

House of Commons  
Northern Ireland Affairs  
Committee

**GOVERNMENT RESPONSE TO  
THE COMMITTEE'S THIRD  
REPORT: THE POLICE  
(NORTHERN IRELAND) BILL**

Second Special Report of Session  
2002–03

---

*Ordered by The House of Commons to be printed 17 March*

---

HC 555  
Published on 21 March 2003 by authority of the House of Commons  
*London* : The Stationery Office Limited  
£3.00

## **The Northern Ireland Affairs Committee**

The Northern Ireland Affairs Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Northern Ireland Office; administration and expenditure of the Crown Solicitor's Office (but excluding individual cases and advice given by the Crown Solicitor); and other matters within the responsibilities of the Secretary of State for Northern Ireland (but excluding the expenditure, administration and policy of the Office of the Director of Public Prosecutions, Northern Ireland and the drafting of legislation by the Office of the Legislative Counsel).

### **Current Membership**

Mr Michael Mates, MP (*Conservative, East Hampshire*) (Chairman)  
Mr Adrian Bailey, MP (*Labour / Co-operative, West Bromwich West*)  
Mr Harry Barnes, MP (*Labour, North East Derbyshire*)  
Mr Roy Beggs, MP (*Ulster Unionist Party, East Antrim*)  
Mr Tony Clarke, MP (*Labour, Northampton South*)  
Mr Stephen McCabe, MP (*Labour, Birmingham Hall Green*)  
Mr Eddie McGrady, MP (*Socialist Democratic Labour Party, South Down*)  
Mr Stephen Pound, MP (*Labour, Ealing North*)  
Mr Peter Robinson, MP (*Democratic Unionist Party, East Belfast*)  
Rev Martin Smyth, MP (*Ulster Unionist Party, Belfast South*)  
Mr. Hugo Swire, MP (*Conservative, East Devon*)  
Mr Mark Tami, MP (*Labour, Alyn & Deeside*)  
Mr Bill Tynan, MP (*Labour, Hamilton South*)

### **Powers**

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No. 152. These are available on the Internet via [www.parliament.uk](http://www.parliament.uk).

### **Publications**

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at [www.parliament.uk/commons/selcom/niahome.htm](http://www.parliament.uk/commons/selcom/niahome.htm)

### **Contacts**

All correspondence should be addressed to The Clerk of the Northern Ireland Affairs Committee, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 2172/3; the Committee's fax number is 020 7219 0580; and the Committee's e-mail address is: [northircom@parliament.uk](mailto:northircom@parliament.uk)



## SECOND SPECIAL REPORT

**The Northern Ireland Affairs Committee has agreed to the following Special Report:—**

**Government Response to the Committee's Third Report: The Police (Northern Ireland) Bill, HC 555, Session 2002-2003**

The Committee published its Third Report of Session 2002-2003 on 28 January 2003. The response from Jane Kennedy MP, Minister of State, Northern Ireland Office, was received in the form of a memorandum on 13 March 2003, and is published as an Appendix to this Report.

### APPENDIX

1. The Government welcomes the interest shown by the Committee in the Police (Northern Ireland) Bill. We welcome in particular the endorsement which has been expressed within the Committee's report [published 28 January 2003] for the Government's approach and we note carefully their recommendations. This paper sets out the Government's considered response to each of the Committee's conclusions and recommendations.

2. Before turning to the specific conclusions and recommendations of the report on the Police (Northern Ireland) Bill, we would like to respond to the comments expressed within NIAC's Annual Report, regarding the speed with which the Bill was introduced to Parliament, which, the Committee believes, resulted in an inadequate consultation period.

**"The practice of publishing legislation in draft when it is plainly too late for the shape of the final Bill to be modified before introduction is pointless and frustrating. It also runs the risk of making the NIO appear only superficially interested in the concerns of those it is meant to serve. We call on the NIO to re-assess its priorities in preparing legislation, and to prepare its draft legislation in an organised manner which consistently allows for proper consultation."**

3. As we explain in our formal response to the committee's Annual Report, the Government has noted this criticism of the speed with which the Bill was introduced to Parliament. The publication - by Ministerial statement in the House of Commons, on the Internet and by press release - on 25 November 2002 of a set of draft clauses and some provisional text for consideration was not intended as publication for consultation. It was instead, as the accompanying material explained, intended to provide a useful but limited opportunity for discussion, in advance of the Bill being introduced to Parliament. In the event, Ministers held a series of meetings with interested parties to discuss the documents.

4. As the Committee noted, the Government was under considerable pressure to introduce the Bill as soon as possible, in order to give it an opportunity of receiving Royal Assent before the start of the campaign for the Assembly elections in May.

5. The Government shares the Committee's view that the consultation process serves a very important function. In this instance, however, due to the unprecedented time factors we have mentioned, we concluded that it would not be possible to publish the Bill for the usual consultation.

6. The remainder of this paper deals with the conclusions and recommendations of the report on the Bill.

**(a) We agree with the Minister that it is right to demonstrate trust in the Board's authority and ability, by giving it greater freedom to determine the pattern of its work. We welcome the very positive and committed approach to its work taken by the Board to date and urge it to continue in its determination to operate in a demonstrably accountable way (paragraph 12)."**

7. The Government welcomes the Committee's endorsement of the effectiveness of the Policing Board and their affirmation of the changes made by the Bill.

8. The changes made by clauses 1 and 2 of the Police (Northern Ireland) Bill reflect a further shift in the balance of the relationship over policing between the Secretary of State and the Policing Board.

9. The cross-community Policing Board came into effect on 4 November 2001 and has, as the NIAC report makes clear, already established itself as a dedicated organisation, committed to ensuring the effectiveness and efficiency of policing in Northern Ireland.

**(b) We understand the Government's position in affirming the role and authority of the Police Board. In view of the reasonable manner in which the Board has conducted its relationship with the Chief Constable, and given that the safeguard on the timing of reports will remain to protect sensitive investigations, we note the Government's proposal in respect of the disclosure of information (paragraph 19)."**

10. Again, the Government welcomes the support of the Northern Ireland Affairs Committee in relation to our position on reports, inquiries and the disclosure of information. The Committee is aware that provisions within the Bill [currently Clause 22] have altered the second ground for referral on which the Chief Constable can refer to the Secretary of State a request for a report, from "sensitive personal" to "sensitive personnel" and have dropped entirely the fourth ground for referral.

11. Since the publication of the Committee's report the Bill has been amended, in response to concerns regarding the disclosure of sensitive information. A new clause, providing for additional protection for such information, has been added to the Bill. This clause requires the Board to establish a small, but representative, committee to deal with sensitive information. The Chief Constable would then have the option of submitting a summary report to the full Board. The Government believes that these changes are in keeping with the views of the Committee.

**(c) We endorse the amendments made at Committee Stage in the House of Lords to Clause 11, clarifying the situation in relation to the Ombudsman's powers and retrospection, and substituting a test of public interest for public concern (paragraph 23)."**

12. The Government believes that this Bill helps to strengthen the valuable role and the work of the Ombudsman; we welcome this endorsement of Clause 12 as it now stands.

13. As the Committee has observed, the Ombudsman has a vital role to play in helping to build public confidence in the police in Northern Ireland, and in developing their confidence in the Ombudsman's Office.

**(d) While we entirely understand the Government's intentions in bringing forward Clause 12 we remain concerned that the phrase "representative of the community" is open to interpretation and challenge in ways which could run counter to those intentions (paragraph 29)."**

14. The Government understands and notes the concerns expressed in the Committee's report that the phrase "representative of the community" is open to interpretation and challenge.

15. In response to the Committee's concerns, the Government would highlight that Clause 13, as it now stands, requires the Board to secure representativeness, only so far as practicable, in appointing independent members to District Policing Partnerships.

16. The Government would seek to reassure the Committee that these appointments will still be made on merit, in line with the detailed competence-based criteria which are laid out within the Code of Practice, issued by the Secretary of State under paragraph 6 of Schedule 3 to the Police (Northern Ireland) Act 2000. This Code of Practice was drawn up in line with the Code of Practice and Guidance produced by the OCPA and was subject to consultation with various interested groups, including, amongst others, District Councils, the Policing Board, the Equality Commission, the Chief Constable and OCPA.

17. The Government agrees that 'representativeness' is a broad term, and it is important that the Board interprets it widely in fulfilling its duty under clause 13. This includes gender and ethnicity as well as addressing the other section 75 categories. The Government believes, however, that listing the exact grounds on which representativeness is to be assessed could potentially limit representativeness by implying that these are the only or most important grounds for assessment.

18. The Government has received the assurance of the Policing Board that the competence-based selection criteria have been applied within the selection process, in the recently completed selection of independent members of DPPs, and that every effort has been made to ensure that these selection criteria have been met and that those members are indeed representative of the community.

**(e) We believe that it is right that the essential skills for independent members listed in the Code of Practice should be established at an early stage in the appointment process (paragraph 30).**

19. The Government welcomes the Committee's endorsement of the early establishment of essential skills for independent members of the District Policing Partnerships and confirms that this is already existing practice, in accordance with the published Code of Practice, issued by the Secretary of State under paragraph 6 of Schedule 3 to the Police (Northern Ireland) Act 2000.

**(f) There is in Northern Ireland a particularly urgent need to release more officers for front-line police work (paragraph 32).**

20. The Government again welcomes the comments of the Committee which reaffirm the need to release officers for front-line duties.

21. Part 2 of the Bill contains important measures which give greater flexibility to the Chief Constable in the deployment of civilian staff, including contracted-out staff. These measures have been made at the express request of the Chief Constable, with the support of the Policing Board, and the Government believes that they are vital in order to free up officers for front-line duties.

22. The need to release officers for front line duties was at the fore of the announcement in February by the PSNI of plans to recruit up to a further 650 civilians for this express purpose.

23. The Government is grateful for the careful scrutiny of the Northern Ireland Affairs Committee.

**Distributed by TSO (The Stationery Office)**

and available from:

**TSO**

(Mail, telephone and fax orders only)

PO Box 29, Norwich NR3 1GN

General enquiries 0870 600 5522

Order through the Parliamentary Hotline *Lo-call* 0845 7 023474

Fax orders 0870 600 5533

Email [book.orders@tso.co.uk](mailto:book.orders@tso.co.uk)

Internet <http://www.tso.co.uk/bookshop>

**TSO Shops**

123 Kingsway, London WC2B 6PQ

020 7242 6393 Fax 020 7242 6394

68–69 Bull Street, Birmingham B4 6AD

0121 236 9696 Fax 0121 236 9699

9–21 Princess Street, Manchester M60 8AS

0161 834 7201 Fax 0161 833 0634

16 Arthur Street, Belfast BT1 4GD

028 9023 8451 Fax 028 9023 5401

18–19 High Street, Cardiff CF1 2BZ

029 2039 5548 Fax 029 2038 4347

71 Lothian Road, Edinburgh EH3 9AZ

0870 606 5566 Fax 0870 606 5588

**The Parliamentary Bookshop**

12 Bridge Street, Parliament Square

London SW1A 2JX

Telephone orders 020 7219 3890

General enquiries 020 7219 3890

Fax orders 020 7219 3866

**Accredited Agents**

(see Yellow Pages)

and through good booksellers

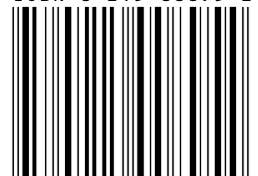
© Parliamentary Copyright House of Commons 2003

Applications for reproduction should be made in writing to The Licensing Division,

HMSO, St Clements House, 2–16 Colegate, Norwich NR3 1BQ

– Fax 01603 723000

ISBN 0-215-00895-2



9 780215 008954