

NORTHERN IRELAND HUMAN RIGHTS COMMISSION

RESPONSE TO PROPOSED POLICE SERVICE CODE OF ETHICS

October 2001

1. The Draft Code of Ethics does appear to meet the statutory requirements but there are some amendments which could be made to it to make it even better.
2. Paragraph (c) in the Introduction sets out the purpose of the Code. We believe it would be advisable to alter paragraph (c) so that it more accurately reflects section 52(1) of the Police (NI) Act 2000, which says that the purposes of the Code of Ethics are (a) to lay down standards of conduct and practice for police officers and (b) to make police officers aware of the rights and obligations arising out of the Convention rights.
3. Paragraph (d) in the Introduction lists the sources for the Code. We note that the Patten Report (in para. 4.8) suggests that a good model would be the draft Code produced by ACPO in 1992, updated to take account of the Human Rights Act 1998. We wonder if reference should therefore be made to that?
4. At some points the draft Code of Ethics would benefit from being more closely modelled on the Council of Europe's Code of Police Ethics. We would encourage a more strict comparison between the two codes.
5. In the Introduction, paragraph (e) leaves the relationship between the Code of Ethics and the Code of Discipline unclear. What are the "appropriate circumstances" in which a breach of the Code of Ethics could lead to a criminal or disciplinary investigation?
6. In the Introduction, paragraphs (f) and (g) refer to the Policing Board and the Police Ombudsman respectively, but paragraph (c) does not say that the purpose of the Code of Ethics is to set out standards to be applied in relationships between police officers and such external organisations. These provisions may be better confined to separate Protocols or Memoranda of Understanding to be drawn up between the Police Service and such organisations.
7. In the Introduction, paragraph (g) uses only the male pronoun. We would suggest using "he or she" or "his or her" throughout the document.
8. In the Introduction, we wonder whether paragraph (h) is appropriate for a Code of Ethics? The Code is meant to be about the behaviour of police officers, not of others. (See also points 2 and 5 above.) The provision might perhaps be reworded to read: "Police officers will seek to secure and maintain the support of the general public and their elected representatives by carrying out their duties to the standards stated in this Code". But this would largely duplicate what is

9. We particularly welcome paragraph (i) in the Introduction.
10. As regards the 10 ethical standards set out after the Introduction, we think it would be logical to set them out in a different order from that in which they currently appear. We would suggest the following:
 1. Professional duty
 2. Confidentiality
 3. Equality
 4. Integrity
 5. Fitness for duty
 6. Victims
 7. Use of force
 8. Detained persons
 9. Property
 10. Duties of supervisors
11. In our experience codes are normally divided into paragraphs, not articles.
12. Sometimes the articles say that police officers "shall" do something; at other times they say that police officers "will" do something. We think it would be better to use uniform language; we prefer the less archaic "will".
13. Article 1.1 reflects the wording of section 32(1) of the Police (Northern Ireland) Act 2000. When that provision was being debated in Parliament the Northern Ireland Human Rights Commission suggested an amendment which made it clear that, as the current Chief Constable has often remarked, a further important function of the police is to uphold human rights. As far as the European Convention on Human Rights is concerned there is now, by virtue of the coming into force of the Human Rights Act 1998 on 2 October 2000, a statutory duty on the police to uphold those rights. The Commission therefore feels it would be all the more appropriate to mention that duty in this part of the Code of Ethics.
14. Article 1.1 refers to the duty of police officers to take measures to bring offenders to justice, but the Code contains little further detail in relation to the role of police officers when bringing alleged offenders to court. We suggest the Code should contain paragraphs setting out the duties of police officers to gather and preserve evidence, to protect witnesses and to give honest and truthful evidence in court.
15. In Article 1.4, line 5, officers are directed to pay particular regard to the rights enshrined in the European Convention. Given that section 52(1)(b) of the Police (NI) Act 2000 says that the Code should make officers aware of the rights *and obligations* arising out of the European Convention, we recommend the inclusion

16. In Article 1.5, line 3, "is" should read "are".
17. In Article 1.6, lines 5 and 6, "they" should read "he or she".
18. In Article 1.7, line 5, it seems particularly harsh, as well as counterproductive, to suggest that a police officer may suffer administrative or other penalties because he or she has reported a violation of the Code which turns out to be unfounded. Any such sanction should be confined to situations where it can be shown that the reporting officer did not have reasonable grounds for believing that a violation of the Code had occurred.
19. In Article 3.1, we think it is important that Article 8 of the European Convention is given priority over the other laws mentioned. Perhaps the Article could be rewritten to read: "Police officers will gather, retain and use information only in accordance with Article 8 of the European Convention on Human Rights. All other laws and instructions must be applied in a manner which is consistent with Article 8."
20. As regards Articles 3.3 and 3.4, it is not clear who it is that can "authorise" access to confidential information. If it is to be a senior officer, or the Chief Constable, the Code should make it clear such authorisation should conform with the requirements of the law, in particular with the Freedom of Information Act 2000. The Commission believes that information should be made public unless there is a demonstrably good reason why it should be kept confidential.
21. As regards Article 4, we have already submitted to you our comments on the proposed Force Order on the Use of Force. We would prefer it if the Code of Ethics reflected what we said there rather than what is said in the Force Order as approved.
22. In Articles 4.1 (line 4) and 4.2 (lines 1 and 12), we would prefer the phrase to be "force *or* firearms", not "force *and* firearms" (consistent with Article 4.1, line 3).
23. In Article 4.2(e), we assume that amongst the instructions issued by the Chief Constable are the ACPO Guidelines on the Use of Plastic Baton Rounds? If this is incorrect, these Guidelines need to be specifically referred to in this Article.
24. We think that Article 4.5 would be better placed immediately after Article 4.1.
25. In Article 5.2, reference could usefully be made to Principle 15 in the UN's Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. This directs police officers not to use force in relation to persons in detention except

26. In Article 6.1, perhaps the last few words - "including their traditions and beliefs" - could be expanded slightly to read "regardless of their cultural, religious or political traditions and beliefs". We think it is better to be upfront about the need of the new Police Service to respect different political views in Northern Ireland (provided they are lawful of course). This Article could also usefully cross-refer to the Police Service's policy on a neutral working environment.
27. In Article 6.2 we would prefer the grounds listed in Article 14 of the European Convention to be expressly mentioned, namely "sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status".
28. In Article 6.2, the laws mentioned in brackets should perhaps include relevant EU Directives, such as those on Equal Treatment of men and women, Equal Employment and Racial Discrimination. In some respects these go further than the domestic laws listed. The reference to section 75 should read "section 75 of the Northern Ireland Act 1998".
29. In Article 7.1, the term "bullying" could usefully be added to "abuse, harassment or victimisation".
30. In Article 7.2, line 3, the word "lawful" should be inserted before "instructions" (in conformity with Article 1.4). It would also be better to require police officers not just to prevent and oppose violations of the Code but to report them as well (in line with paragraph 8 of the UN's Code of Conduct for Law Enforcement Officials). The last word ("them") might be better replaced with "these measures".
31. Article 7.3 might be better located in Article 10, since it has to do with the duties of supervisors.
32. In Article 7.4, the reference in line 5 to "deliberate unlawful conduct" is mysterious. Not all such conduct would amount to corruption; it would have to be conduct which is aimed at giving favours or seeking bribes. Nor are we sure that corruption always has to be "deliberate". Surely reckless or very careless conduct can in fact be corrupt? It may also be necessary to give some kind of definition, or examples, of "corruption", so as to indicate that it is not just about receipt of money but about the exercise of improper influence. The wrongful sharing of information could, in some instances, amount to corruption.
33. In Article 8.1, line 4, the word "lawful" should be inserted before "instructions" (in conformity with Article 1.4).