



NORTHERN IRELAND POLICING BOARD

REVIEW OF PSNI PROFESSIONAL STANDARDS

Recommendations
for Improvement

1. INTRODUCTION

The Board has a responsibility to keep itself informed as to the workings of Part VII of the 1998 Act (police complaints and disciplinary proceedings) and trends and patterns in complaints under section 3(3)(c)(i) of the Police (Northern Ireland) Act 2000.

Over the past twelve months a series of concerns and issues have been identified both by the PSNI and the media in relation to trends and patterns in complaints and standards in Police Service of Northern Ireland (PSNI) behaviours. Board Members expressed concern with these incidents, costs associated and the potential that they have negatively impacted on public confidence in policing and the reputation of the PSNI. Therefore, Members agreed the need for additional scrutiny to be brought to this issue and have been working to address the issues and to identify areas for improvement and change to improve PSNI performance in this area.

2. CONCERNS AND ISSUES IDENTIFIED

Analysis of the misconduct data presented to the Board has identified an increase in cases concerning officer sexual predation, misogyny, domestic abuse and the use of social media groups. There was also evidence of delay in the processing of misconduct cases within the Professional Standards Department (PSD) and also the wider justice system when cases required the involvement of the Police Ombudsman, the Public Prosecution Service and the NI Court Service.

In addition, a number of areas of concern were also identified through several high profile cases that featured within the media. These included:

- The Sinead McGrotty Case¹ (3rd November 2021) – this case highlighted issues of sexual misconduct in the workplace, sexual harassment, attitudes to women, complaints handling and whistleblowing processes;
- Spotlight Programme² (31st May 2022) – this programme highlighted issues of officer behaviours, the use of social media and allegations of misogynistic WhatsApp messages and the treatment of whistleblowers; and
- Spotlight Programme³ (7 July 2022) - this case highlighted issues of officer behaviours, the sharing of inappropriate images and the use of social media.

1 PSNI employee: 'Sexual misconduct is not taken seriously enough' - BBC News

2 BBC One - Spotlight, Police, WhatsApp & Whistleblowers

3 Police officers 'shared images of person who died by suicide' - BBC News

3. POLICING BOARD RESPONSE

In response to these concerns and issues, the Board agreed that additional scrutiny needed to be brought to this area to provide public assurance. The Board worked closely with the PSNI in order to gain a full understanding of the issues and to identify where improvements could be made. Members engaged in:

- Consultation and discussion with the Chief Constable and senior officers at a series of Board meetings;
- The Performance Committee held a special meeting on 10th March 2022 to discuss the current work of the Professional Standards Department with all Board Members invited to attend;
- On 10th September 2022 the Performance Committee scrutinised the Professional Standards Department's Annual Report for trends and patterns; and
- The Board held a special briefing on 22nd September 2022 to discuss the current challenges and to identify changes and improvements to best address those challenges.

Following these discussions, the Board agreed that a range of improvements needed to be made. Details of issues considered are set out in the recommendations at Section 4.

4. BOARD RECOMMENDATIONS FOR IMPROVEMENT

4.1 CODE OF ETHICS

The PSNI Code of Ethics has the purpose of laying down standards of conduct and practice for police officers. Under section 52 of the Police (Northern Ireland) Act 2000, it is the responsibility of the Board to issue and revise the Code following submission by the Chief Constable to the Board. The Board is also required to carry out a consultation on the Code.⁴ The Board has responsibility for agreeing, publishing and reviewing the Code of Ethics.

The last major review of the Code of Ethics was in 2008. Significant time has now passed since this review and therefore potential improvements could be made to bring Northern Ireland up to date with the progress that has recently been made in England and Wales. The Board, through the Performance Committee, will continue reviewing the current Code of Ethics and updating it with the possibility of identifying an updated set of Standards.

Recommendation 1:

The Board will continue to review the current Code of Ethics to identify potential improvements and modernisation of the current Code of Ethics.

⁴ The Board must consult with; the Police Association; the Secretary of State; the Ombudsman; the Northern Ireland Human Rights Commission; the Equality Commission for Northern Ireland; and any other person or body appearing to the Board to have an interest in the matter. Following the consultation, section 52(6) enables the Board to make further amendments to the draft Code as it may determine, after consultation with the Chief Constable. In accordance with Section 52(9), the Board must keep under review the steps taken by the Chief Constable to ensure (a) that all police officers have read and understood the Code as currently in force; and (b) that a record is made and kept of the steps taken in relation to each officer.

4.2 REGULATORY REFORM

The paragraphs below set out the key areas within the existing Regulations which could resolve a number of concerns around balancing the right to a fair trial and due process with ensuring the avoidance of unnecessary delay, and building public confidence in the service. It is a matter for the Department of Justice to pursue a change in Regulations; however it would be important for the Board to advocate on behalf of the PSNI for such a review.

- **Chair of Misconduct Hearings**

Misconduct Hearings are chaired by a PSNI Assistant Chief Constable (ACC)⁵ and include another senior officer from PSNI, as well as an independent person.⁶ Recent changes in England and Wales (implemented following the Chapman Review⁷) require such panels to be chaired by a legally qualified person.⁸ The availability of an ACC in PSNI to carry out this function is impacted upon due to their ACC roles and responsibilities. The lack of a legally qualified chair can also leave the PSNI vulnerable to litigation, the impact of which is significantly more police officers appealing misconduct outcomes in Northern Ireland than in the other police services across the UK.

- **Criminal Proceedings**

If a Police Ombudsman investigation indicates that a criminal offence may have been committed by an officer, then the report and recommendations are sent to the Public Prosecution Service (PPS) for a decision to be made on whether criminal proceedings are progressed. It can be difficult for the PSNI to progress misconduct proceedings until the PPS has made their decision. In accordance with Section 63 of Police (NI) Act 1998 the Police Ombudsman is also restricted in how much information can be disclosed to PSNI during this time. This can significantly add to delay in proceedings. This would require an update to the 1998 Act so that criminal proceedings do not delay misconduct proceedings.

- **Misconduct Hearings in Public**

Police officer hearings in the rest of the UK are heard in public. This can be beneficial in sending out a clear message to other officers and also to the public on what behaviour is expected of officers and also the sanctions imposed. It has also contributed to a reduction in the number of hearings. Whilst there is no doubt as to the benefits of hearings in public, the Board is aware of the difficulties this would pose in Northern Ireland. However, it may be useful to explore the possibility of replicating the England and Wales model in Northern Ireland.

5 See the judgment of the Northern Ireland High Court, in Glasgow [2004] NIQB where Morgan J rejected the submission that Article 6 applies to these police misconduct proceedings.

6 Regulation 27 of the Police (Conduct) Regulations (Northern Ireland) 2016.

7 Chapman, C. (2014) *"An Independent Review of the Police Disciplinary System in England and Wales"*.

8 Regulation 28 of the Police (Conduct) Regulations 2020.

- **Use of Regulation 13**

According to Regulation 13 of the PSNI Regulations 2005-

‘Subject to the provisions of this regulation, during his period of probation in the police service the services of a constable may be dispensed with at any time if the Chief Constable considers that he is not fitted, physically or mentally, to perform the duties of his office, or that he is not likely to become an efficient or well conducted constable.’

PSNI could explore the possibility of making better use of this provision to ensure that officers at the probationary stage can be dismissed if there is any issue with their performance or behaviour.

There is also evidence of delay within the misconduct processes. Statistics from the Police Federation’s 2021 Workforce Survey⁹ finds that of those officers that have been subject to a misconduct/disciplinary investigation 44% reported that their investigation has been on-going for more than 2 years. Of those whose investigations had concluded, 17% reported that their investigation lasted more than 2 years, 22% reported that their proceedings concluded within 1 to 2 years, with 61% concluded within one year, with 31% of those concluded within 6 months.

Recommendation 2:

Mindful of its advocacy role, the Board should write to invite the Department of Justice to review the current Misconduct Regulations in order to identify improvements in the use of existing legislation provision which would enable cases to be progressed expeditiously, mindful of legislation in the rest of the UK, and explore the possibility of making legislative change, including in the following areas:

- **Chairing of Misconduct Hearings;**
- **Criminal Proceedings;**
- **Misconduct Hearings in Public; and**
- **Use of Regulation 13.**

Any proposed amendment to the Regulations would be subject to the normal consultation process under legislation.

⁹ [2021-pfni-workforce-survey-all-respondents-final.pdf \(policefed-ni.org.uk\)](https://www.policefed-ni.org.uk/2021-pfni-workforce-survey-all-respondents-final.pdf)

4.3 CRIMINAL JUSTICE DELAY

There is evidence that there is a culture of delay and adjournment more generally in Northern Ireland, when compared with justice processes in England and Wales. This has also been exacerbated by the impact of the Covid-19 pandemic. The Criminal Justice Joint Inspection Report concluded in May 2022 in England and Wales that,

“It is still too early to undertake a full retrospective on the impact of the pandemic as the system is still adapting, without the breathing space to reflect and consider what ‘normal ways of working’ should be. This review leads us to conclude that most agencies are not yet able to move into full recovery, even to their pre-Covid-19 position. The aftershocks of the pandemic will be felt for a prolonged period and whole-system recovery will take a lot longer than initially anticipated.”¹⁰

Reform to the Regulations, as identified above, should go some way to address this delay, however, there is a need for speeding up the justice system and there needs to be willingness from those involved to ensure that delays do not occur.

Recommendation 3:

Mindful of the role of the Criminal Justice Board, the Board should write to the Department of Justice, to invite them to consider what more can be done to address delay in the criminal justice system.

¹⁰ Criminal Justice Joint Inspection “The Impact of the Covid-19 pandemic on the criminal justice system – a progress report” – May 2022, paragraph 8.4

4.4 INVESTMENT IN PROFESSIONAL STANDARDS

The primary purpose of professional standards and the sanctions for misconduct is to protect public confidence in and the reputation of the police service; and secondly to protect the public and other officers/staff from an officer's behaviour. A further purpose is the "declaratory purpose" of maintaining high professional standards by demonstrating to others that misconduct of a certain kind and seriousness warrants a certain sanction and will not be tolerated.

To achieve this it is important that PSNI invest in the PSD and support those working within it. Officers and staff within PSD must be highly trained and enabled to carry out their role. At the moment this may not be the case in PSNI, due to the current Regulations and the need for further investment. The benefits of such investment would help cases to move quickly through the system, reduce the number of appeals, create a positive culture within the service and increase public confidence in policing.

Recommendation 4:

Following the review of PSNI PSD, the PSNI should report to the Board on the outcome of the review so the issues of process and governance can be assessed.

4.5 CULTURE

Board Members have recognised the significant efforts being made by the PSNI Senior Leadership team to provide clarity around the culture they expect within the service and how behaviours which fall short of that should be addressed.

The Resources Committee recently considered the terms of reference for a **PSNI Cultural Audit** which will cover a broad spectrum of cultural considerations, giving particular consideration to the history of policing in Northern Ireland, the PSNI ambition for the future and the contemporary challenges and opportunities within our operating environment.

A Statement of Action on Conduct and Standards has been issued by the Chief Constable, Deputy Chief Constable and Chief Operating Officer to all police officers and staff. This statement explicitly outlines the PSNI's position on allegations of sexual misconduct, domestic abuse, harassment, bullying and discriminatory behaviour; that where allegations are proven to the required standard, dismissal from the Service will be robustly pursued; that it is the duty of all officers and staff to challenge and report any such matters and that any colleague who is concerned about inappropriate behaviour can have the confidence to report wrongdoing via systems that are fair, empathetic and effective. The PSNI also launched their **Violence Against Women and Girls Strategy** on 27 September 2022.

However, there are a number of areas that still require further consideration and these include:

- **Whistleblowing** - Police Officers have an obligation under the Code of Ethics to report breaches or potential breaches of the Code of Ethics. Following the BBC Spotlight programme from 31st May 2022, which highlighted allegations of misogynistic WhatsApp messages, derogatory messages about female superiors and the failure of PSNI to effectively deal with whistleblowers¹¹ the Chief Constable in his Accountability Report to the Board in June 2022 stated:

“The Police accepts this criticism and acknowledge that it can undermine. However, we strongly refuted any suggestions that misconduct is not taken seriously by the Police Service. Indeed, there has recently been a surge of such cases which reflects the new leadership at PSD and its support from the Chief Officers. We have already indicated support for bringing Northern Ireland into line with England and Wales by replacing Assistant Chief Constable (ACC) with Legally Qualified Chairs (LQCs) for misconduct hearings. This would:

11 [BBC One - Spotlight, Police, WhatsApp & Whistleblowers](#)

- a. *Speed up the management of gross misconduct cases since the Police Service has a limited pool of ACCs to conduct such hearings and LQCs have greater case management skills; and*
- b. *Increase public confidence in the police misconduct system since it would mean that only one police officer would sit on the three-person panel.”*

Police Service Instruction 3117, ‘Reporting Wrongdoing within the PSNI (Whistleblowing)’ reflects the PSNI’s commitment to the ethos underpinning the relevant legislation. Whistleblowing is rare, not just in the PSNI, but in police services generally. The nature and culture of a disciplined police service, dependent on colleagues for support and safety may make the idea of reporting a colleague difficult. The Chief Constable highlighted that the Service Executive Team have made it absolutely clear that WhatsApp messages (or communications of any kind, whether on or offline) which display traits inconsistent with the Code of Ethics commitment to integrity, equality and diversity are wholly unacceptable. A more positive and supportive approach to formal and informal whistleblowers should be developed and action should be taken to end any reprisals against them and to develop a more positive culture seeing their contribution as an important way of improving the work of PSNI.

- **Vetting** exists to protect the integrity of PSNI and it is the aim of the service vetting unit to provide an appropriate level of assurance as to integrity of all police officers, police staff and non-police personnel. In 2020/21, there were a significant number of officers who had not been vetted or whose vetting had expired. However, during the last year this issue has been addressed and the number has been reduced to 174 (2.4%). A key priority for the Service will be ensuring that the vetting unit has the resources to manage this risk or a mechanism to dismiss officers who fail the lowest level of vetting.
- **Abuse Of Position for Sexual Purpose**
Members and Board officials attended a PSNI seminar in July 2022 regarding maintaining professional boundaries which included a presentation by Dr Sweeting, who has conducted research on police sexual misconduct in the UK¹² giving a snapshot of recent proven police sexual misconduct cases and their outcomes, and showing that male officers were responsible for 94.8% of cases (The majority of research into abuse of position for sexual gain finds perpetrators are usually male).

12 Sweeting, Arabaci-Hills & Cole’s (2020) ‘Police Sexual Misconduct in the UK’

The National Police Chiefs Council of England and Wales (NPCC, 2017, p. 6) in their guidance defines abuse of position for sexual gain as *'any behaviour by a police officer or police staff member, whether on or off duty, that takes advantage of their position as a member of the police service to misuse their position, authority or powers in order to pursue a sexual or improper emotional relationship with any member of the public.'* In August 2022 the College of Policing published new guidance for police services¹³ on how to tackle sexual misconduct. A recent Independent Office of Police Complaints (IOPC) report noted that there was an informal working culture said to exist within the Metropolitan Police, colloquially known as “cop culture”, describing the cop culture as male-dominated, action oriented and valuing extreme loyalty among groups of officers with the unique working conditions of policing contributing to this culture.

Recommendation 5:

The PSNI should review and update its policies in relation to whistleblowing, vetting, sexual misconduct and abuse of position for sexual purposes in order to identify any improvements, ensure sufficient rigour and be mindful of the current and updated policies that exist in England and Wales. PSNI should provide specific metrics on the number of disclosures which were investigated under the whistleblower policy and the outworkings and learning from these within their PSD Annual Report and on a regular basis to Performance Committee.

¹³ <https://assets.college.police.uk/s3fs-public/2022-08/Guidance-on-outcomes-in-police-misconduct-proceedings.pdf>

4.6 POLICE STAFF

While all the issues set out above refer to police officers, the Board is aware that in the interests of fairness, it is appropriate for the Board to request regular information in relation to staff conduct to ensure that the standards and behaviour expected of police officers are applicable to police staff.

Recommendation 6:

The PSNI should ensure that appropriate policies and procedures are in place to communicate expected standards of behaviour for police staff and how behaviour falling short of that standard will be addressed.

5. CONCLUSION

The Policing Board is committed to making sure that it delivers on its oversight duties so that the PSNI meets the standards rightly expected by community in the delivery of the policing service.

The PSNI should provide the Board with an implementation plan for recommendations set out above and should provide a progress report within six months of the publication of this report. Future updates will be discussed between the Board and the PSNI at that stage.

NORTHERN IRELAND POLICING BOARD

NOVEMBER 2022



 028 9040 8500

 information@nipolicingboard.org.uk

 www.nipolicingboard.org.uk

 [policingboard](https://www.facebook.com/policingboard)

 [@nipolicingboard](https://twitter.com/nipolicingboard)

 [nipolicingboard](https://www.youtube.com/nipolicingboard)

 [Northernirelandpolicingboard](https://www.linkedin.com/company/northernirelandpolicingboard)