

Police Service of Northern Ireland

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PD 01/07

POLICY DIRECTIVE

THE PROVISION OF ARMED POLICE CLOSE PROTECTION TO INDIVIDUALS WITHIN NORTHERN IRELAND

1. POLICY IDENTIFICATION

POLICY TITLE: The Provision of Armed Police Close Protection to Individuals within Northern Ireland

POLICY OWNERSHIP:

DEPARTMENT	Operational Support
BRANCH	Operations
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POLICY APPROVED BY:

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2. POLICY STATEMENTS

- (1) Armed police close protection will be considered for individuals who are deemed to be under a moderate threat viz: An attack is possible, but not likely and who satisfy a decision panel that they meet the set criteria. The threat must be deemed to be 'real and immediate'. This decision panel will consider the particular circumstances of the individual and will have recourse to objective criteria against which to assess the individual's case.
- (2) The criteria the decision panel will employ are reproduced below at point 3(4) under application.
- (3) Armed police close protection may be provided to visiting individuals who are in receipt of armed police close protection in their own jurisdiction.
- (4) A key objective of all PSNI policy and operations is compliance with human rights standards, in particular Article 2 of the European Convention on Human Rights (ECHR), which guarantees protection for the right to life.

3. INTRODUCTION

(1) Summary

This Policy explains how the PSNI will provide armed police close protection to individuals within Northern Ireland.

(2) Background

- (a) The process for the provision of personal protection to specific individuals has evolved since the early 1970s. Protection to individuals is currently provided in the following ways: a service delivered by local police including personal security advice and proactive targeted patrolling, the Special Purchase of Evacuated Dwellings (SPED) scheme operated by the Housing Executive, the Limited Home Protection Scheme managed by the NIO. The extent and nature of personal protection provided by police depends on a range of factors, with the overriding consideration being ensuring compliance with the State's obligations under the ECHR.
- (b) The Police Service of Northern Ireland centrally through Operational Support Department currently provides armed police close protection.
 - (i) Currently a number of persons are provided with close protection from the centrally resourced Close Protection Unit.
 - (ii) The Policing Plan 2005 – 2008, Part Three - The Plan for Delivering Policing Services, committed the Police Service of Northern Ireland "To carry out a review of the provision of armed police close protection to individuals within Northern Ireland" and "To complete this review by March 2006." The responsible officer for this action and target is Assistant Chief Constable, Operational Support and this Policy is an integral component in meeting that commitment.

(3) Aims

The Policy has three objectives:

- (a) Given the current security environment and the generally reduced level of terrorist activity the Policy should more closely align the decision-making process to the actual level of threat.
- (b) Any PSNI policy must be Human Rights compliant. Of particular importance is the right to life, as guaranteed by Article 2 of the ECHR. This requires the State to take all necessary steps to prevent a real and immediate risk to a person's life.
- (c) The Policy must also comply with section 75 of the Northern Ireland Act 1998 with regard to equality of service delivery. This reflects the Convention right in Article 14 (the Prohibition of Discrimination).

(4) **Application**

- (a) Any individual may be considered for armed police close protection within Northern Ireland if they are deemed to be under a moderate threat and then satisfy a decision panel that they meet the set criteria.
- (b) The decision panel will be chaired by the Assistant Chief Constable, Operational Support Department and will include:
 - (i) Detective Chief Superintendent, Crime Operations Branch (C3);
 - (ii) Chief Superintendent, Operations;
 - (iii) Superintendent, Security;
 - (iv) PSNI Human Rights Legal Adviser.
- (c) Reciprocal arrangements will be considered for those entering Northern Ireland who have protection elsewhere.
- (d) The decision panel will consider each case on an individual basis. It will have a set of objective criteria available against which to assess and determine each case. The criteria covers:
 - (i) The specific nature and the extent of the threat against the individual in particular whether it is 'real and immediate' such that Article 2 of the ECHR is engaged;
 - (ii) The role and profile of the individual in society;
 - (iii) The availability and effectiveness of applying other protective measures and the potential to mitigate the threat;
 - (iv) The conduct of the individual;
 - (v) The nature of protective measures provided in the rest of the UK and any comparable jurisdictions;
 - (vi) The operational and resource implications for PSNI having due regard for proportionality.
- (e) Relevant background information regarding the circumstances of the individual will be available to the panel, including any protective measures that are being provided or have been offered. The panel may decide to seek input from other PSNI staff as appropriate.
- (f) It should be borne in mind that the provision of armed protection is only appropriate in certain circumstances, according to the nature and extent of the threat. The appropriate steps to be taken to address a real and immediate threat to a person's life are essentially matters to be decided by police officers, using all of the information available to them and their professional judgment.
- (g) This reflects the judgment of the European Court of Human Rights in *Osman v United Kingdom* (judgment of 28 October 1998, at paragraph 116), which states that "bearing in mind the difficulties involved in policing modern societies, the unpredictability of human conduct and the operational choices which must be made in terms of priorities and resources, (the obligation to protect life) must be interpreted in a way which does not impose an impossible or disproportionate burden on the authorities. Accordingly, not every claimed risk to life can entail for the authorities a convention requirement to take operational measures to prevent that risk from materialising".
- (h) In exceptional circumstances where time does not permit the convening of the decision panel, Assistant Chief Constable, Operational Support may make an interim decision on the provision of armed police close protection. The Assistant Chief Constable will base this decision on 3(4)(d) above. The decision panel will be convened no later than 28 days after the interim decision.

(5) **Legal basis**

- (a) Section 32 of the Police (Northern Ireland) Act 2000 outlines the general functions of the police. These include the duty to 'protect life and property' and to 'prevent the commission of offences'.
- (b) Article 2 of the European Convention on Human Rights as contained in Schedule 1 of the Human Rights Act 1998 states:
- Everyone's right to life shall be protected by law. No one shall be deprived of his (her) life intentionally save in the execution of a sentence of a court following his (her) conviction of a crime for which this penalty is provided by law.
- Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force that is no more than absolutely necessary:
- (i) in defence of any person from unlawful violence;
 - (ii) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
 - (iii) in action lawfully taken for the purpose of quelling a riot or insurrection.
- (c) Article 2(1) ECHR enjoins the state not only to refrain from the intentional and unlawful taking of life, but also to take appropriate steps to safeguard the lives of those within its jurisdiction (*Mahmut Kaya v Turkey*, 28.3.2000, para 85; *LCB v UK*).
- (d) Article 2 ECHR may also imply in certain well-defined circumstances a positive obligation on the authorities to take preventive operational measures to protect an individual whose life is at risk from the criminal acts of another individual. It must be established that the authorities knew or ought to have known at the time of the existence of a real and immediate risk to the life of an identified individual or individuals from the criminal acts of a third party and that they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk (*Osman v United Kingdom* [2000] 29 EHRR 245).
- (e) The key consideration in ensuring compliance with Article 2 is whether the person concerned is subject to a real and immediate threat to life.
- (f) In assessing whether such a threat exists, the following issues must be assessed:
- (i) extent or degree of risk to life;
 - (ii) whether the risk is caused by the State;
 - (iii) whether it is feasible for the State to reduce the risk;
 - (iv) any public interest in not taking action to reduce risk.
- (g) All of the above considerations are to be balanced in order to assess whether there has been a breach of Article 2 (*Re Meehan's application* (2004) NIJB 53 Carswell LCJ).
- (h) The PSNI will also ensure that the rights of others who may be affected by its actions are safeguarded. These include: the officers providing the protection (in particular Article 2 ECHR), persons suspected of representing a threat to life (in particular their rights as protected by Articles 2, 3, 5 and 6 of the ECHR), and the public at large.

4. IMPLICATIONS OF THE POLICY

(1) **Financial Implications/Best Value/Continuous Improvement/Efficiency**

A revised policy on the provision of armed police close protection will enable the organisation to better plan and allocate resources to best deliver the protection service.

(2) **Human Resources/Training**

A revised policy on the provision of armed police close protection will enable the organisation to better plan and allocate sufficient human resources to best deliver this service. Armed police close protection will only be provided centrally and to a single national standard including meeting agreed standards for initial and further training.

(3) **Risks**

The Police Service of Northern Ireland will ensure it is fully human rights compliant in this important area of service delivery. Implementation of this Policy is a key control measure. An enhanced and objective policy on the provision of close protection will mitigate against any potential risks the organisation may face.

(4) **Consultation**

(a) This Policy will have a significant impact. As such, consultation is required to be extensive and wide ranging.

(b) Internal and external consultation includes:

External

- (i) Individuals currently in receipt of armed police close protection;
- (ii) Northern Ireland Courts Service;
- (iii) Northern Ireland Equality Commission;
- (iv) Northern Ireland Human Rights Commission;
- (v) Northern Ireland Policing Board;
- (vi) Partner close protection service providers-Metropolitan;
- (vii) Police Service, An Garda Síochána;
- (viii) Royal Military Police;
- (ix) Permanent Under Secretary Northern Ireland Office;
- (x) Police Federation for Northern Ireland/Superintendents' Association/CPOSA;
- (xi) Police Ombudsman for Northern Ireland.

Internal

Police Service of Northern Ireland:

- (i) Chief Officers;
- (ii) Director of Media & Public Relations;
- (iii) Head of Intelligence;

(iv) Head of PSNI College including Combined Operational Training;

(v) Legal Adviser & Human Rights Legal Adviser.

5. HUMAN RIGHTS/EQUALITY/INTEGRITY/FREEDOM OF INFORMATION

- (1) This Policy on the provision of armed police close protection is intended to ensure the protection of an individual's Article 2 rights. This Policy seeks to clarify the organisation's position on the provision of Close Protection and ensure decision-making processes and criteria are objective and transparent.
- (2) The Policy has the potential to engage the Convention right enshrined under Article 14 – prohibition of discrimination. The ECHR states that any difference of treatment of persons must be objectively and reasonably justified. The PSNI is committed, in its policy and operations at all levels, to providing a professional police service to all persons in Northern Ireland. Any difference in treatment will be proportional and have an objective and reasonable justification, based on an assessment of all relevant factors.
- (3) This Policy is deemed to be Human Rights compliant; it has been screened for Section 75 considerations and meets integrity standards. The Policy is suitable for disclosure in accordance with the Freedom of Information Act 2000 (Sections 1-6 only).

6. REVIEW

- (1) The Policy will be reviewed every 12 months.
- (2) Interim reviews may also be prompted by feedback, challenge or change in legislation.
- (3) Feedback relating to this Policy should be addressed to the Assistant Chief Constable, Operational Support Department.