



Northern Ireland  
Assembly

Committee for Justice

# OFFICIAL REPORT (Hansard)

Review of Criteria for the Appointment of the  
Chief Constable: DOJ Briefing

10 October 2013

# NORTHERN IRELAND ASSEMBLY

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Review of Criteria for the Appointment of the Chief Constable: DOJ Briefing

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**Members present for all or part of the proceedings:**

Mr Paul Givan (Chairperson)  
Mr Raymond McCartney (Deputy Chairperson)  
Mr Sydney Anderson  
Mr Stewart Dickson  
Mr Tom Elliott  
Mr Seán Lynch  
Mr Alban Maginness  
Ms Rosaleen McCorley  
Mr Patsy McGlone  
Mr Jim Wells

**Witnesses:**

Ms Lorraine Montgomery	Department of Justice
Mr Walter Myles	Department of Justice
Ms Louise Warde-Hunter	Department of Justice

**The Chairperson:** I welcome Ms Louise Warde-Hunter, deputy director of policing policy strategy division; Ms Lorraine Montgomery, policing policy strategy division; and Walter Myles. The session will be recorded by Hansard and published in due course. I invite Ms Warde-Hunter to kick off, and then we will have some questions.

**Ms Louise Warde-Hunter (Department of Justice):** Thank you very much, Mr Chairman. We welcome the opportunity to bring the Committee up to speed on the Minister's consultation in this area. It will be helpful to recap on the paper that we sent to you in June. However, Chairman, if you find me going on too long, please intervene.

**The Chairperson:** Be careful what you wish for.

**Ms Warde-Hunter:** To one degree or another, as members will be aware, reforms to policing structures and processes are being considered and, sometimes, implemented across England, Wales and Scotland, and it is in our interests to be aware of those reforms and to see whether any of them are worth considering in Northern Ireland, or applied and adapted to the PSNI.

We know that policing in Northern Ireland does not work in a vacuum, and it cannot do so. Therefore, it is important that we must be aware of reforms elsewhere to ensure that obstacles will not be erected elsewhere that make policing in Northern Ireland, in its broadest sense, any more difficult and, in this matter, to ensure that the changes elsewhere do not have an adverse impact on the appointment of the future Chief Constable here.

Very recently, we have seen a massive amount of cooperation and interdependency. PSNI officers were in London, at the Olympic and Paralympic Games, supporting officers there; and, during the G8 summit in Fermanagh, officers from Scotland, England and Wales were provided to support the policing and security operation here. Subsequently, support was provided to our officers during periods of unrest. That is a little bit of background to the paper we sent you in June, which brought your attention to the review that the Justice Minister wishes to carry out into the criteria that should be considered when appointing the Chief Constable of the PSNI.

Primary legislation here provides that the Policing Board is responsible for appointing all senior police officers of the PSNI including, of course, the Chief Constable. The board makes that appointment within the minimum criteria set down in regulations, and the board's choice for Chief Constable is subject only to the Minister's approval of the appointment. Ultimately, of course, the outcomes across the jurisdictions are very similar. Recently, however, differences in approach and requirements have emerged, and the Minister is considering whether any of the changes introduced or currently being considered in England and Wales, in particular, would merit consideration over here in Northern Ireland. It is important to point out that, with the expectation that policing across the UK will retain its current uniformity in a number of key aspects, the reforms under way in England and Wales have led some to ask whether we in Northern Ireland are still in line with England and Wales on those matters and, if not, whether we should be. So the Minister has asked the Policing Board and PSNI management to look at a number of reforms, mainly as a result of the Winsor review — that is a broader context — and let him know which he might wish to consider for the PSNI. There are lots of reasons for doing so: possible better management practices for the PSNI, from which it and its officers might benefit; ways of improving efficiency and effectiveness; and ways that would allow the PSNI to operate within the wider policing community that I referred to earlier. Equally, we are looking at changes in Scotland, England and Wales that might impede policing here.

So we have written to the Policing Board, which, as you know, plays a key role as the employer and manager of the Chief Constable, for its view on the criteria. We have also written to the Chief Constable to hear what the Police Service of Northern Ireland believe the criteria should look like when the leader of that organisation is to be appointed. They have raised no particular concerns regarding any of the points that are set out in our paper, such as qualifications, rank of applicant or terms of appointment, but they have asked whether it is still necessary to retain the requirement that the Chief Constable of the PSNI should have some experience of senior management outside of the PSNI before taking on that key role. Other groups within the Police Service see merit in retaining a requirement that the person holding the most senior position in policing here should have that broader experience. Legislation requires the Minister to set out the minimum criteria for the appointment of the senior officers and, ultimately, he will decide what they look like. However, he is clearly very interested in the Justice Committee's views.

We know that policing has been through major and significant reforms, and the PSNI operates very substantially within the Patten recommendations from 1999. The Minister, of course, remains supportive of those reforms, and the position that he has developed through the years has resulted from those reforms. The appointment of our current Chief Constable clearly reflects the Patten commission report. I can happily refer further to Patten if members want me to do so, but I suspect that the members around the table will be very aware.

If I may, I will move on to the criteria. The current provisions do not require experience to be held outside Northern Ireland as a prerequisite for appointment to either ACC or Deputy Chief Constable. However, the legislation currently stipulates that no person can be appointed as Chief Constable unless he or she has held such rank in such a force and for such a period as the Minister determines. That brings us back to the concept of minimum standards, and that is what the Minister wishes to explore with the support of the Justice Committee.

Legislation stipulates that the appointment to Chief Constable will be for a fixed term. Currently, only appointments to the Chief Constable and Deputy Chief Constable positions are for fixed terms, and the Minister is able to determine the range of time within which the Policing Board can offer the position and extend the term beyond that set. The Minister is also required to determine the circumstances in which a vacancy at a senior officer level is advertised and how that advert should be published. Those provisions, again, are about ensuring openness by advertising vacancies and encouraging applications from beyond these shores. To refresh members, the current criteria to be met for appointment as Chief Constables include: that an applicant must have held the rank of Assistant Chief Constable or above; that an applicant must have held that senior officer post for at least two years; and that the posting must have been in some other police force, or the British Transport Police or while engaged in relevant service within the meaning of the Police Act 1996. So,

you can see that three variables are brought into this important criterion. An indication of the comparable positions in England, Wales and Scotland was in your paper from June.

The thinking behind the criteria, which, you will understand, is drawn from Patten, is to ensure that the experience of operating in a senior policing role is gathered during service at a senior policing position, and that those broader aspects of knowledge and experience of policing are required to reflect the skills and wider experience of policing, which were identified at the time of the Patten commission. The requirement for experience outside of a single police service in notifying a vacancy also prevents a narrow, inward-looking search being carried out and any accusations of unfairness or nepotism being levelled at those appointing a new Chief Constable. It also opens the doors to a wider pool of potential applications from senior officers who may be able to bring a wider, broader and appropriate range of skills to the Police Service of Northern Ireland than those that are purely and solely encountered here. The current criteria, therefore, encourage officers serving here to seek and acquire the broader policing experience, skills and practices that reflect modern policing, and to take those back into Northern Ireland as applicants for the role.

The requirements that I have outlined are minimum requirements that are set down for the Policing Board when it is looking for a new Chief Constable. You will note that they do not specify any personal or professional skills or qualifications, but the Policing Board can, and does, add its own requirements. For the most recent vacancy that was advertised, which I appreciate that you will be aware of, there was also an issue that they should have completed one of a number of senior police leadership roles that I am happy to detail, should the Committee so require.

The general provisions associated with appointing police officers are part of the generic expectations that you would have in joining any police service: age, fitness, competency in written and spoken English, numeracy, character, nationality and a clear criminal record. All of those would have been met on joining the Police Service of Northern Ireland as a trainee, prior to attestation as constable.

In closing, just as a final recap about when this may have been looked at before, there was a review in 2008. The current criteria were set in regulations in 2005. The 2008 review agreed that no changes to the criteria were required. In 2006, a request from the board led to consideration of a change in the criterion requiring at least two years' experience as an ACC on another force, but removing this provision was not generally supported within policing. Following further consideration, the board remained content to retain the current criteria. The current provisions, therefore, prevailed when the present Chief Constable, Mr Matt Baggott, was appointed in 2009.

So, back to the start again, Mr Chairman. The reform programme going on in England and Wales, particularly around policing leadership and its efficacy, including increased transparency and better accountability, are framing the Minister being minded to address this, particularly from the PSNI's perspective. We will be grateful for the Committee's views as to the qualities and experience that members deem necessary or desirable to become a leader of the PSNI.

**The Chairperson:** Thank you. You indicated that there were differing views — were they in the Police Service or Policing Board? — in respect of what, to me, is the key issue around the two years' experience in an outside police service. That seems to be really what we are talking about here. Did that view differ within policing or the board?

**Ms Warde-Hunter:** My understanding is that there was a spectrum of perspective within the board, but I will happily turn to Walter on that. Is that your understanding, Walter?

**Mr Walter Myles (Department of Justice):** We do not have a lot of detail of who thinks what, but the board said that it generally did not have a fixed view one way or another on that point. That may be something that the Minister speaks to it about the next time that he meets it, just to talk over what its issues are. The Minister is not trying to impose anything on the board. He is just saying, "If you want to have a look at it; let us know what you think."

**Mr Wells:** I presume that there is no difficulty if someone who has had all their experience in Northern Ireland, or any constabulary, in moving to another for the relevant two years' experience. That is quite a regular event.

**Ms Warde-Hunter:** I imagine that, were the appropriate vacancy to become open in another force, people would be eligible to apply for it. However, am I picking up something else that you are getting at?

**Mr Wells:** No. Well, the argument could be made that those who worked for only one constabulary could be precluded from applying for a position in Northern Ireland. But they know the rules, so if they have the aim in life to become a chief constable, steps can be taken relatively easily.

**Ms Warde-Hunter:** Yes. Can I just refer to Walter, briefly, on some of the changes that have been happening in England and Wales? Are you looking at this, Mr Wells, globally — in the UK perspective — or purely from Northern Ireland?

**Mr Wells:** Purely Northern Ireland. In other words, should someone wake up every morning and say, "I wish to be the Chief Constable in Northern Ireland", can they take the steps to become so?

**Ms Warde-Hunter:** They would be aware that, since this criterion exists and has done for some time, that that would be part of the career path that they aspire to. Clearly, they would then wish to seek experience in another force.

**Mr Wells:** Is there any evidence that our regulations have prevented there being a wide range of suitably qualified candidates? Has there been a very short shortlist, as it were, because of this? Or have we been able to attract a good spectrum of applicants?

**Ms Warde-Hunter:** I think we are in a unique position in appointing a Chief Constable because of it, to be honest. However, if you look at it, it is not a requirement to avail oneself of a position as an existing ACC or for the DCC role — is that correct, Walter?

**Mr Myles:** That is correct.

**Mr Wells:** But on the occasion when we have a vacancy for chief constable, are we attracting applications from a large pool of suitably qualified police officers?

**Ms Warde-Hunter:** My understanding is that, on the basis of the current criteria, we did attract that on the last occasion.

**Mr Wells:** Could it be argued that someone who has only served in one constabulary does not have the full breadth of knowledge required? People who have only worked for the one force tend to be quite insular. Is it not better to have someone who has wider experience than that, no matter where it is from?

**Ms Warde-Hunter:** Referring to the time when that emerged as a recommendation from Patten, that was the strongly held feeling, which is why these criteria came into effect then. The Minister is considering whether it is timely to reflect on that issue. As I said in my introductory remarks, it was previously reviewed in 2008. The issue is whether it is timely, five years hence, to review it again.

**Mr Wells:** There seems to be no clear advantage of doing this, apart from that we should rethink it.

**Ms Warde-Hunter:** The point is that it has changed in England and Wales, and that is what the Minister is trying to do by looking at the broader picture. That is why I was referring to the global picture for UK policing. There has been a shift.

**Mr Wells:** In the English situation, I can understand why that is done. However, the Chief Constable role in Northern Ireland is a particularly peculiar and unusual one that perhaps requires the successful applicant to be able to see the wood for the trees and to have much wider experience. We are not yet a normal enough society to simply follow Kent or Surrey.

**Ms Warde-Hunter:** In as much as this is exactly the process that we wanted to draw out, I welcome your views, Mr Wells. Thank you.

**The Chairperson:** I take it that in the previous competitions, where we had Hugh Orde and then Matt Baggott, people from Northern Ireland applied.

**Ms Warde-Hunter:** I will have to come back to you on the detail of that.

**The Chairperson:** Obviously, some will say that the last two Chief Constables have not been from Northern Ireland and that it might be nice or appropriate for someone from Northern Ireland to get the job. I want to know whether the criteria precluded Northern Ireland people from applying for the job in those two competitions. I suspect that they did not, but it would be helpful to know.

**Ms Warde-Hunter:** I defer to Walter, but I am happy to provide you with the detail on that.

**Mr Myles:** On the Hugh Order appointment, there were two internal Northern Ireland candidates. The criteria do not stop people from Northern Ireland from applying; they allow them to apply if they meet the criteria. If they can get the two years' experience at ACC level somewhere, they are eligible to apply. So, the criteria do not specifically exclude people from Northern Ireland; they include those who meet the minimum requirements. There were two candidates from Northern Ireland in the Hugh Orde competition.

**Mr McCartney:** Patten did not specifically say that you needed two years' experience elsewhere, did he?

**Ms Warde-Hunter:** The point that I was trying to make about Patten, which I glossed over in my introductory remarks, was that his report referred to the fact that it was normal in Britain for police officers to have served in more than one police service before reaching chief officer rank. The commission specifically identified that as a weakness for us, because most chief officers here did not have that wider experience. The concern at that time was that that meant there was an inward-looking piece on policing, so the commission made a number of recommendations that were designed to extend policing beyond these shores. There was a particular focus on the benefits of the interchange that you get when you move across different organisations. So, it may not have emerged as a precise criterion, but the whole context was about trying to find a better way to give that broader perspective.

**Mr A Maginness:** I want to intervene, because an interesting point has been raised. In Britain, there are something like 26 constabularies, and formerly in Scotland there were eight. So there will be a larger number of officers at ACC level in Britain, whereas in Northern Ireland you have a much more limited pool at that level. So, in a way, you are not comparing like with like. Perhaps that would be an interesting avenue to explore. I am sorry for intervening.

**Mr McCartney:** No, that is fine. I assume that, whatever criteria are used, they will be equality proofed. There might be an issue of equality of treatment for someone who feels that he has a career in the PSNI, is competent and has the skills, yet someone insists that he has to go somewhere else. In other words, we are losing two years' service from a good police officer, who has to go somewhere else to fulfil the criteria to become the top police officer here. Will there be an equality impact assessment of the process?

**Ms Warde-Hunter:** We will certainly take that point on board, Mr McCartney. It shows the rigour of the consultation exercise that we have come to the Committee to get your views.

**Mr Dickson:** My question is really in the same area. Mr Wells has probably asked most of the questions. My question is about the barriers to current Northern Ireland employees of the Police Service becoming Chief Constable. What you are saying to us is that that has not limited the pool of applicants in the past. However, Mr Maginness raised an interesting point by referring to the number of other constabularies in the rest of the UK. That number is changing and there may be arguments for reducing it, although presumably the ACC role will still be there, no matter how police services are organised across the United Kingdom.

My major concern is that the rule becomes a barrier to officers who know the PSNI and have worked their way up through the ranks. But if it is not a barrier, it is also a very strong positive as well, because it demonstrates that you have external experience and, as you say, you have marked it, probably fairly early in your career path, as something that you must do to get in that experience.

**Ms Warde-Hunter:** Members will understand the delicacy of this. We are talking about a very small pool of people, so I will try to be delicate as to how I respond. Clearly, the issue is about the existing criteria, as they stand at the moment. On that specific one, some people would be eligible and others would not. That is without getting into any specifics. If one removed that particular criterion, I suspect that we would find more local people in the pool. In response to a number of questions from

members, that is perhaps one of the merits in moving to that. It is clearly why it must be considered, to take account of what Mr Wells said earlier about the importance of breadth.

**Mr A Maginness:** Let me just come back to the point I made: is it relevant? I do not know whether it is. It is just that there is a wider spread of police services or constabularies throughout Britain, and it gives a greater opportunity to people to apply for deputy positions. I am not so certain that many people from Northern Ireland, or from the PSNI, apply for positions in English, Welsh or Scottish services.

**Ms Warde-Hunter:** Yes. I am afraid that I do not have the statistics on that. Even notwithstanding the small group, I personally know someone who has moved from an ACC position in one force to another, 60 or 70 miles down the road, as a DCC. However, there is an issue. We have a strip of water here and perhaps other considerations separating us from Britain. In short, there is one thing that I might offer, if it would be helpful. Would you like us to crystallise precisely what the situation is in England and Wales, or are you content that we have offered you enough?

**The Chairperson:** Mr Maginness might find that helpful for his own consideration, so if you can do that —

**Ms Warde-Hunter:** I will turn to Walter to answer that, because he knows precisely where we are and what they are doing in England and Wales.

**Mr Myles:** The criterion that we brought in for the two years' experience at ACC level outside of that particular police force was to reflect the position in England and Wales before 2005, when we made the change. We were not so much going in line with them, but, in line with Patten's recommendation, it was felt to be reasonable to get that experience before you became the head of the Police Service here. England and Wales have now moved away from that for policy decisions, as much as any, in that the Home Office is removing itself from the process as much as it can. It has appointed police and crime commissioners and is giving the police and crime commissioners as much power as possible to manage their police service, their funds and the chief constable. They now have the power to appoint the chief constable. They debated the issue of service outside the police force long and hard, and removed it. However, they replaced it with a committee that has to rubber-stamp all appointments to ensure that things are carried out in a fair manner and that proper guidelines are followed so that they do not automatically promote their friends and colleagues. They have also given them the power to appoint the chief constable themselves, and the chief constable then appoints his own deputies and assistant chief constables. So, the process is very much moving away. They are also looking at other reforms that might be part of what the Minister wants to look at to see how far we want to go with this.

The criterion for the two years outside that particular police force was removed after a lot of thought, and not everybody was happy about it, for many of the reasons that you have expressed yourselves. However, they did not just remove it; they replaced it with a requirement that officers must have certain qualifications and must have reached a certain level of achievement within the national standards for senior police officers. To be eligible there, there are different criteria. They wanted to have qualifications that will stand by you, as a chief officer, and show that you have got the training. Those things take maybe two years to achieve. On top of what we have, our Policing Board has the freedom to ask that officers who apply have any of those additional qualifications. At the minute, we are looking at whether you believe, in your advice to the Minister, that the minimum criteria set is still appropriate or if there is something else that he should look at, because the Policing Board has the power to add to the minimum criteria, both for shortlisting purposes and to identify particular skills or applications from a chief officer with experience in a particular field.

**Mr A Maginness:** How many ACCs are there in the PSNI?

**Ms Warde-Hunter:** Five.

**Mr A Maginness:** The other interesting thing might be how many personnel there are in each constabulary in Britain, because the PSNI has a substantial number in comparison with other services in Britain.

**Ms Warde-Hunter:** Excuse me, Mr Maginness, do you mean how many personnel at chief officer level?

**Mr A Maginness:** No, actual police officers.

**Ms Warde-Hunter:** We can easily crunch those figures for you.

**Mr A Maginness:** An ACC in some constabulary in England may not encounter the same sort of responsibilities that you might encounter here.

**Mr McCartney:** To my recollection, it was not a Patten recommendation that it had to be two years. I stand to be corrected on that. Notwithstanding the particulars of here, which we know, it is difficult because, in other professions, you do not have a criterion that the Lord Chief Justice, the Chief Medical Officer or the Attorney General has to spend two years somewhere else. We are coming towards a situation where we have to look at that. If a person is capable of doing the job, it is a big assumption to say that they have to spend two years elsewhere to make themselves more competent at the job. I do not see the rationale or argument for it.

**Ms Warde-Hunter:** I am happy to come back to you on that point specifically, but may I just refer to something else for one moment? The key point that I was trying to make is that there was an analysis of the direction of travel, and that manifested itself in a specific bit. However, I take your point, Mr McCartney, and I will verify that.

**Mr McCartney:** Even the wording of the briefing document is around the ethos, and that reinforces my position. If it had been a recommendation, I think that it would have been in bold type and had a number.

**Mr Myles:** The Patten commission wording did not say, "Two years as an ACC in another police force". It was a strong recommendation that every chief officer in England and Wales got experience outside their own police force before being appointed. In applying that in the Police (Northern Ireland) Act 2000, some lines had to be drawn somewhere. At that time in England and Wales, it was two years as an ACC outside their police force. We applied the same rules, because getting experience at a senior officer level was in the spirit of Patten. You may think that two years is inappropriate, too long or too short. You may think that appointment at an ACC level is too low or that it should perhaps be at a DCC level or even lower. Those are judgements that the Minister will make if it is felt that some sort of experience somewhere is a mandatory requirement, or if it is felt that no experience anywhere is necessary, that can be removed. You are quite right: the wording is not specifically Patten, but the idea behind the wording was in line with what happened in England and Wales at the time and in the spirit of Patten's recommendation.

**Mr Lynch:** This is just a small point. Does the requirement to have two years' experience outside not discriminate against women, who may not be able to move as easily as men?

**Ms Warde-Hunter:** That might be a very specific consideration. I think that Mr McCartney has already referred to the issue of equality proofing.

**The Chairperson:** OK, members? Obviously, we have been asked whether we as a Committee can express a view on this. I do not know whether, at this stage, parties are able to indicate their views. I know that Jim can indicate our party's view.

**Mr Wells:** I must say that we would have great problems with any change in the system. I have had disagreements with just about every Chief Constable since the Boer War — I have been around a long time — but I accept that, under the old scheme, we have attracted Chief Constables of the highest calibre. It has been a mixture of those who have come across from England and home-grown talents who have done the two years in GB. I think that we have to ensure public confidence in the process. It is a Chief Constable role unlike any other, probably, in Europe. Therefore, I do not think that setting a high barrier is a bad idea. I think that someone who comes in having done two years outside brings a fresher approach than perhaps someone who has been embroiled in the Northern Ireland context for their entire career. I think that policing in Northern Ireland has benefited from the Matt Baggotts and the Hugh Ordes of this world who have come with a different perspective. I think that it is interesting that Hugh Orde, having been appointed under the system, went on to become the chief executive of the Chief Constables' association in the UK. That is an indication of his calibre, even though I had many disagreements with him.

If I was in GB and had taken that leap of faith in going from, say, Devon to Newcastle and had done my two years, I would feel a bit cheated if the rules were then changed and I had not needed to do that at all. People regularly do that to get the relevant experience. On that basis, it is not broken and does not need to be fixed. It has served the country well. I think that we would be very uneasy about any change.

**The Chairperson:** I am not sure whether anyone else is able to indicate or whether parties will privately respond to the consultation. Mr Wells has obviously outlined my party's position.

**Ms Warde-Hunter:** In respect of the timeline, we would be most grateful to the parties if, through their Members, they could respond to us within the next three weeks, based on this briefing. Is that doable? OK? Thank you very much.

**The Chairperson:** Just before you go, does the Minister need to do a public consultation on this, or is he purely getting soundings from the parties so that he can make a call on whether or not to proceed with changing the regulations?

**Ms Warde-Hunter:** It is the latter at the moment. He is effectively doing a targeted consultation, and then he will take stock. No doubt he would welcome observations if you felt that there was a need for broader engagement.

**The Chairperson:** OK. Thank you.