



Northern
Ireland
Office

Consultation Paper

**POLICE (NORTHERN
IRELAND) ACT 2000 –
REVIEW OF TEMPORARY
RECRUITMENT
PROVISIONS**

November 2010

FOREWORD BY OWEN PATERSON, SECRETARY OF STATE FOR NORTHERN IRELAND

It is now eleven years since the publication of the Report of the Independent Commission on Policing in Northern Ireland (the "Patten report"). The recommendations of this report formed the basis of major change to policing in Northern Ireland and led to the formation of the PSNI. We now have one of the most accountable police services in all of Western Europe.

Since the introduction of the temporary provisions in November 2001, the composition of the police has radically changed. At that time, Catholic composition within the Royal Ulster Constabulary stood at just 8.3%. Catholic composition has since increased significantly within the PSNI and is currently at 29.38%, now within the target range set out by Patten. The current provisions will expire on 28 March 2011. The PSNI remain determined to increase Catholic composition even further ahead of this date.

It is clear the provisions have had a positive impact on the proportion of Catholic officers serving in the PSNI. PSNI membership is now broadly representative of the community and the benefits of this have been felt by all the people of Northern Ireland. However, the use of the provisions over the past ten years has not been without controversy and there is considerable depth of feeling about the 50:50 recruitment procedures.

In line with the ten year review proposed in Patten's report, now is the time to make a judgement on whether to continue these special arrangements. Of huge significance is the political progress Northern Ireland has seen in recent years which culminated in the transfer of policing and justice powers to the Northern Ireland Executive in April 2010. All of us in Northern Ireland must continue to build on these developments and, given the normalised society we now enjoy, it is important to consider a more normal way of recruiting to the

PSNI. In light of this significant progress towards securing a representative police service, I am minded not to renew the provisions.

Patten stressed that the key to making the police service representative of the community was for community leaders to actively encourage their young people to join the service. This is as important as ever. Now is the time for people all across Northern Ireland to take responsibility for ensuring that PSNI remains representative of the community it serves.

I want to take this opportunity to consult with everyone before making a decision. I would like to hear everyone's views about the temporary provisions and our proposal to let them lapse in March next year.

I look forward to receiving your comments.



A handwritten signature in black ink, consisting of a large, stylized 'O' followed by a series of loops and a long, sweeping tail.

The Rt. Hon. Owen Paterson MP
Secretary of State for Northern Ireland

CONTENTS

Foreword by Owen Paterson MP, Secretary of State for Northern Ireland

Introduction	5
Background	6
Legislation	7
50:50 Recruitment	
Lateral Entry	
Operational Progress	10
Police Officers	
Police Support Staff	
Lateral Entry	
Female and Ethnic Minority Composition	
What would not renewing the provisions mean?	12
Why do we propose not renewing the provisions?	
What do we want to know?	
Equality Screening	14
Responding to the Consultation	15
Annex A	17
Annex B	19
Annex C	20

POLICE (NORTHERN IRELAND) ACT 2000 REVIEW OF TEMPORARY PROVISIONS

INTRODUCTION

This paper provides information on the temporary provisions in place in Northern Ireland. The provisions are made under the Police (Northern Ireland) Act 2000. They allow appointment of police officers and police support staff to be made on a 50:50 basis (i.e. on a 50% Catholic, 50% non Catholic basis).

2. In deciding whether the provisions should be renewed, the Secretary of State is under a statutory requirement to have regard to progress made towards securing that membership of the police and police support staff is representative of the Northern Ireland community.

3. This paper aims to show that there has been a significant increase in the numbers of Catholic officers serving in the PSNI and that the composition of the PSNI is now broadly reflective of the community. As a result, the Government is minded not to renew the temporary provisions. **This would mean that the temporary provisions would expire on 28 March 2011.**

4. This paper therefore sets out how the community background composition of the PSNI has changed over the last ten years. It also sets out how the composition in PSNI support staff has changed as the provisions apply to support staff, where six or more vacancies are advertised.

5. Whilst the focus of Patten's recommendations was to address the imbalance of community background in the composition of the PSNI, the paper also details the gender composition of the PSNI which has significantly

changed since 2001. Details of ethnic minority composition of the PSNI are also included.

6. Responses to issues raised in this consultation must be received by **3 February 2011**. Further details on responding to this consultation are set out at paragraphs 50 to 55.

BACKGROUND

7. The Report of the Independent Commission on Policing for Northern Ireland (the Patten Report) was published in 1999. It observed that only 8.3% of the RUC was Roman Catholic. The Commission noted that it was the imbalance between the number of Catholics/Nationalists and Protestants/Unionists which was the most striking problem in the composition of the RUC.

8. The Commission recommended (recommendations 120 and 121) that all candidates who wished to join the police service and who reached a specified standard of merit in the selection procedure should be placed in a pool from which an equal number of Protestants and Catholics would then be drawn for appointment. Paragraph 15.10 of the Patten Report specifically envisaged that one half of new recruits would be Catholic and one half "Protestant or undetermined". This arrangement is commonly known as '50:50 recruitment'.

9. Patten envisaged that such a model would quadruple the proportion of Catholic officers within 10 years. This would take Catholic composition of PSNI officers to between **29% and 33%** within this timeframe. It currently stands at **29.38%** (as at 1st October).

10. Patten stated that the model should remain in place for ten years, taking the use of the provisions up to 2011. Patten noted that at this point, a judgement would need to be made as to whether special measures were still needed to achieve a police service representative of the community. We now find ourselves at this point.

11. Recommendation 127 also proposed an arrangement known as ‘lateral entry’. It recommended that the recruitment agency should seek to identify and contact Catholic police officers from Northern Ireland serving in police services elsewhere, particularly those in more senior ranks, and encourage them to apply for positions in the Northern Ireland police.

12. The Police (Northern Ireland) Act 2000 (the 2000 Act), Sections 44–47, gives effect to the Patten Report’s recommendations and the temporary provisions.

LEGISLATION

13. The temporary provisions of the Police (Northern Ireland) Act 2000, the Race Relations (Northern Ireland) Order 1997 and the Fair Employment and Treatment (Northern Ireland) Order 1998 were last renewed in 2010 by the “2010 Renewal Order”¹. The legislation allows the Secretary of State to renew or lapse the provisions in consultation with the Policing Board. The 2000 Act does not provide for the provisions to be amended. The 2010 Renewal Order which came into operation on 28 March 2010 is due to expire on 28 March 2011.

¹ Police (Northern Ireland) Act 2000 (Renewal of Temporary Provisions) Order 2010

14. The temporary provisions are as follows:-

- Sections 44(5) to (7), 45 and 46 of the Police (Northern Ireland) Act 2000;
- Article 40A of the Race Relations (Northern Ireland) Order 1997; and
- Article 71A of the Fair Employment and Treatment (Northern Ireland) Order 1998.

15. With the exception of section 45 of the 2000 Act, the temporary provisions give effect to the 50:50 recruitment arrangements for police trainees and police support staff. Section 45 provides for the appointment to the PSNI of external candidates at the ranks of sergeant and above i.e. lateral entry.

50:50 Recruitment

16. Section 44(5) of the 2000 Act requires that applicants who meet the qualifying standard for appointment as police trainees should form a pool (commonly known as 'the merit pool') of applicants for the purposes of section 46(1).

17. Section 44(6) of the 2000 Act requires that applicants for appointment as police support staff should form a pool of applicants for the purposes of section 46(5).

18. Section 44(7) of the 2000 Act provides that section 44(6) is relevant, only where there are six or more posts of similar nature and level to be filled at about the same time.

19. Section 46 of the 2000 Act requires that, in making appointments of police trainees and police support staff, the Chief Constable shall appoint an even number of persons from the pool, one half of whom are treated as Roman Catholic, and one half of whom are not.

20. Section 46 also provides for the Secretary of State to make orders in Parliament to adjust the 50:50 ratio for recruitment of police trainees in two sets of circumstances:

(i) Set-aside

Where there is an insufficient number of candidates of either community background to meet the number of trainees which the Chief Constable requires to be appointed on that occasion, the Secretary of State may make an order to 'set aside' 50:50 (Section 46(2) and (3)); and

(ii) Aggregation

Where at least one such set aside order has been made in the previous three years, the Secretary of State may make an order to 'aggregate' the quota, subject to a maximum of 75% (i.e. no more than 75% of those appointed from the pool may be of the one community background), for the purpose of redressing, or partly redressing, any imbalance which has arisen as a result (Section 36(3) and (4)).

21. With the exception of the aggregation provision, these arrangements also apply to recruitment of police support staff as per sections 44(6) to 44(7) and 46 of the 2000 Act.

22. Before making such an order, the Secretary of State has a statutory duty to consult the Policing Board. To date, no such order has been required due to the high level of interest and application rates from both sides of the community

23. Article 40A of the Race Relations (Northern Ireland) Order 1997, and Article 71A of the Fair Employment and Treatment (Northern Ireland) Order 1998 ensure that the application of the 50:50 selection procedures does not conflict with these elements of anti-discrimination legislation. Separately there is an exemption from European Directive 2000/78/EC on employment equality which allows for these exceptional recruitment arrangements.

Lateral Entry

24. Whilst lateral entry already happens between UK police forces, section 45 of the 2000 Act provides the basis for a wider degree of lateral entry, including from An Garda Síochána. It makes provision for the Policing Board (for senior officers) and the Chief Constable (for officers other than senior officers), to encourage suitably qualified external candidates to apply to the PSNI.

OPERATIONAL PROGRESS

25. When considering whether the temporary provisions should be renewed for a further period, not exceeding three years, the Secretary of State will have regard to the progress made since the 2000 Act came into force.

26. In this review, we note the overall Catholic composition. We also note the Catholic application rate.

Police Officers

27. To date sixteen recruitment competitions for regular officers have been run under the 50:50 arrangements. Since the first recruitment campaign under these arrangements in 2001, Catholic composition has increased significantly from **8.3%** to **29.38%** (as of 1 October 2010).

29. As at 1 October 2010, **3995** officers have been recruited under the temporary provisions. All officers recruited have demonstrated that they meet the required UK standards.

30. In the last recruitment campaign before the introduction of 50:50 the Catholic application rate was 23.33%. The Catholic application rate has been consistently higher since 2001 and stands at an average of 36.98%. In the most recent campaign - Campaign 16 - **37.39%** of the applications were from those from a Catholic community background.

31. Annex A sets out tables highlighting the change in composition since the introduction of the provisions, Catholic composition across the ranks and the Catholic application rate.

Police Support Staff

32. The composition of Catholics within police support staff was 12% at the time of the Patten report. This now stands at 17.97% (as of 1 October 2010). To date thirty one competitions have been run for police support staff on a 50:50 basis.

33. The increase in Catholic composition in support staff posts is not as advanced as that of regular officers, as 50:50 only applies to those

recruitment competitions where there are six or more vacancies of a similar nature to be filled at or about the same time.

34. Because of these factors, continuing the temporary provisions would in any event have a very limited impact on increasing the numbers of Catholic support staff.

35. Annex B sets out tables showing the increase in Catholic support staff since 2001.

Female and ethnic minority composition

36. The 50:50 policy addresses the imbalance of community background in the composition of the PSNI, as this was what Patten identified as the most striking problem. But the Commission also acknowledged that gender and ethnic minority composition were important.

37. At the time of the Patten report, the female composition stood at just 12.6%. Today, it is more than double that figure, currently standing at 25.54% (as of 1st October 2010).

38. There are currently 32 officers in the PSNI from an ethnic minority background (as of 1 October 2010). This includes Chinese, Pakistani and Indian officers. This represents 0.45% of the regular officers, a figure which is comparable with the overall level (0.48%) of the working age ethnic minority population in Northern Ireland.

WHAT WOULD NOT RENEWING THE PROVISIONS MEAN?

39. Letting the provisions lapse would mean that the PSNI would recruit officers and support staff on the same legal basis as all other organisations in Northern Ireland. The merit pool for future PSNI recruitment competitions would not require candidates to be drawn from a 50% catholic, 50% non catholic pool.

Why do we propose not renewing the provisions?

40. When the Secretary of State is considering how to exercise his powers, he must have regard to the progress that has been made towards securing that membership of the police is representative of the community in Northern Ireland.

41. Since 2001, there has been considerable progress in securing a more representative police service in Northern Ireland. Catholic composition in the PSNI has risen from 8.3% to 29.38%. This is within the range set out by Patten and the PSNI is now broadly representative of the community it serves.

42. There has also been a consistently high application rate to PSNI from those with a Catholic community background. There is no reason why this application rate will not remain largely the same if the provisions lapse.

43. As current composition is within the Patten range, and given the significant political progress in Northern Ireland, the Government feels that the use of the provisions beyond March 2011 cannot be justified.

44. It is important to note the temporary provisions were introduced as an exceptional measure, at a time when there was a significant distance to go before normalisation was achieved. With the completion of normalisation, recruitment to the Government feels PSNI should be run on a normal basis.

45. The Government feels the time is right for everyone in Northern Ireland to take responsibility for building on the political progress thus far. As Patten acknowledged in his report, the key to making the police service representative depends on community leaders actively encouraging people across the community to apply to join the police service.

What do we want to know?

45. In responding to the consultation, we would like to know:

- **What is your view on the use of the temporary provisions?**
- **What is your view on the Governments' proposal not to renew the temporary provisions?**

EQUALITY SCREENING

46. Under section 75 of the Northern Ireland Act 1998, public authorities are required to have due regard to the need to promote equality of opportunity between:

- Persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- Men and women generally;
- Persons with disabilities and those without;
- Persons with dependants and those without.

47. In addition to this obligation, public authorities are required to have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.

48. In line with the Government's obligations under Section 75 of the Northern Ireland (Act) 1998, the proposal not to renew the temporary provisions has been subject to a screening process. This process has indicated that no section 75 group should be adversely affected by it, and the restoration of merit based recruitment would reduce the negative impact of the existing provisions on equality of opportunity. If the provisions were to remain in place, there would continue to be inequality of opportunity.

49. The proposal therefore has not been subject to a full Equality Impact Assessment. However, you are invited to submit any views you may have on equality of opportunity for all groups specified under section 75 of the 1998 Act and how it could be impacted by an end to the provisions.

CONSULTATION

50. Whilst the Secretary of State is statutorily obliged to consult with the Policing Board, this consultation also seeks the views of a wide range of organisations and interested parties, as well as those from the general public. This will provide the Secretary of State with the full range of views on 50:50, ahead of a decision on the use of the provisions.

51. Having had regard to the progress towards securing that membership of the police and the police support staff is representative of the community in Northern Ireland, you are invited to submit your views on the temporary “50:50” recruitment provisions and the Governments proposal to let the provisions lapse.

52. This consultation will run for 12 weeks and responses are requested by **3 February 2010**. Comments on the temporary recruitment provisions should be sent by post to:

Alison Redmond
Northern Ireland Office
Stormont House Annexe
Stormont Estate
BELFAST
BT4 3SG

Email responses should be sent to consultation5050@nio.x.gsi.gov.uk. Responses can also be faxed to (028) 90527807. Please call (028) 90527054 for queries in relation to this consultation.

53. This consultation document is available on the NIO website:
[\[http://www.nio.gov.uk/index/public-consultation/documents.htm\]](http://www.nio.gov.uk/index/public-consultation/documents.htm)

Printed copies of this consultation document may also be obtained free of charge from the above address. You may make additional copies of this document without seeking permission. This document can also be made available on request in different formats, for individuals with particular needs.

54. If you are responding on behalf of a group or organisation please make this clear. The NIO is committed to publishing a list of those organisations that comment on this review and to making available, to anyone who asks for it, a copy of the comments and our response to them. **If you do not wish your comments to be published in this way, you must make this clear in any response you submit.**

55. Further details about the consultation criteria and process – including how to raise any concerns or complaints - are set out at Annex C.

Annex A

The table below sets out the number of applications received in the sixteen recruitment campaigns to date, and the percentage of Catholic applications:

Competition (Launch Date)	Applications received by closing date	% Catholic applications
1 (March 2001)	7518	34.8
2 (Sept 2001)	4915	38.5
3 (March 2002)	4674	35.1
4 (Sept 2002)	4410	33.6
5 (March 2003)	6044	36.2
6 (Sept 2003)	5419	35.2
7 (March 2004)	4977	34.3
8 (Sept 2004)	5695	34.8
9 (March 2005)	6106	33.8
10 (Sept 2005)	7690	37.0
11 (March 2006)	7859	36.0
12 (Sept 2006)	7734	40.4
13 (June 2007)	7418	44.3
14 (March 2008)	8363	42.0
15 (March 2009)	9825	38.2
16 (January 2010)	8987	37.4
TOTAL	107634	36.9

The table below sets out the change in composition of the PSNI since the introduction of the temporary provisions:

	Catholic composition (%)
1 April 2001	8.34
1 April 2002	9.73
1 April 2003	12.2
1 April 2004	14.64
1 April 2005	17.42
1 April 2006	19.49
1 April 2007	21.77
1 April 2008	24.04
1 April 2009	26.26
1 Oct 2010	29.38

The table below compares the relative compositions of officers across the ranks in 1 November 2001 (before the temporary provisions commenced) with those at 1 October 2010:

	01 November 2001			01 October 2010		
	Protestant	Catholic	Not Determined	Protestant	Catholic	Not Determined
Senior Off	84.22	7.89	7.89	81.48	11.11	7.41
Supt	82.09	16.42	1.49	84.00	12.00	4.00
Ch Insp	89.31	7.63	3.05	79.22	12.99	7.79
Insp	87.11	9.79	3.09	81.10	15.12	3.78
Sergt	90.32	7.85	1.83	82.06	15.42	2.52
Con	87.96	8.18	3.87	65.07	32.96	1.97
Student Off				49.47	50.53	0.00
OVERALL	88.24	8.28	3.48	68.41	29.38	2.21

Of the officers appointed to date under the temporary provisions 159 have been promoted to Sergeant. 75 of these are Catholic, 82 Protestant and 2 not determined.

Annex B

The table below shows the change in Catholic composition since the introduction of the temporary provisions:

	Catholic composition (%)
1 January 2001	12.85
1 January 2002	12.55
1 January 2003	13.25
1 January 2004	14.08
1 January 2005	14.51
1 January 2006	14.79
1 January 2007	17.12
1 January 2008	17.36
1 January 2009*	17.67
1 October 2010	17.97%

* As of 1st October 2008 all Police Staff became permanent employees of the Northern Ireland Policing Board, under the direction and control of the Chief Constable. Prior to this, police staff consisted of direct recruits to the PSNI and NI Civil Service staff seconded to the PSNI.

Annex C

The Government's general consultation criteria are:

- To consult widely throughout the consultation process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy;
- To be clear about what its proposals are, who may be affected, what questions are being asked and the timescale for responses;
- To ensure that the consultation is clear, concise and widely accessible;
- To give feedback on the responses received and how the consultation process influenced policy;
- To monitor the Department's effectiveness at consultation, including the use of a designated consultation co-ordinator; and
- To ensure that consultation follows better regulation best practice, including carrying out a regulatory impact assessment, if appropriate.

If you have any concerns or complaints about the consultation process you should contact the NIO's consultation co-ordinator, Martin Adams, on (020) 72106458, or email consultationcoordinator@nio.x.gsi.gov.uk or by post:

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