



Northern Ireland  
Assembly

Committee for Justice

# OFFICIAL REPORT (Hansard)

Review of the Code of Practice for the Appointment of  
Independent Members to Policing and Community Safety  
Partnerships and District Policing and Community Safety  
Partnerships:  
Department of Justice and Northern Ireland Policing Board

10 September 2014



# NORTHERN IRELAND ASSEMBLY

## Committee for Justice

Review of the Code of Practice on the Appointment of Independent Members to Policing and Community Safety Partnerships and District Policing and Community Safety Partnerships:  
Department of Justice and Northern Ireland Policing Board

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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:**

Mr Ronnie Armour	Department of Justice
Ms Mary Lemon	Department of Justice
Ms Marie Patterson	Department of Justice
Ms Amanda Stewart	Northern Ireland Policing Board

**The Chairperson:** We move on to the review of the code of practice on the appointment of independent members to policing and community safety partnerships (PCSPs) and district policing and community safety partnerships (DPCSPs). On 2 July, we agreed to look at this. Officials from the Department of Justice and the Policing Board are here with the results of the consultation. There is also the revised code of practice.

We have with us Ronnie Armour, deputy director of the community safety unit; Mary Lemon, head of the partnership development branch in the community safety unit; Marie Patterson, from the partnership development branch; and Amanda Stewart, head of the partnership branch in the Northern Ireland Policing Board. You are all very welcome to the meeting, which is being recorded by Hansard. I hand over to you, Ronnie.

**Mr Ronnie Armour (Department of Justice):** Thank you, Mr Chairman. I am grateful for the opportunity to attend the Committee and to brief members on the outcome of the Department's consultation on the code of practice covering appointments of independent members to the policing and community safety partnerships and the district policing and community safety partnerships. The draft code that is before you is made under paragraph 6(2) of schedule 1 and paragraph 6(2) of schedule 2 to the Justice Act (Northern Ireland) 2011. Put simply, the code gives guidance to councils

and the Policing Board on their respective roles in the appointments process. It has been necessary to revise the draft code in advance of the next recruitment process for independent members, which is due to commence later in the autumn. The recruitment process will lead to appointments being made in time for the reconstitution of PCSPs and DPCSPs on 1 April 2015, in line with the reform of local government. Preparations for that process are being made by the Policing Board, but it is necessary to have the code of practice in place before the exercise begins.

With the agreement of the Committee, the Department published a draft code for consultation in March of this year. In preparing the draft, officials took cognisance of lessons learned following the previous recruitment exercise and, in particular, the advice provided by the impartial assessor appointed by the Policing Board to oversee the process. We also took advice from local councils.

Twenty-nine responses were received to the consultation, and the paper that we submitted to the Committee in June sought to summarise those contributions that related specifically to the draft code. A number of comments were made about the process as opposed to the code, and it is important to make that distinction. Having reflected on the contributions received, we have sought to clarify a number of issues in the code and have, at the request of consultees, provided an annex, summarising the relevant Justice Act provisions. In addition, we will also provide an easy-to-read leaflet that summarises the code.

Four areas of concern were raised with us: first, how representativeness can be achieved in the context of larger council areas; secondly, how the process can be made transparent or more transparent — for example, could elected members from one council area recruit the independent members from a neighbouring council?; thirdly, whether the minimum age requirement for independent members should be reduced to facilitate the inclusion of more young people; and finally, whether it is appropriate to disqualify automatically a candidate who has had a prison record and a period of five years has not elapsed since he or she was released, on either remission or licence.

In our paper to the Committee, we sought to summarise the Department's thinking on those issues, but I will briefly rehearse that again. On the issue of representativeness, as we indicated in a paper submitted to the Committee on 10 June, we believe that there is sufficient scope in the Justice Act to allow PCSPs and DPCSPs to secure representativeness through the appointment of committees, which could be established by those PCSPs along thematic or geographical lines, or for a specific purpose; for example, a consultation or to arrange an event.

There are sufficient checks and balances in the process to facilitate transparency and secure public confidence. Consequently, we do not believe that elected members from one area interviewing applicants from another area would necessarily improve transparency.

On the question of reducing the minimum age for applicants, the Department very much recognises that young people can and do make a valuable contribution to policing and community safety. Consequently, we have strengthened the code to highlight young people as being one of the groups that should be targeted by the Policing Board during its awareness-raising campaign.

On the specific question of a minimum age requirement, in line with the Justice Act, the code does not set a minimum requirement. It has, however, been the practice in running the process to adopt 16 years as the minimum requirement. However, that is not a requirement of the code or the legislation. As members know, guidance from the Electoral Office states that a person must be 18 to be eligible to stand as a candidate in local government elections.

Finally, on the question of automatic disqualification, we sought advice from the Departmental Solicitor's Office (DSO) and were advised that it is reasonable to impose a proportionate disqualification period for what is an important public service role. Having considered all the issues, the Minister has concluded that the five-year disqualification period set out in the Justice Act should remain unchanged.

I am conscious that that was a very brief introduction to the code. My colleagues and I are happy to take any specific questions that you may have.

**The Chairperson:** OK. Thank you. I have just a couple of quick questions, Ronnie.

The process, as I understood it, was that independent members went to the Policing Board, and the policy was "No name, no score". It was very much about representativeness. How has making those people aware at the Policing Board level changed the score and who the individuals are?

**Ms Amanda Stewart (Northern Ireland Policing Board):** You will recall the discussion that we had the last time on merit. The code makes provision for the Policing Board to receive scores. When it was discussed as part of the consultation at the Policing Board, it was the board's view that its primary responsibility was to achieve a PCSP that was representative but that it would consider scores where a number of candidates would provide that representation. The scores would be made available to the appointment panels. So, the code requires the councils, this time and for the first time, to provide us with an alphabetical list of candidates who are deemed suitable for appointment, together with their scores. However, that should not affect the board's statutory responsibility to ensure that it is representative. That is the primary responsibility for the board.

**The Chairperson:** OK. So will those board members who are part of that process now know the names?

**Ms Stewart:** They will know the scores. When the impartial assessor undertook a review of the last round of recruitment, she made a recommendation to say that there was no need for anonymised application forms. The board accepted that recommendation, and it will be incorporated into the new process this time.

**The Chairperson:** Just so that I understand it, where a board needs to correct, say, an under-representation of young people but there may be three young candidates, could it pick one of those three, with the scores being provided in those circumstances?

**Ms Stewart:** Yes, that is right.

**The Chairperson:** Would it be the same in the case of females?

**Ms Stewart:** Yes.

**Mr Armour:** It is in paragraph 3.63.

**The Chairperson:** It does not happen as often and as an automatic —

**Ms Stewart:** It happens only in the situation where there are a number of candidates, whereby, as part of the decision to distinguish them, the scores would be considered. It happens on occasion that there are a number of candidates who are equally appointable on the basis of representation. In this case, the code allows us to say to board panel members who are making those appointments, "Here are the scores of the individuals whom you are currently considering."

**Mr Armour:** Paragraph 3.63 of the code deals with that. I say that just for ease of reference.

**The Chairperson:** Is there anything in the code that deals with the situation where people are appointed and then do not do their job? It has been a complaint in the past that people have been appointed but do not show up to meetings. Some maybe do not show up at all for over six months, but they cannot be removed.

**Mr Armour:** Chairman, the role of an independent member is important, and I think that it is worth saying that it should not be entered into casually. Members are expected to serve in accordance with their terms and conditions of appointment. Provision is made in the Justice Act and carried through in the code for the removal from office of a member by the Policing Board or, indeed, by the council with the board's approval, if they are satisfied that he or she has failed to comply with those terms and conditions. Amanda might want to comment on what the practice has been. I know that it has been an issue.

**Ms Stewart:** It has been an issue in a small number of PCSPs, and we are talking about a small number of members. The approach taken by the board has been to try to get those independent members to attend and to identify the reasons for their non-attendance. We developed a policy on the removal of members, and we put in that policy a provision that the board could consider the removal of members under the Justice Act. That gives us the ability to remove a member if we can demonstrate that they are unfit or unable to perform their function. The fact that they are not attending gives us that provision. We have made that in line with what councillors are required to do. It states in the policy that, if members have not attended for three consecutive meetings without the chair's permission, the

board would consider the removal of such a member. We have had a couple of instances where we have brought it to a member's attention that they are not attending. They have either resigned, or we have gone into a process to try to remove that member or to get them back to attending again. But, of the 238 members who were appointed, we are talking about one or two individuals. We had a case where a member did not take up the appointment and took a legal challenge against the board based on that appointment. We could not remove that member while that case was running, but we sought to remove the member once it concluded.

**Mr McCartney:** Ronnie, you addressed this point to some degree in your presentation, but the issue concerns young people in particular. We talked about the experience locally and the success of those bodies. To me, one of the successes is the fact that the PCSP has started to have themed meetings rather than allowing people to think that it was having question-and-answer sessions all the time.

I welcome that there is no age limit. I do not think that it should be interpreted as meaning that you have to be over 16. If it does not say 16 years of age, and a young person 15 years and nine months old applies, they should be accepted. Given the lifespan of the PCSPs, you could lose people between that age of 15 and 19 if they are not selected. I think it is an opportunity. The police locally will tell you that the biggest number of people with whom they come into contact are people of that age, so they are the people who should be helping us to shape policy for the future. So, I welcome that. A 16-year-old has a different set of skills than perhaps a 35-year-old or a 40-year-old, and we have to allow provision for that, as it is particularly important.

**Mr Armour:** As I said, it is not a requirement for the code in legislation. It has been the practice in the past. I think that the Policing Board has received a detailed submission from the Children's Law Centre in the past 24 hours. We will want to discuss that further with the board and, obviously, take account of what you and other members said today.

**Mr Anderson:** Thank you for your presentation. Amanda, the Chair asked you about non-attendance, and you said that there were very small numbers and that you had difficulties with certain members, such as independent members. Have you ever removed anyone for non-attendance?

**Ms Stewart:** Yes, we have.

**Mr Anderson:** So, you have that process. Did you find that the process that you did it with was quite acceptable?

**Ms Stewart:** Yes.

**Mr Anderson:** So, you did not find that it was a difficult process in which you faced some opposition to doing it?

**Ms Stewart:** No, none whatsoever. The difficulty that we faced was actually getting to the point where we could consider that because of the legal case that was pending against us. The process was then straightforward, however. We got into correspondence with a couple of members. From memory, one of those members resigned before we actually took a decision. As soon as we started the process, they resigned. Another member took up their appointment. I do not have the specific details in front of me, but there have been at least six or eight cases that have gone through the Policing Board during the lifetime of this PCSP, where for various reasons — not just attendance — we have removed members from office or started the process that has led to their removal.

**Mr Anderson:** So, you are happy that that process is in place and can be used again.

I just want to tease out something that I talked about before. Is it possible for a serving councillor to be on another PCSP? It happened in the past, did it not?

**Ms Stewart:** It did happen in the past. There was discretion in the code, although the decision at the Policing Board was, by and large, that it would not appoint serving councillors. There has been an amendment to the —

**Mr Anderson:** Has that loophole been closed?

**Ms Stewart:** It has been closed, yes.

**Mr Anderson:** Has that caused a lot of discontent, in the sense that it sort of skewed the political representation and balance of the PCSPs? If someone came from a political party as an independent to sit —

**Ms Stewart:** There is nothing to prevent someone from a political party applying.

**Mr Anderson:** No, I understand that, but a sitting councillor —

**Ms Stewart:** Sitting councillors cannot —

**Mr Anderson:** — from one district cannot sit on another one. If you are a serving councillor, you are automatically barred, is that right?

**Ms Stewart:** There was an amendment to the Local Government Bill that closed that loophole. It prevents a serving councillor on any of the 11 councils, as it will be, applying for membership of any PCSP.

**Mr Anderson:** It was a loophole, and I am pleased that it has now been closed.

**Mr Armour:** In answer to your question, the issue has not been specifically raised since the loophole was closed.

**Mr Lynch:** I have one question. Some people might feel that the appeals process denied them a place on the PCSPs. What is the process of appeal, or do they have one?

**Mr Armour:** That is an issue that they would raise in the first instance with the Policing Board, which, in turn, would look at it. Someone might take it to a tribunal as the ultimate court, which people have done, but the appeal mechanism would be to the board in the first instance.

**Mr Lynch:** Have people taken cases?

**Ms Stewart:** We have received complaints as opposed to appeals. I suppose that you could look at a complaint as an appeal. Even if a complaint was upheld, there would be no provision for the board to make an appointment, because, in a sense, the positions have been filled and each of the PCSPs has a restriction on the number of independent members that can apply. There is provision in the code for an independent complaints monitor outside the board, and we seek to establish that each time that we start the recruitment process. People can take a case to a tribunal as well, which is the ultimate appeal.

**Mr Lynch:** OK. Thank you.

**Mr A Maginness:** I am just trying to understand the objective of the representativeness. Is it that, where you have council members who are, say, predominantly unionist or predominantly nationalist, you want to balance that out across independent members to have a greater representation of, say, nationalists or Catholics or the other way round? Is that what it is about? What is its objective?

**Ms Stewart:** The objective of the representativeness is to make the PCSPs as representative of the district as possible.

**Mr A Maginness:** Of the district.

**Ms Stewart:** Yes. So, in this case, it would be the council district, and, in Belfast, it would relate to the police districts.

The process for doing that is that we ask our NISRA colleagues to look at the demographic profile of the council used in the census figures. We then look at the profile of the elected members who the council has selected to take up their positions, and we then identify where the gaps are to make it representative of the district.

**Mr A Maginness:** So, you are filling in those gaps; that is its purpose.

Do you know what percentage of women right across Northern Ireland are represented on these bodies?

**Ms Stewart:** I do not know. I would have to get that information for you.

**Mr A Maginness:** Do you aim to get a regional representation in that sense? I do not know how many women make up the population in percentage terms, but let us say it is 50%. Did you try to get 50%?

**Ms Stewart:** We did. From memory, we got regional representation of women, but there was still under-representation in a couple of PCSPs. Part of the board's challenge is that councils' profile has typically been male dominated, as has the membership of PCSPs. So, in a sense, when the board makes up the panels, there is certainly a perception out there that, if you are a male, you will not be appointed. Some people have said that to us. We try to make it as representative as possible. In some areas, there was not full representation of women, but I recall from the last time that we met the regional Northern Ireland representation figure.

**Mr A Maginness:** So, you have met your target on that.

Has there been much turnover? I know that you mentioned people who have not attended and so forth, and you have dealt with that, but has there been a turnover of people simply saying, "I want to move on to do something else"?

**Ms Stewart:** There has been a turnover. The code allows us to keep a list of reserve candidates, so right up until the date of the local government election, when we are not allowed to fill vacancies, we have filled vacancies. It has probably been consistent with the old DPP model. There were a couple of PCSPs for which we completely exhausted the reserve list. From memory, we did not have any reserve candidates for Coleraine, Moyle and Omagh, so we needed to go back out and run another competition. Marginally more people have left the PCSPs than maybe left the DPPs in the past. The four-year term is a long time for some people. We are working with the youth advisory panel and the board on the issue of young people, and we are looking at the implications of appointing young people for a four-year term, given that they may move away to university.

**Mr A Maginness:** Might it be that, in the next recruitment, you will have a longer reserve list?

**Ms Stewart:** We try to keep as much of a reserve list as possible, but, in some areas, we did not get a huge number of applications. From memory, in Moyle we had maybe two people on the reserve list from the appointable pool that came back from the council.

**Mr A Maginness:** Would you say that the turnover is around 10%?

**Ms Stewart:** It is probably about that.

**Mr A Maginness:** I have a question about another issue that is much more contentious. The Chair can rule me out of order if it is not relevant to your presentation. In certain areas, people, including independent members, have been identified with paramilitary organisations, and it has become a subject for some public discourse. However, despite the clear identification of people — I will not name names — it seems as though no one is capable of doing anything about their representation as independent members. Has the Department of Justice given any consideration to that particular problem?

**Mr Armour:** As members will know, Chair, upon application, individuals are required to sign a declaration against terrorism, and, after successful interview, they then undergo a criminal record check. The Justice Act disqualifies individuals who have been convicted, imprisoned or detained in the five years prior to their application from holding membership following appointment. Following appointment, members can be removed if, in the case of an independent member, they fail to disclose a conviction, they have demonstrably acted in breach of their terms of their declaration against terrorism, and/or they are convicted of a criminal offence after appointment. It is not the Department's role to remove them, but I certainly take your point about consideration of that issue.

That would require legislative change. We are not proposing legislative change at the moment, so in that sense, the Department is not bringing forward proposals on that. During the consultation period, it was not an issue for the code and it was not an issue that was raised with us. Amanda may want to



speaking on this, but if the board were to move to remove someone, it would need clear evidence to do so, and it would need to be in a strong, robust position to defend a legal challenge. So, hopefully, that answers the question about the Department's position.

**Ms Stewart:** I do not have anything further to add. It has come up on a couple of PCSPs, as it would have come up in DPPs previously, and the issue goes back to what Ronnie said, in that there needs to be clear evidence to support the board's removing a member on any basis, not just on this, otherwise we leave ourselves subject to challenge.

On the specific case that I recall that came before the board, all that we had was media speculation, and the police told us that it was not sufficient grounds to consider the member's removal.

**Mr McGlone:** Thank you for being with us here today.

A thought occurred to me that was obviously inspired by experience, although maybe some of it is anecdotal. Has the Department, the Policing Board or anybody done an audit of the PCSPs to see how effective they are? Without being too prejudiced about it, I reckon that it would come back pretty piecemeal.

**Mr Armour:** We currently have an ongoing review of effectiveness, which is led by the Criminal Justice Inspection. Earlier this year, we invited it to come earlier than planned to look at PCSPs and to give us a report on their effectiveness in time for the relaunch next April in the context of local government reform. We are still waiting for the final outcome of that. It is due later in the autumn, and I think that we are committed to coming back to the Committee at that stage with a report on the outcome. A review is under way, but it is not being done by either of our organisations. It is being done by CJINI, which I think will be extremely helpful to us.

**Mr McGlone:** OK. Thank you.

**The Chairperson:** Finally, say you get some names, and one is that of a young person, and you need to fill the spaces. Say there is a young male, there are five candidates and the scores are all released. What discretion does the board have to pick one out of that list and bypass an individual who has the top score?

**Mr Armour:** It is not an exact science, and it is a difficult issue and question. As Amanda indicated, in line with paragraph 3.63 of the code, the board would look at a range of representativeness issues. If it is difficult to distinguish between them, it would come down to the score that is being used. If you got down to the stage where they were all on the same score, that would be a difficult position for the board to be in. I think that it would ultimately have to take its decision based on the representativeness issue.

**The Chairperson:** The scores could be revealed to the panel, and there could be a young male, but one of the members of the panel knows that there is an individual, in, say, a working-class community where there are antisocial behaviour problems, who did not score particularly well but reached the bar to get appointed. There could be another young male in an affluent area where there is no real policing problem, and that knowledge of the appointing board is brought to their attention, so they say, "I think this is where the police need to be. There needs to be that community engagement". They may not have scored particularly well, but someone says, "I think it should be that person". Is that grounds? Is that representative of a social class issue that could be a justification for why you did not pick the top person?

**Mr Armour:** It is very difficult, and I think that the board would want to be very careful in taking that decision, given that the board is always vulnerable to challenge. Yes, we could reflect on the representativeness issue in the context of the young person and their background, but I think that, where you could not distinguish, you are down to scores at the end of the day. I appreciate that it is a difficult one and that the board would have to decide on the circumstances of the case.

**Ms Stewart:** In the last process, the board tried to look at getting representation from young people and from socially disadvantaged communities in particular. So, in a sense, it probably would factor as part of the discussion. It would not necessarily mean that it would make an appointment. It is not a scientific process, whereby you take a number of males and females and go to age categories. You could get to making an appointment and realise that you have not got representation from the

business community or maybe that you have three people from the business community. It may be that it is a rural community, and you realise that you do not have representation from the Ulster Farmers' Union or the Northern Ireland Independent Retail Trade Association, which put forward a number of people the last time. So, the board would get into that discussion as a panel. It cannot bring any knowledge of the candidate into the discussion. It can do so on the representation, but the independent panel member and the impartial assessor would intervene if the board members were to bring any knowledge of any candidates that they knew were working in the community in that instance. They would not be allowed to bring that in, because that would be seen to be additional information that was being supplied.

**The Chairperson:** What if that additional information would prevent an appointment, which would then have quite serious ramifications?

**Ms Stewart:** It would call the process into question and jeopardise its integrity. That is why there are so many checks and balances around independent panel members and the involvement of the impartial assessor in the process at both council stage and Policing Board stage.

**The Chairperson:** I suppose that, no matter what system you have, you will never get 100% perfection. I acknowledge that.

**Mr Anderson:** There is something that I meant to ask but forgot. When we talk about non-attendance, are we talking about designated members to the PCSPs? Are there any problems with the non-attendance of those people? I remember that, in the old DPPs and CSPs, there was difficulty with statutory bodies and so on failing to turn up. Not only that, but they kept sending different people at different times, which did not give a lot of consistency in what the community safety partnerships were intending to achieve at the time. Do we have a difficulty, or did we have, as Mr McGlone asked, any feedback from what is happening now about whether those people's attendance is causing a problem?

**Ms Stewart:** The Policing Board does not have any authority to remove a designated body. We can remove only either a political member or an independent member from a PCSP. So, the attendance policy does not apply to designated bodies. We have asked CJI —

**Mr Anderson:** I am asking if there was a problem. Did we identify any issues coming through from the PCSPs about the non-attendance of those people? What is the minimum number? Is it four? How many can they designate?

**Mr Armour:** Seven. In answer to your question, I am not aware of any specific issue. There may be issues with attendance across the 26 councils, but none has been specifically raised with the Department.

**Ms Mary Lemon (Department of Justice):** You are right that no specific issues have been raised about non-attendance. We are aware that there is maybe some work to do on fully utilising the potential of the designated organisations on the PCSPs, and that is certainly one of the issues that we want to look at when going into the new arrangements next year. We want to try to do some work to make sure that the potential of that partnership is fully realised, including with the designated representatives.

**Mr Anderson:** Is there a possibility that you could get some figures on those attendances to see if there was a difficulty? I am not saying that there was. I did hear that, on one occasion, one particular organisation was not attending quite so well. I am wondering whether that has happened across the Province and whether there is a possibility that some work needs to be done to ensure that they attend and take seriously the position that they are taking up, just like the independent members and the political members.

**Mr Armour:** I am more than happy to seek that information from councils and PCSPs.

**Mr Anderson:** They may have been very good, but we do not know that.

**Mr Armour:** Absolutely. I am more than happy to seek that information.

**The Chairperson:** Thank you very much for coming to the Committee. It has been very helpful, and we appreciate it.