

## PFCC Decision Report

<p><b>Report reference number:</b> 188/2019</p> <p><b>Classification</b> (e.g. Not protectively marked/restricted): Not protectively marked</p>
<p><b>Title of report:</b> Section 60 Agreement for Mutual Aid to the Police Service of Northern Ireland (PSNI)</p>
<p><b>Area of county / stakeholders affected:</b> Countywide</p>
<p><b>Report by:</b> Pippa Brent-Isherwood (Chief Executive and Monitoring Officer)</p> <p><b>Date of report:</b> 23 December 2019</p> <p><b>Enquiries to:</b> Pippa Brent-Isherwood (Chief Executive and Monitoring Officer)</p>

### 1. Purpose of the report

To approve the Section 60 Agreement for Mutual Aid to the Police Service of Northern Ireland (PSNI) attached at Appendix 1.

### 2. Recommendations

That the Police, Fire and Crime Commissioner (PFCC) approves the Section 60 Agreement for Mutual Aid to the Police Service of Northern Ireland (PSNI) attached at Appendix 1.

### 3. Benefits of the proposal

There is a mutual aid plan in place to support the PSNI on mutual aid as part of the national EU Exit policing plan. All forces and Police and Crime Commissioners (PCCs), including the PSNI, are signatories to a Section 22a Agreement with the National Police Coordination Centre (NPoCC) to support and facilitate mutual aid, thus ensuring that forces in England and Wales have the capability to support the PSNI if requested. The separate Section 60 Agreement attached at Appendix 1 is required due to the differing conduct and disciplinary arrangements in Northern Ireland as set out in Part VII of the Police (Northern Ireland) Act 1998. The PSNI has indicated that it would not be in a position to receive mutual aid if such an agreement was not in place.

#### **4. Background and proposal**

In order for police officers from England and Wales to deploy to Northern Ireland there is a legal requirement for them to come under the investigative authority of the Police Ombudsman for Northern Ireland. This is due to the unique police complaints process in Northern Ireland, which sees all complaints against the police (criminal or misconduct) investigated by the Police Ombudsman. The Section 60 Agreement attached at Appendix 1 therefore allows the Police Ombudsman of Northern Ireland to conduct the investigation of complaints. This process, supported by a comparable agreement, has been in place for all previous mutual aid deployments to Northern Ireland.

#### **5. Alternative options considered and rejected**

The PFCC could chose not to sign the Section 60 Agreement attached at Appendix 1. This is not recommended as the PSNI has indicated that it would not be in a position to receive mutual aid (in accordance with the Section 22a Agreement already in place) if a Section 60 Agreement was not in place.

#### **6. Police and Crime Plan**

Signing up to the Section 60 Agreement attached at Appendix 1 would be in the spirit of the "collaboration" building block of the Police and Crime Plan, particularly as it applies to collaboration with other police forces.

#### **7. Police operational implications**

As set out above, the Section 60 Agreement attached at Appendix 1 relates to the sending of officers to support the PSNI on mutual aid and the investigation of any complaints against the police arising as a result. Following an investigation by the Police Ombudsman of Northern Ireland (PONI) or PSNI, the recommendations in relation to any misconduct that a complaint leads to would be remitted back to the Chief Constable of the officer's home force for consideration and any action. Essex officers would not be sanctioned for any found misconduct by the PSNI. If the Police Ombudsman's investigation identified criminal offences and recommendations for criminal prosecution, the file would be submitted to and directed on by the Public Prosecution Service of Northern Ireland, in the same way that an investigation by the Independent Office for Police Conduct (IOPC) or an IOPC overseen investigation would lead to a submission to the Crown Prosecution Service (CPS).

#### **8. Financial implications**

There are no financial implications arising from this report.

#### **9. Legal implications**

The Section 22a Agreement between the PSNI and the NPoCC referred to in section 3 above, along with the provisions of Section 98 of the Police Act 1996, permit police officers from English and Welsh constabularies to assist and support the PSNI when requested (through mutual aid). As set out above, the separate agreement attached at Appendix 1 is required due to the differing conduct and disciplinary arrangements in Northern Ireland as set out in Part VII of the Police (Northern Ireland) Act 1998. Section 60 of that Act allows for an agreement to be made between the Police Ombudsman for

Northern Ireland (PONI) (with the approval of the Department of Justice) and constabularies not maintained by the Northern Ireland Policing Board, which allows PONI to establish procedures corresponding or similar to those established under the Act to investigate complaints made against a relevant member of a constabulary involved in any operation as a result of mutual aid. The Section 60 Agreement attached at Appendix 1 therefore allows officers from forces other than the PSNI to come under the investigative jurisdiction of the Ombudsman.

#### **10. Staffing implications**

As set out in section 7 above, the Section 60 Agreement attached at Appendix 1 relates to the sending of officers to support the PSNI on mutual aid and the investigation of any complaints against the police arising as a result.

#### **11. Equality and Diversity implications**

There are no equality and diversity implications arising directly from this report.

#### **12. Risks**

As set out in section 5 above, the PSNI has indicated that it would not be in a position to receive mutual aid if a Section 60 Agreement was not in place.

#### **13. Governance Boards**

Supt. Nigel Goddard (Deputy Head of the National Police Coordination Centre) has developed the agreement attached at Appendix 1 in collaboration with the Police Ombudsman for Northern Ireland, the PSNI and the Association of Police and Crime Commissioners (APCC) as part of EU Exit planning. At a national level, Supt. Goddard has discussed the position with Simon Kempton of the Police Federation and provided assurances that the Federation is satisfied with this.

This matter was discussed between the Police, Fire and Crime Commissioner and the Chief Constable at their 1:1 meeting on 1 November 2019. At this meeting it was agreed in principle that the document would be signed.

#### **14. Background papers**

Appendix 1 – Agreement between Office of Police Ombudsman for Northern Ireland, National Police Coordination Centre on behalf of NPCC, Local Policing Bodies, & the Police Service of Northern Ireland concerning the Responsibility for Investigation of Complaints against England and Wales Police Officers Deployed on Mutual Aid to Northern Ireland

**Report Approval**

The report will be signed off by the OPFCC Chief Executive and Treasurer prior to review and sign off by the PFCC / DPFCC.

Chief Executive / M.O.

Sign: [Signature]

Print: P. BEAST - B. GLEWING

Date: 23 DECEMBER 2019

Chief Finance Officer / Treasurer

Sign: [Signature]

Print: ABSEY G. GN

Date: 24/12/19

**Publication**

Is the report for publication?

YES	<input checked="" type="checkbox"/>
NO	<input type="checkbox"/>

If 'NO', please give reasons for non-publication (Where relevant, cite the security classification of the document(s). State 'None' if applicable)

.....  
..... NIA .....

If the report is not for publication, the Chief Executive will decide if and how the public can be informed of the decision.

**Redaction**

If the report is for publication, is redaction required:

1. Of Decision Sheet?	YES	<input type="checkbox"/>	2. Of Appendix?	YES	<input type="checkbox"/>
	NO	<input checked="" type="checkbox"/>		NO	<input checked="" type="checkbox"/>

If 'YES', please provide details of required redaction:

.....  
..... NIA .....

Date redaction carried out: .....

**Treasurer / Chief Executive Sign Off – for Redactions only**

If redaction is required, the Treasurer or Chief Executive is to sign off that redaction has been completed.

Sign: .....

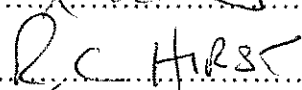
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**Chief Executive/Treasurer**

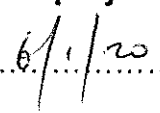
**Decision and Final Sign Off**

I agree the recommendations to this report:

Sign: ..... 

Print: ..... 

**PFCC/Deputy PFCC**

Date signed: ..... 

I do not agree the recommendations to this report because:

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.....  
.....

Sign: .....

Print: .....

**PFCC/Deputy PFCC**

Date signed: .....



**AGREEMENT BETWEEN OFFICE OF POLICE OMBUDSMAN FOR NORTHERN IRELAND, NATIONAL POLICE COORDINATION CENTRE ON BEHALF OF NPCC, LOCAL POLICING BODIES, & THE POLICE SERVICE OF NORTHERN IRELAND CONCERNING THE RESPONSIBILITY FOR INVESTIGATION OF COMPLAINTS AGAINST ENGLAND & WALES POLICE OFFICERS DEPLOYED ON MUTUAL AID TO NORTHERN IRELAND**

1. Introduction

1.1 This agreement is made between the parties to this agreement in recognition that the system for investigating complaints about Police Officers in Northern Ireland differs from the arrangements in England and Wales.

1.2 The PSNI are members of the National Police Coordination Centre (NPoCC) and have in place a Section 22a agreement with NPoCC. This agreement along with the provisions of Section 98 of the Police Act 1996 (1996 Act) is the legal mechanism that permits police officers from English and Welsh constabularies to assist and support the PSNI when requested. This process is referred to as Mutual Aid.

1.3 This separate agreement is required due to the differing conduct and disciplinary arrangements in Northern Ireland as set out in Part VII of Police (Northern Ireland) Act 1998 (The Act).

2. Discipline Regulations Applicable to England & Wales officers whilst working in Northern Ireland

2.1 Section 52 of the Act sets out the arrangements for how complaints against Police are received and investigated in Northern Ireland.

2.2 Section 60 of the Act allows for an agreement to be made between the Ombudsman (PONI) (with the approval of the Department of Justice) and Constabularies not maintained by the Northern Ireland Policing Board which allows PONI to establish procedures corresponding or similar to those established under the Act to investigate complaints made against a relevant member of a constabulary involved in any operation as a result of a Mutual Aid.

2.3 This provision will apply to relevant members of assisting police services from England & Wales deployed to Northern Ireland on Mutual Aid to the extent possible. Such complaints or conduct issues will be investigated by the Police Ombudsman for Northern Ireland (PONI) or PSNI with any recommendation involving disciplinary action being forwarded to the officers Home Forces to deal with.

2.4 This Section 60 agreement gives effect to establishing PONI as the principal authority to receive and investigate a complaint made by a member of the public in relation to a relevant member of an assisting constabulary. Where PONI decides a complaint is not within its remit, but instead is for the Chief Constable to deal with, it may be the case that the appropriate Chief Constable is that of an assisting constabulary. This will apply to recommendations for disciplinary proceedings. The Chief Constable of the assisting force would take the place of the PSNI Chief Constable. While it is recognised that there are differences between the police disciplinary arrangements in Northern Ireland, England & Wales, these will be kept to a minimum and carried out 'so far as is possible in accordance with the law'.

2.5 In so discharging their functions under this procedure, PONI shall have regard to any guidance issued by the Department of Justice or the Secretary of State.

2.6 It is also agreed that the Chief Constable of the assisting police force will ensure that his/her officers fully co-operate with any investigation in relation to a complaint and will so far as is possible,

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after consultation with PONI, make any officer available to progress an investigation as required by PONI.

2.7 PSNI will keep the relevant Chief Constables of the assisting forces informed of any complaint of which PSNI are aware and the progress of any investigation commenced under paragraph 2.3 above.

### 3. Definitions applicable to this agreement

In this agreement:

3.1 "relevant member of the assisting police service" means any person appointed as an officer in the assisting police service involved in any operation as a result of a mutual aid agreement in Northern Ireland in compliance with Section 98 of the Police Act 1996.

3.2 "complaint" means a complaint as defined by Section 50 (1) of the Act, whereby complaints about the on duty conduct of a relevant member of the assisting police service made by or on behalf of a member of the public other than a complaint by a member of the assisting police service be that a relevant member or otherwise. Relevant complaints made as hereinbefore described about conduct of a relevant member while off duty shall only be dealt with under this agreement if the fact of being a relevant member is relevant to the complaint.

3.3 "Part VII of the Act" means Part VII of the Police (Northern Ireland) Act 1998.

3.4 This Agreement is subject to Schedule 1 amended hereto.

### 4. Delegated Authority to Make this Agreement

4.1 This agreement is signed on behalf of NPCC Chief Constables by the National Mobilisation Coordinator, Head of National Police Coordination Centre.

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ACC Owen Weatherill  
National Mobilisation Coordinator  
NPoCC

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Police Ombudsman for Northern Ireland

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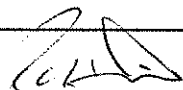
Chief Constable Simon Byrne  
Police Service of Northern Ireland

Agreement Signed and Dated -      of October 2019



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Signed By (or for / on behalf of) the Local Policing Body / British Transport Police Authority

Force Area	Name	Signature
Avon and Somerset		
Bedfordshire		
Cambridgeshire		
Cheshire		
City of London		
Cleveland		
Cumbria		
Derbyshire		
Devon and Cornwall		
Dorset		
Durham		
Dyfed-Powys		
Essex	ROGER HIRST	
Gloucestershire		
Greater Manchester		
Gwent		
Hampshire		
Hertfordshire		
Humberside		
Kent		
Lancashire		
Leicestershire		
Lincolnshire		
Merseyside		
MOPAC		
Norfolk		

<b>North Wales</b>		
<b>North Yorkshire</b>		
<b>Northamptonshire</b>		
<b>Northumbria</b>		
<b>Nottinghamshire</b>		
<b>South Wales</b>		
<b>South Yorkshire</b>		
<b>Staffordshire</b>		
<b>Suffolk</b>		
<b>Surrey</b>		
<b>Sussex</b>		
<b>Thames Valley</b>		
<b>Warwickshire</b>		
<b>West Mercia</b>		
<b>West Midlands</b>		
<b>West Yorkshire</b>		
<b>Wiltshire</b>		
<b>British Transport Police Authority</b>		

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**Agreement under section 60 of the Police (Northern Ireland) Act 1998**

Police Ombudsman for Northern Ireland

Schedule 1

A "complaint" in relation to this agreement shall be one which alleges any of the following:

1. That the conduct of a relevant member led to the death or serious injury on a member of the public. Serious injury shall be one as defined by section 50 of the Act.
2. That a relevant member committed a serious assault or serious sexual offence. It shall be for PONI to determine what constitutes a serious assault or a serious sexual offence.
3. That a relevant member is guilty of serious corruption and it shall be for PONI to determine what constitutes serious corruption.
4. Any complaint that raises an issue of significant public interest and it shall be for PONI to determine what constitutes significant public interest.

