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Winner of the Council of Europe Human Rights Prize

CAJ's commentary on the
Code of Practice on the Functions and Responsibilities of

District Policing Partnerships

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What is the CAJ?

The Committee on the Administration of Justice (CAJ) was established in 1981 and is an independent non-governmental organisation affiliated to the International Federation of Human Rights. CAJ takes no position on the constitutional status of Northern Ireland and is firmly opposed to the use of violence for political ends. Its membership is drawn from across the community.

The Committee seeks to ensure the highest standards in the administration of justice in Northern Ireland by ensuring that the government complies with its responsibilities in international human rights law. The CAJ works closely with other domestic and international human rights groups such as Amnesty International, the Lawyers Committee for Human Rights and Human Rights Watch and makes regular submissions to a number of United Nations and European bodies established to protect human rights.

CAJ's activities include - publishing reports, conducting research, holding conferences, monitoring, campaigning locally and internationally, individual casework and providing legal advice. Its areas of work are extensive and include prisons, policing, emergency laws, the criminal justice system, the use of lethal force, children's rights, gender equality, racism, religious discrimination and advocacy for a Bill of Rights.

The organisation has been awarded several international human rights prizes, including the Reebok Human Rights Award and the Council of Europe Human Rights Prize.

Comments by the CAJ on

Code of Practice on the Functions and Responsibilities of District Policing Partnerships

The Committee on the Administration of Justice (CAJ) is a cross community independent non-governmental organisation which works to protect and promote human rights in Northern Ireland. CAJ was founded in 1981 and works on a broad range of human rights issues such as prisoners, emergency legislation, race discrimination, juvenile justice, gender, disability and a Bill of Rights for Northern Ireland). The organisation has been awarded the Council of Europe Human Rights Prize.

One of the most extensive areas of work for CAJ has been policing and we attach (in annexe) a brief note which outlines the key policing research, reports and actions that CAJ has been involved in over the last 21 years. In recent years, CAJ argued for an independent international commission and then actively contributed to the Patten Commission's work by carrying out research, making written submissions, attending and organising public meetings, etc. The organisation was extensively involved in the parliamentary stages of the debate, and the following commentary draws heavily on all of this work.

In particular, CAJ has drawn upon the detailed work carried out by the Patten Commission. While we made a number of criticisms of the final recommendations, CAJ believes that the Commission laid down a challenging and constructive blueprint for future policing in Northern Ireland. To quote Patten directly with regard to District Policing Partnerships – *“An important theme of this report is that policing should be decentralised, and that there should be constant dialogue at local levels between the police and the community.... The Boards (sic) should represent the consumer, voice the concerns of citizens and monitor the performance of the police in their districts, as well as that of other protective agencies such as the fire service, environmental protection, public health and consumer protection authorities... the DPPBs (sic) should be encouraged to see policing in its widest sense, involving and consulting non-governmental organisations and community groups concerned with safety issues as well as statutory agencies.”* (paras 6.25 - 6.29). It is clear from these extracts that Patten envisaged the District Policing Partnerships being very important building blocks both in the system of police accountability, and in the process of decentralising policing and making community safety a shared project between the police and the wider community. CAJ's comments below seek to reflect this general approach.

Introduction

Para 1.2

We note that the Policing Board is obliged by law (article 19.1 and 19.2 of the Police (Northern Ireland) Act 2000 – hereinafter the Act) to consult on the Code of Practice with the Secretary of State, the District Councils and the Chief Constable. We welcome the fact that, in addition, the Board has chosen to consult also with the PSNI staff associations and the Equality Commission. In the cover letter which accompanied the draft Code of Practice, it was clear that a whole range of other groups were also being consulted, and this is very much to be commended.

One obvious omission from the printed list of consultees in this paragraph of the Code of Practice is the NI Human Rights Commission. CAJ believes that this should be changed in the final version, given the centrality of human rights to all aspects of policing. Note in the "list of consultees" attached to the cover letter that the NIHRC is mis-typed, since we presume that the reference to the Northern Ireland Human Rights Association is intended to refer to the Commission?

By some oversight, CAJ was not on the list of groups to be consulted, but we were sent a copy immediately upon request. We would appreciate if we were added to any future consultation exercises of this kind. Looking at the consultation list there are some very obvious gaps – groups like the Pat Finucane Centre, WAVE, and the Women's Support Network would all have different perspectives to bring to bear on your deliberations. We notice that there are few youth groups, local community groups or community restorative justice projects. We wonder also about the circulation within the statutory sector, given the importance Patten envisaged for DPPs in creating local cross-cutting alliances with other statutory bodies? CAJ has just recently commented on the more comprehensive consultation list attached to the Board's draft Equality Scheme, and you may find that the final list produced for that document could be a useful starting point.

CAJ believes that all this kind of material should be circulated as widely as possible for at least two reasons. Firstly, hopefully the broader the perspectives brought to bear on the text, the more useful feedback the Board will receive. Secondly, it seems to CAJ that widespread circulation of this kind of material shows a commitment on the part of the Board to transparency and provides a relatively easy and inexpensive way of widening the network of people and groups being encouraged to take some ownership of the process of policing change. Thirdly, the very nature of this consultation document – which relates to policing with local communities and the effective involvement of local communities in policing – makes it important that it be drafted with input from the very people and groups who will need to work with the police in giving it practical effect.

Para 1.3

This paragraph reflects almost exactly the legislative provisions in article 19.4 of the Act. There is however one important omission. The legislation also authorises the Board to include in the Code of Practice for DPPs: “the arrangements to be made by a DPP as a result of section 16.1.c”. Section 16.1.c of the Act reads “to make arrangements for obtaining (i) the views of the public about matters concerning the policing of the district; and (ii) the cooperation of the public with the police in preventing crime”. It is not at all clear to CAJ why this function of the DPP is not alluded to in this paragraph, and CAJ believe it should be added, and that reference should be made to this duty at relevant places later in the text.

Para 1.7

Is the intention to designate the District Policing Partnerships individually for the purposes of section 75 of the Northern Ireland Act, or are they automatically designated by virtue of the fact that the Policing Board and/or all District Councils have been designated? Whatever the legal situation (which should be laid out clearly in this paragraph), the District Policing Partnerships will need to be made aware of their responsibilities to promote equality of opportunity under s.75 of the Northern Ireland Act, as well as comply with the Human Rights Act.

Conduct of Meetings and Procedures

Para 2.2

It may be helpful here and elsewhere in the text to give more exact references to the legislation. This could well be done by way of footnote to avoid rendering the text overly ‘legal’ in style.

CAJ accepts that the legislation uses non-gender neutral terminology eg chairman and vice-chairman. We believe however that the Policing Board could exercise its discretion and change this language in the Code of Practice. As institutions that will want to attract male and female candidates, it would be very important that DPPs not give the impression that all chairs, or all chairpersons, must be male.

Para 2.3

The legislation is clear that the DPP may regulate its own procedures (para 12.4 of Schedule 3) subject only to the provisions laid down in paras 12.1 – 12.3 of the Schedule, and article 19 of the legislation. This latter in particular means that the Code of Practice prevails if the DPP should choose to include

in its Standing Orders anything that subverts the intent of the Code. While it is not possible to make this completely unambiguous by suggesting here that the Board “approves” the eventual Standing Orders, it would be clearer to all involved if a new para 2.5 indicated that the Board would need to resolve with the DPP any elements in the proposed Standing Orders (or new ones) which were thought to run counter to the Code of Practice.

Meetings of the DPP

Para 3.8 – 3.10

It may be worth emphasising here that DPPs will be bound by section 75 of the Northern Ireland Act. They are therefore under a legal duty to “have due regard” to the promotion of equality of opportunity across a range of constituencies. The times of meetings, the advertising of events, the provision (or lack of provision) of interpretation, the meeting venues chosen etc. are all likely to have an impact on the extent to which events are genuinely ‘public’ i.e. open to all members of the public, regardless of disability, dependents, religious or political opinion, ethnicity……. Serious consideration should also be given to rotating meetings across different venues and locations throughout the District Council area.

Paras 3.11 and 3.12

Much focus is on advertising in the local press. While this can be very useful from time to time, it would also be important to spread the word through active community networks and local groups (eg sending invites out to local schools, medical surgeries, youth groups etc.)

Para 3.13

While understanding the value in avoiding “anonymous” question-sessions, CAJ would be totally opposed to any system of questioning that required an individual member of the public to register their name and full address in advance. Unfortunately, whole constituencies within our society do not yet have sufficient trust in the District Council, the local police, or the new DPPs, to be prepared to link their name and their address to what might be perceived by the police, or other groups in the locality, as an ‘objectionable’ question. Imagine an isolated family of ethnic minority background having to provide their name and full address in advance of the session when they want to ask a question about the protections being offered in the locality against racist attacks! The obstacles this would create to any serious discussion of sectarian attacks or behaviour in a particular area are equally evident.

Para 3.15

The elaboration of criteria for refusing access to information is very important. The first two are self-evident as is the third (presumably this should be "it would result in.."). Equally if there is an "ongoing investigation", one might expect that it would be tantamount to a situation where legal proceedings have been initiated, and/or an individual's privacy is at risk. However, one could also imagine that this might well become the answer to *any* question raised by a member of the public. Perhaps there is an "ongoing investigation" into the racist or sectarian incidents imagined in our earlier scenario? Some mechanism must be evolved to ensure that the last four criteria listed here are not merely used as an easy excuse to deny access for the DPP and/or members of the public to important information. The Patten recommendations immediately following on from the role of DPPs concern transparency. Patten argued that "*the presumption should be that everything should be available for public scrutiny unless it is in the public interest – not the police interest – to hold it back*"(Patten, rec. 37). Para 3.15 would do well to reiterate this general principle at the outset and then set out the possible exceptions. This would then at least allow the DPP and the public to challenge any mis-use of the criteria. Para 3.16 is welcome.

Reports sent to the DPP

Para 4.1

The overlap between the 'monthly' reports required in para 3.2 and the three monthly reports required by para 4.1 is not obvious. Is some distinction being made between oral and written reports? Surely written reports should be made to each DPP meeting? Would the three-monthly reports be additional reports, or would they simply have a somewhat different format than the monthly reports, and focus on slightly longer term issues along the lines outlined in 4.1a – c? We presume that it is the latter, but this should be clarified in the text.

Para 4.2

We also do not understand why there should be an emphasis on discussing these reports in private. After all, this longer term planning debate presumably offers less not more risk of exposing individuals or commenting on currently contentious local issues). It seems to CAJ that these longer term discussions about effective policing in the area are exactly the issues which might benefit from wider community input. The fact that the report is to be placed in the public domain afterwards confirms that there is no evident reason why the presumption should be that the public be excluded.

Para 4.4

Is this reference to the 'monthly' report a typo (there are by the way quite a few in the text which we assume will be picked up in the final edit)? It is certainly useful to clarify that the District Commander can be questioned on issues which are not in his/her reports, and one should therefore note: "*Members of the DPP.....referred to in his/her report*".

Para 4.5

Again, the text lends itself to some confusion as to the distinction between the 'monthly' and the three-monthly reports. The task of the District Commander would be made a lot clearer, and simpler, if there were a standard format (as, for example, outlined in para 4.5) for all of his/her reports, and then a request to supplement this every three months with additional information along the lines of that outlined in para 4.1.

Para 4.7

This paragraph also seems to run counter to the hoped-for emphasis on community policing, greater transparency and openness. Are briefings on drugs, traffic management, domestic violence and public order policing not likely to be exactly the kinds of policing issues that local people will be interested in learning about and contributing to? Again, subject to the agreed criteria on confidentiality, we see no reason why these topics are not considered appropriate topics to be included in the monthly report of the District Commander. This does not preclude (see para 3.3) that the DPP meet in private session when that proves important to do so, but the onus should be on the question of "why discuss this in private" not "why discuss this in public"?

Reports provided by the DPP

Para 5.1

To avoid excessive administrative burdens, it might be better to re-word the last sentence to read – "*Publication of the report shall allow sufficient time to the District Commander to correct any factual inaccuracies of any PSNI input*". This means that the onus is only on the District Commander if there are factual inaccuracies needing to be rectified.

Para 5.4

Given our comments at the outset about the importance of widespread consultation, and involvement of local communities in the work of policing, it

would be worth making the last sentence here more emphatic eg “*The DPP should be creative and work with others to make sure that the monthly report is widely available. Mailing lists of interested people and groups could be developed over time, and consideration should be given to fairly regular media announcements summing up key findings.*”

Para 5.7

In practice, it is likely that expenditure items under (a), (c), (e) and (g) will all overlap.

Paras 5.10 - 5.12

We welcome the emphasis on wide circulation of the report and the emphasis on it being a functional document. The slight problem in suggesting graphics and design help is the fact that this encourages DPPs to focus on producing a single “Rolls Royce” model, which will most likely be solely in English, and ignore all other communication formats. Perhaps this problem could be highlighted here so that DPPs think about the need for different formats for different audiences.

Public Consultation and the local Policing Plan

Para 6.2

CAJ welcomes very much the proposal that surveys be carried out, and particularly that they be stratified on a socio-economic basis. In line with section 75, it would also be important information to be gathered on the needs and concerns of a range of different constituencies in the different local areas.

It is unclear to CAJ whether such data is better gathered at the local level and aggregated to allow the Policing Board to draw some NI-wide lessons, or to do NI-wide surveys that can be disaggregated on a DPP level. The value-for-money criterion mentioned elsewhere might suggest that this be done at the level of the Policing Board?

Qualitative data of the kind gathered at public meetings etc. can of course only be gathered at the local level.

Para 6.3

Given the lack of policing fora in many parts of Northern Ireland, and lack of representation from certain communities even on those bodies that do exist, CAJ suggests amending second sentence to “These include, but are not limited to...”

Para 6.4

The examples of priority setting are very helpful. Is it self-evident, however, that an issue which has an extremely negative impact on the quality of life for a small number of people may well need to be prioritised over an issue which affects a lot of people but not so crucially? Perhaps 6.4.a could be changed to “seriousness of the impact.....”

It also may be unfortunate to link “complexity” with the need to work on a multi-agency basis. Working on a multi agency approach needs to be actively encouraged, not used only when the issue is complex. A better example of “complexity” might be – will it take a series of short and long term actions to address this? Perhaps the multi-agency approach should figure in another question entirely?

Working together to prevent crime

Para 7.2

CAJ believes that the most effective way to harness the community in working with the police to prevent crime is to ensure a genuine partnership arrangement with a two-way process. This certainly was the approach taken in the Patten Commission report. Accordingly, we would propose amending this article to read: “.....*the DPP should produce a report setting out the strategy for gaining the cooperation of the public with the police in creating effective partnerships, often in collaboration with other agencies, to prevent crime*”.

Para 7.9

This is one of the few areas where reference is made to the DPP working to coordinate its efforts with those of other statutory groups. Patten commented on this in some detail and we think that there would be a lot of cross-community support for such partnership arrangements, not least since it makes for greater value-for-money and ‘joined up’ thinking at the local level. Para 6.29 of Patten bears repeating - “*The Boards (sic) should represent the consumer, voice the concerns of citizens and monitor the performance of the police in their districts, as well as that of other protective agencies such as the fire service, environmental protection, public health, and consumer protection authorities..Like the Policing Board, the DPPBs (sic) should be encouraged to see policing in its widest sense, involving and consulting non-governmental organisations and community groups concerned with safety issues as well as statutory agencies”*. The Board might be well advised to emphasise this more in this text.

Financial Arrangements

Para 8.3

This formulation assumes that agreement will be reached between the Council and the Policing Board on funding. What happens if agreement is not reached? What happens if the Council refuses to match the funding agreement with its 25% contribution?

Para 8.6

While recognising the importance of proper financial systems and financial probity, the suggestion that a DPP's budget be conveyed to them in monthly instalments appears unnecessarily restrictive. Apart from the onerous administrative burden this places on both the Board and the Council (as intermediary), it seems to suggest that the DPP cannot be trusted with money for more than a month at a time!

Para 8.7

We presume that the Council set up the administrative systems simply to avoid the administrative burden falling on the DPP, but there must be some mechanism for ensuring that the Council does not use the creation of these systems in any way to dictate the work of the DPP, or somehow penalise it.

Para 8.8 and 8.9

See comments under 8.6

This whole section fails to accept that there may be some tension between the Council and the DPP. While the composition of the DPP (with a majority of District Council members) was determined with a view presumably to minimising potential tensions between the DPP and the Council, it is unlikely that tensions will be entirely absent, and CAJ thinks that this section should be re-thought.

Allowances paid to members of the DPPs

Para 9.3

CAJ welcomes the fact that elected and independent members be treated in principle the same in terms of allowances. This is somewhat undermined by the fact that the chair and vice-chair will always be elected members

(Schedule 3, article 9.1 of the Police Act) and these office-holders are to receive higher salaries than other members of the DPP. Moreover, no reference is made to the fact that Council members already often receive an allowance for their work on the Council. Will provisions be introduced to ensure that elected members do not inadvertently receive Council allowances and DPP allowances for the same time-commitments, simply because of the natural overlapping of much of the work? And will provisions be introduced to deny this allowance to any member(s) who are consistently absent from meetings?

Para 9.4

See on for comments on Belfast

Appendix One

Para 2.1 (a)

CAJ understands that everyone must be able to attend a DPP meeting in safety but the legacy of conflict might suggest that the very presence of a particular person in the audience could be seen to “represent” a threat to another. The wording here should be re-thought.

Appendix Two

In essence this seems to set up the most complicated and complex arrangements that could be conceived. It seems very onerous (and potentially gravely confusing) that the District Commanders may be asked to meet on a monthly basis and in public for a, and that these meetings are convened independently by both the sub-group and the overall Belfast DPP

Appendix Three

We find this section problematic. Firstly, although the chair and deputy chair are to receive considerably more pay than ordinary members, there is no indication in the text what the nature of their extra responsibilities will in fact be. Secondly, as noted earlier, both of these posts will be filled by Council members, who may already be receiving some form of compensation for their work in the local community. What provision is being made to avoid paying someone “twice” for the same work programme?

Brief synopsis of CAJ's policing work

- 1981 CAJ founded after conference at Queens on civil liberties
- 1982 Publication "Complaints Against the Police" – police complaints' systems became a routine topic of concern with subsequent publications in 1983, 1990, 1991, 1993, advocating an independent complaints system. This culminated in active work pre- and post the Hayes report setting up a Police Ombudsman.
- 1985 Publication "Consultation between the police and the public"
- 1988 Publication "Police Accountability in NI". This topic was also regularly re-visited with work on lay visiting to police stations (1990) and responses to various consultation documents (1994 NIO document on "Policing in the Community", submissions to the Police Authority in 1995, and legislative proposals in 1995 and 1998).
- 1990 Publication on "Plastic Bullets and the Law" (which updated an earlier 1985 report, and was then complemented by a 1998 report)
- 1996 Publication entitled "Misrule of Law" on the policing of public order disturbances in 1996. Subsequent publications and shorter submissions were produced in 1997, 1998 and 2001 as well as a number of documents relevant to the Parades Commission
- "Patten"
- 1997: Major report "Human Rights on Duty: Principles for better policing- international lessons for Northern Ireland";
- 1998: submission to Patten organised Council of Europe visit to Belfast facilitated follow up visit by Patten team to Strasbourg
- 1999: CAJ holds pre-Patten report conference (February) submission to US Congress (April)
- CAJ holds post-Patten report conference (November)
- Commentary to NIO on Patten report (November)
- 2000: Extensive lobbying around Policing (NI) Act
- 2001 Organised Council of Europe seminar for Oversight Commissioner team; produced Benchmarks for Oversight Commissioner (April); spoke on panel at Policing and Human Rights conference (October); commented on draft police Code of Ethics (November).

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