in a twelve month period. |
| 17 | The PSNI should provide evidence of the measures it has taken in response to the Police Ombudsman's Regulation 20 reports relating to the discharge of AEPs in North Belfast in August 2005 and the death of female A in Newry in November 2002 within three months of the publication of this report. |
| 18 | The PSNI should provide details to the Policing Board of all completed misconduct investigations returned to DCUs in 2006/2007 and what action was subsequently taken by DCUs in response. |
| 19 | The PSNI should provide additional information to the Policing Board on misconduct cases resulting in criminal convictions of officers for perverting the course of justice in 2006/2007. |
| 20 | 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. |

CHAPTER 7: PUBLIC ORDER

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| 21 | In 2008 the PSNI should reinstate public order training on the Public Processions (Northern Ireland) Act 1998, as amended. |
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CHAPTER 8: USE OF FORCE

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| 22 | The PSNI should consider whether it should further amend its AEP policy to include guidelines that reflect the following: "The younger the individual against whom an AEP is used, the stronger the justification for use will have to be. Moreover, below a certain age, it is difficult to envisage any circumstances when the use of AEPs will be justified". |
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23	The PSNI should review its AEP training course to refer expressly to the PSNI AEP policy and to incorporate explicit consideration of the rights of children and young people.
24	The PSNI should complete its pilot of the electronic Use of Force Monitoring Form expeditiously and following completion of the evaluation of the pilot move promptly to introduce the electronic form across the PSNI.
25	The PSNI should assign responsibility internally for reviewing all uses of CS spray annually, and for issuing guidelines on best practice to police officers. Further, the PSNI should provide the Policing Board with a summary of the findings and conclusions of its annual internal review.
CHAPTER 9: COVERT POLICING	
26	The PSNI should complete its revision of its Undercover policy and its Members of the Public policy within 12 months of the publication of this report and also should consider how best to ensure that its Members of the Public policy is better understood by all PSNI officers for whom it is relevant.
27	The PSNI should consider the scope for incorporating a number of the Surveillance Commissioner's recommendations into the policy on Covert Surveillance Authorisation and the role of the PSNI Central Authorisations Bureau.
28	In future, as a matter of standard practice, all PSNI material on covert policing of a general nature (e.g. policies, guidance and general forms) should be reviewed and approved by the PSNI human rights legal adviser before it is issued.
CHAPTER 10: VICTIMS' RIGHTS	
29	The PSNI should require all Minority Liaison Officers to review the district command and control log on a monthly basis as a matter of standard practice to identify incidents which may constitute hate incidents and crimes but which may not be recorded as such.
30	The PSNI should work with the PPS to agree standard definitions and policies and a more integrated approach to the prosecution of hate crime.
31	The PSNI should amend its policy on unauthorised encampments to emphasise that an unauthorised encampment may not be removed unless a suitable alternative site is available or Article 3 of the Unauthorised Encampment (Northern Ireland) Order 2005 applies and ensure that officers are aware of the terms of the 2005 Order and the proper scope of their powers under it.
32	The PSNI should report to the Policing Board on a six-monthly basis setting out the number of police orders issued under the Unauthorised Encampment (Northern Ireland) Order 2005 and short summaries of the circumstances relating to each order.
33	The PSNI should ensure that the Traveller community is represented in its cultural awareness training to PSNI student officers.

34	The PSNI should consider appointing a dedicated traveller liaison officer.
35	The PSNI internal evaluation team should evaluate the PSNI's student officer training on victims and witnesses.
CHAPTER 11: TREATMENT OF SUSPECTS	
36	The PSNI should reconsider 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.
37	The Policing Board, in liaison with the PSNI and the Northern Ireland Office, should reconsider the question of how these gaps in the protection of terrorist suspects detained by the PSNI can be filled.
38	Consideration should be given by the Policing Board and the PSNI to extending the role of custody visitors to apply to non-designated detention cells.
39	A member of the Policing Board's Service Monitoring branch should represent the Policing Board on the PSNI's custody working group.
CHAPTER 13: POLICING WITH THE COMMUNITY	
40	The PSNI should consider extending the Knowledge Sharing Project model to a variety of partnership agencies.
CHAPTER 14: PRIVACY AND DATA PROTECTION	
41	The PSNI should identify those members of staff most likely to encounter data protection issues and make training compulsory for them.
42	The PSNI should implement a timeline for introducing a disclosure log in the public interest section of its publication scheme.
43	The PSNI should indicate within three months of this report which of the ACPO recommendations made following ACPO's review of PSNI Freedom of Information and Data Protection functions it accepts and how it intends to implement them.
CHAPTER 15: CHILDREN AND YOUNG PEOPLE	
44	The PSNI should report by January 2008 on its progress in establishing the Public Protection Units within each of its eight DCUs.

Appendix 2

2005/06 RECOMMENDATIONS

HUMAN RIGHTS ANNUAL REPORT RECOMMENDATIONS 2005 - 2006						
Status of Implementation						
		Full	Part	Outs.	Adj.	W/D
CHAPTER 1: THE PSNI PROGRAMME OF ACTION						
2006 Recommendations						
1	The PSNI should aim to publish its annual Human Rights Programme of Action within three months of this Human Rights Annual Report.	X				
CHAPTER 2: TRAINING						
2006 Recommendations						
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.		X			
3	The PSNI should recruit a Human Rights Adviser to Training, Education and Development without delay.	X				
4	The PSNI should revise its handout on positional asphyxia as a matter of urgency.	X				
5	The PSNI should revise the course material on training in the use of force and the use of firearms, forthwith.	X				
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.	X				
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.	X				
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.		X			

Key to status of recommendations

- Full** - Recommendation implemented in full
Part - Recommendation implemented in part
Outs. - Recommendation outstanding
Adj. - Recommendation adjusted
W/D - Recommendation withdrawn

		Full	Part	Outs.	Adj.	W/D
9	Each PSNI District Command Team should devise its own approach to district level human rights refresher training.		X			
10	The PSNI should closely monitor and evaluate the quality and effectiveness of its human rights training for trainers.	X				
11	The PSNI should devise an effective system for the internal evaluation of the delivery of human rights training as soon as possible.	X				
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.		X			
Outstanding 2005 Recommendations						
3	<p>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:</p> <p>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.</p> <p>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.</p>	X				
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

		Full	Part	Outs.	Adj.	W/D
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			
CHAPTER 3: POLICY						
2006 Recommendations						
13	The PSNI should complete the exercise of verifying all existing policies, forthwith.			X		
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.			X		
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.			X		
16	The PSNI should speed up the process of making more of its policies available to the public.			X		
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.	X				
18	The PSNI should make the policy writers' human rights training course compulsory for all PSNI policy writers, forthwith.	X				
Outstanding 2005 Recommendations						
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"> review how those policies considered too sensitive to be generally available on the PSNI intranet site are to be indexed, updated and kept. 			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				

		Full	Part	Outs	Adj.	W/D
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				
CHAPTER 4: OPERATIONS 2006 Recommendations						
19	The PSNI should examine and evaluate its use of stop and search powers to ensure that these powers are not being exercised disproportionately.		X			
CHAPTER 5: ADHERENCE TO CODE OF ETHICS 2006 Recommendations						
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.	X				
21	The PSNI should provide further evidence of the effectiveness of the Code of Ethics that can be assessed by the Policing Board.		X			
Outstanding 2005 Recommendations						
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			
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				
CHAPTER 6: COMPLAINTS, DISCIPLINE AND CIVIL ACTIONS 2006 Recommendations						
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.	X				
CHAPTER 7: PUBLIC ORDER 2006 Recommendations						
	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.	X				

		Full	Part	Outs.	Adj.	W/D
Outstanding 2005 Recommendations						
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.	X				
CHAPTER 8: USE OF FORCE						
2006 Recommendations						
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.	X				
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.	X				
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).	X				
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.	X				
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.	X				
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.			X		
30	The PSNI should submit reports on serious public disorder to the Policing Board within seven days of such incidents.	X				

		Full	Part	Outs.	Adj.	W/D
Outstanding 2005 Recommendations						
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. (ii) Policy on the Use of Force: 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)	X				
	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		
	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				
	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		
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		

		Full	Part	Outs.	Adj.	W/D
CHAPTER 9: COVERT POLICING						
2006 Recommendations						
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.	X				
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.	X				
33	The PSNI should further review the effectiveness of its policies on covert policing within twelve months of this Human Rights Annual Report.		X			
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.	X				
Outstanding 2005 Recommendations						
46	The PSNI should review the effectiveness of its recent policies on covert policing in 12 months from this report.		X			
CHAPTER 10: VICTIMS RIGHTS						
2006 Recommendations						
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.	X				
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.	X				
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.		X			
Outstanding 2005 Recommendations						
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				

		Full	Part	Outs.	Adj.	W/D
CHAPTER 11: TREATMENT OF SUSPECTS						
2006 Recommendations						
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.	X				
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.	X				
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.		X			
41	The Policing Board should review its targets for visits by custody visiting teams between midnight and 6.00am.	X				
CHAPTER 12: HUMAN RIGHTS AWARENESS IN THE PSNI						
2006 Recommendations						
42	The PSNI should implement Recommendations 55(a) to (d) of the Human Rights Annual Report 2005 as a matter of priority.	X				
Outstanding 2005 Recommendations						
55	<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>	X				X

		Full	Part	Outs.	Adj.	W/D
	<p>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.</p> <p>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.</p> <p>h. Training, Education and Development should review how to encourage officers to look at human rights more positively.</p>	X		X		
56	Training, Education and Development should incorporate the suggestions made by officers regarding the delivery of training.	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				
CHAPTER 13: POLICING WITH THE COMMUNITY						
2006 Recommendations						
43	The PSNI should review the training provided to probationers and ensure that the concerns raised by the District Command Teams are adequately addressed.	X				
CHAPTER 14: PRIVACY AND DATA PROTECTION						
2006 Recommendations						
44	The PSNI should consider whether its on-line data protection training should be made compulsory for some staff.	X				
45	The PSNI should review its publication scheme within three months of the publication of this Human Rights Annual Report.	X				
TOTALS		52	14	12	0	2

Key to status of recommendations

- Full** - Recommendation implemented in full
Part - Recommendation implemented in part
Outs. - Recommendation outstanding
Adj. - Recommendation adjusted
W/D - Recommendation withdrawn

Summary of 2005 and 2006 Recommendations which remain to be implemented in full or part		
Status of Recommendations	2005 Recommendations	2006 Recommendations
Implemented in part	5	9
Outstanding	7	5
Total	12	14



**Keir Starmer QC,
LLB (Hons) First Class, BCL (Oxon)**

Keir Starmer is a barrister specialising in human rights. He was appointed Queen's Counsel in 2002 and has extensive experience of litigation before the European Court of Human Rights, where he has conducted cases from the UK, France, Spain, Greece, Cyprus, Finland and Macedonia. He also has extensive experience of litigation before the House of Lords and the Privy Council.

He is a fellow of the Human Rights Centre at Essex University and lectures at the Human Rights Centre at the London School of Economics in London. He is author of numerous text-books on human rights, including *European Human Rights Law* (1999), *Blackstone's Human Rights Digest* (2001) and *Criminal Justice, Police Powers and Human Rights* (2001). He was invited to be part of the Judicial Studies Board delivery team for judicial training on the Human Rights Act 1998 and of the Lord Chancellor's delivery team for magistrates' training on the Act during the period 1998-2001. In 2000, he won the Justice/Liberty Human Rights Lawyer of the Year Award, the judges of which included Lord Woolf, the Lord Chief Justice, and Sir Nicolas Bratza QC, the UK judge on the European Court of Human Rights.



Jane Gordon BA (Oxon), LLM

Jane Gordon completed her BA (Hons) in Jurisprudence at Wadham College, Oxford in 1993. She qualified as a solicitor and worked as a litigation lawyer with Lovells until 1999. Following qualification, she spent time in Kingston, Jamaica working on death row cases. In 2000, Miss Gordon obtained Distinction in an LLM at King's College, London where she specialised in international and domestic human rights law. Since then, she has worked in equality and human rights practice and policy. Miss Gordon completed the qualified lawyers' transfer test and was called to the Bar in November 2001. She assisted Professor Christine Chinkin in a People's Tribunal against Japanese Military Sexual Slavery during World War II held in Tokyo and worked as judicial assistant to the Lord Chief Justice in the year following the introduction of the Human Rights Act 1998.

She has worked as senior parliamentary legal adviser to Lord Lester at the Odysseus Trust, when she was appointed ad hoc Specialist Adviser to the Parliamentary Joint Committee on Human Rights. She has also worked in the NGO sector as Deputy Director of the Kurdish Human Rights Project, where she worked extensively on human rights cases before the European Court of Human Rights and lead fact finding and trial observation missions to Turkey. In 2003, Ms Gordon worked as Legal Specialist to the Home Affairs Committee at Westminster, leading their Inquiry on the Rehabilitation of Prisoners. In the same year, Ms Gordon was appointed as Human Rights Advisor to the Northern Ireland Policing Board and, together with Keir Starmer QC, has devised the framework for monitoring the compliance of the Police Service of Northern Ireland with the Human Rights Act 1998. Ms Gordon is a Senior Lecturer in Human Rights at Kingston University.



INVESTOR IN PEOPLE

NORTHERN IRELAND POLICING BOARD

Waterside Tower
31 Clarendon Road
Clarendon Dock
Belfast BT1 3BG

Tel: 028 9040 8500
Fax: 028 9040 8540
Textphone: 028 9052 7668

Email: information@nipolicingboard.org.uk
Website: www.nipolicingboard.org.uk

DOCUMENT TITLE

HUMAN RIGHTS ANNUAL REPORT 2007

PUBLISHED SEPTEMBER 2007

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