

FROM THE OFFICE OF THE JUSTICE MINISTER



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Our ref: SUB-1444-2016

Paul Frew MLA
Chairperson, Committee for Justice
Room 242
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BT4 3XX

6 October 2016

Dear Paul,

**POLICING AND CRIME BILL: PROPOSED LEGISLATIVE CONSENT MOTION:
MARITIME ENFORCEMENT POWERS**

Thank you for your letter of 30 September regarding the proposed Maritime Enforcement Powers Legislative Consent Motion (LCM) for the Policing and Crime Bill. I am grateful for the Committee's constructive engagement on this important policy matter, the main purpose of which is to ensure that NI waters do not become a safe haven for those seeking to evade justice.

I would like to acknowledge upfront that the provision of information to the Committee on this matter has been less than satisfactory and I regret that you have had to seek further clarification on a number of occasions. I would like to assure the Committee that lessons have been learned and we will do better in future.

I can advise that engagement on the proposed LCM has now taken place at ACC level within the PSNI and that the Chief Constable is also sighted on the matter. My officials met with ACC Todd who has confirmed that the PSNI would welcome reciprocal maritime powers, including powers to cover circumstances whereby PSNI officers might enter other UK territorial waters in hot pursuit circumstances. In such circumstances, it has been

agreed with the Home Office and the Office of the Police Ombudsman for NI (OPONI) that OPONI would continue to have oversight of PSNI officers operating in England & Wales waters.

In relation to the specific questions in your letter, the PSNI have confirmed that, to date, there have been no cases where the PSNI has had to stop a hot pursuit operation because it would have resulted in officers going beyond Northern Ireland territorial waters. The PSNI has advised that previous equipment would not have made this possible, however, it is not believed that any such incidents have occurred.

In respect of the likely resources / funding implications arising from the PSNI being given maritime enforcement powers in hot pursuit situations, ACC Todd has confirmed that new boats were purchased by the PSNI in 2015 which are now capable of going beyond the 12 miles required to leave Northern Ireland waters. ACC Todd has confirmed that no new equipment would be required if these powers were enacted for the PSNI. I understand that the only identifiable cost at this time would relate to participation / training in any exercises arising as a result of the new powers; these are considered to be minimal.

You also sought clarification as to the legislative changes that would be required to provide accountability powers to OPONI and how these would be taken forward. My officials are working through the detail of changes to the Police (NI) Acts 1998 and 2000, and some associated subordinate legislation, which we believe would be required to clarify the OPONI powers of oversight. We intend that the Policing and Crime Bill would incorporate the required legislative amendments to ensure OPONI retains proper powers of investigation on these issues.

In terms of the specifics, we envisage a need to amend the Police (NI) Acts 1998 and 2000 to empower OPONI to investigate all officers when exercising the powers of a constable in NI water, and to enable OPONI to investigate PSNI officers when in other UK territorial waters. Full details of the proposed legislative amendments will be set out in the LCM memorandum.

I am grateful to the Committee for recognising the need to ensure that the Policing Board is content with the proposed accountability arrangements. Discussions have taken place with the Board's Chief Executive in respect of the proposed accountability arrangements. A paper has been submitted and will be considered at the Board meeting this morning. I will advise the Committee on the outcome of this at the earliest opportunity.

There is one other related matter on which I would wish to update the Committee. You will be aware, from both the oral briefing provided by officials and my letter of 21 September, that engagement has been ongoing with a view to reaching agreement around accountability in relation to Scottish officers. Regrettably, we have just recently been advised that the Scottish Government is not in a position to agree to the proposed model of oversight of Scottish officers by OPONI. We will continue to work with colleagues in the Home Office and Scottish Government to resolve this issue. In order to progress this LCM, I would suggest that the appropriate provision relating to the exercise of powers by Scottish officers in NI waters remains in the draft Bill, but on the firm understanding that those provisions would only remain when all parties are agreed on appropriate accountability arrangements.

I trust this provides the Committee with sufficient clarity on the outstanding matters to support further consideration of the proposed LCM.

Copies of this letter have gone for information to the Chief Constable; the Chair of the Northern Ireland Policing Board; and the Police Ombudsman.



CLAIRE SUGDEN MLA
Minister of Justice



**NORTHERN IRELAND
ASSEMBLY**

**MR PAUL FREW MLA, CHAIRPERSON
COMMITTEE FOR JUSTICE**

**Ms Claire Sugden MLA
Minister of Justice
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30 September 2016

Dear Claire

**POLICING AND CRIME BILL: PROPOSED LEGISLATIVE CONSENT MOTION –
MARITIME ENFORCEMENT POWERS**

At its meeting on 29 September 2016, the Committee for Justice considered your response dated 28 September 2016 providing additional information on the proposed Maritime Enforcement Powers Legislative Consent Motion for the Policing and Crime Bill.

Members indicated that they still did not have the necessary clarification to reach a decision on the proposed LCM and the Committee agreed to request the following further information:

- details of any case where the PSNI had to stop a hot pursuit operation because it would have resulted in officers going beyond Northern Ireland territorial waters;
- what implications, if any, there is likely to be for the PSNI in terms of additional resources/funding if maritime enforcement powers are provided to it; and

- clarification of the legislative changes required to provide the accountability powers to the Police Ombudsman, details of the amendments and how they will be taken forward.

In relation to law enforcement officers from any of the other UK jurisdictions exercising maritime hot pursuit powers in Northern Ireland territorial waters, the Committee appreciates that the Chief Constable would not have the opportunity to approve such operations in advance, as is the case with National Crime Agency operations for which he is accountable to the Policing Board. Some Members have however indicated that there needs to be an accountability mechanism to the NI Policing Board in respect of such operations and suggested this should take the form of retrospective accountability by the Chief Constable.

The Committee will give further consideration to the proposed Legislative Consent Motion on maritime enforcement powers at its meeting on 6 October 2016. Given the tight timescales involved, the Committee would appreciate the additional information and your proposals to address the issues raised in advance of that meeting.

Yours sincerely

Paul Frew MLA
Chairperson, Committee for Justice