

PROBATION BOARD FOR NORTHERN IRELAND  
SPECIAL BOARD MEETING – FRIDAY 10 JANUARY 2020  
9.30 AM – PBNI HEADQUARTERS  
417th MEETING – 14<sup>th</sup> OF THE TWELFTH TERM OF OFFICE

ATTENDANCE

Mr Dale Ashford (Chair)  
Mr Neil Bodger  
Dr Jonny Byrne  
Dr Kelly Clark  
Mr Kieran Donaghy  
Dr Theresa Donaldson  
Mr Paul Douglas  
Mrs Judith Gillespie  
Ms Patricia Keenan  
Mr Gearoid OhEara  
Mr Max Murray  
Mr Alastair Ross  
Mr Dave Wall

OFFICIALS

Ms Cheryl Lamont, Chief Executive  
Mr Hugh Hamill, Director of Operations  
Dr Geraldine O'Hare, Director of Rehabilitation  
Mrs Gillian Robinson, Head of HR  
Ms Catherine Teggart, Head of Finance  
Mr Michael Cox, Board Secretary  
Mrs Wendy Rodgers, Secretariat (Minutes)

GUEST

Mr Tim Chapman, Researcher on TPMOs

**1. WELCOME AND CONFLICTS OF INTEREST**

The Board Chair welcomed everyone to the meeting. He advised members of the Chief Executive being awarded the CBE in the New Year's Honours. The Board congratulated Ms Lamont on her award.

The Board Chair set out the agenda for the meeting. He stated he would cover his and the Chief Executive's recent meeting with the DOJ's Permanent Secretary.

Dr Byrne advised the meeting of a potential Conflict of Interest as the University of Ulster, SL Criminology had recently been appointed to undertake research for the Department of Justice (who had awarded the contract and established the terms of reference). Dr Byrne had been in consultation with the Chair and had written to the Board Secretary on the matter. The Chair advised the meeting that he did not consider that there was a conflict of interest at this time but this will be kept under review and if anything changes the Board will be advised.

**2. APOLOGIES**

Apologies were received from Ms Sarah Bruce, Boardroom Apprentice

**3. MANAGEMENT OF TERRORIST/POLITICALLY MOTIVATED OFFENDERS (T/PMOs)**

The Chair invited the Chief Executive to provide members with background on Probation staff supervising T/PMOs. She highlighted that Probation had never had responsibility for this cohort until the legislation was changed in 2010.

The Chief Executive advised that a verified increased threat email was received in September 2017 against one individual member staff and the Organisation as a whole. As a consequence, temporary precautionary measures were put in place to manage the risk to staff. The result was that the supervision of service users became essentially an office based activity with no home visits being carried out. The Board (in place at that time) agreed with the decision taken. The Trades Unions continue to be in dispute on working with T/PMOs. The threat for the Organisation was reduced in December 2018 to low/moderate. The threat level reduced as a result of Probation staff not working with Dissident Republicans. The Organisation has continued to work with Department Officials on this issue with the Permanent Secretary looking at a change to the legislation from November 2018. The Head of HR advised that the Trades Unions will not agree to the return to supervising this cohort of offenders.

The Director of Operations stated Probation has always been able to work in all communities. This position has been jeopardised in relation to T/PMO supervision and being an independent organisation. The accepted view, see research by McEvoy and Chapman, is that Probation staff cannot help in the rehabilitation of this type of offenders because of their motivation. However, if an individual requests support from Probation, this can be provided on a voluntary basis.

The Board Chair then briefed the Members on the meeting with Peter May, Permanent Secretary, and that he had stated that it would take about 12 months to change legislation, which remained the Department's objective. Both the Chair and Chief Executive offered to help in this process. The Chief Executive during the meeting provided clarification on a number of areas. The main current issue being travel outside of the UK and the decision making process. Mr May had asked if the Board had taken legal advice on this matter and the Board Chair was able to advise that it had. There were three points agreed on to work through; information sharing arrangements, designation of such offenders and approval of travel outside the UK.

The Board Chair advised that Peter May, who was a Grade 3 in the NIO at that time in 2008 before the devolution of Policing and Justice, had expressed his concerns over the legislative change. He had observed that this was an area of concern at that time. The Chair advised that by the end of the meeting there seems to be a better understanding on the part of the Department with an apparently more positive approach.

Discussion ensued on the tone of Mr May's letter dated 19 December 2019 to the Chief Executive. The Members raised a number of points of concern about it. Members emphasised the importance of delivering on the employer's duty of care to the staff compared to the legislative requirement to supervise a very small proportion of Probation's workload. The consequential risks to public safety arising from staff not undertaking home visits in Republican areas for offences other those committed by T/PMOs was also highlighted.

The Board Chair suggested setting up a sub-group to allow for the Board to influence legislative changes and reflect on the way forward. It was confirmed that the relevant legislation is within the Executive's authority.

**Action: Members to advise the Board Chair if they are willing to sit on the sub-group. (Board Members)**

The Board Chair welcomed Mr Chapman to the meeting.

Mr Chapman provided a presentation on his research entitled 'Terrorist or Politically Motivated Offenders – a Practice Framework for the Probation Board for Northern Ireland'. He advised members on the background, the terms of reference, the key challenges, the legal context and the relevant security context. Discussion ensued on how intelligence is used and the vulnerabilities for Probation being part of a decision making process without all the available information. Mr Chapman also highlighted that the research recommended that an alternative model removing PBNI from its statutory

requirement in respect of T/PMOs is the best way forward. Mr Chapman advised of the identified risks for Probation and the risk that these posed to practice.

Members discussed the reasoning behind the change in legislation in 2010. It was agreed by the Board that there should not be a change in the current position at this time but to continue to work with the Department on legislative change.

It was confirmed by the Chief Executive that she had sought legal advice in 2017 about the tension between the differing legislative requirements. She also informed the meeting that the previous Board Chair had sought advice on the potential liability for if the DOJ concluded that the Board was not ensuring delivery of its statutory duty. This advice has been shared with the Department. Discussion ensued on the legal advice and it was agreed that the sub-group would reflect on this and if appropriate seek further advice.

A member posed the question that 'is what the Board doing reasonable and proportionate'? Without knowing the intelligence, it would be considered that the Board is acting reasonably and proportionately, this should be articulated to the Department. It was agreed that the best way forward was a change in legislation.

The Board unanimously agreed to maintain the Interim Operational Framework and support an alternative model underpinned by legislative change.

It was agreed that the Board Chair would write to the Permanent Secretary on the Board's views.

**Action: Board Chair to write to the Permanent Secretary, DOJ. (Board Chair)**

#### **4. OTHER BUSINESS**

The Board Chair thanked members and officials for attending the meeting.

#### **DATE OF NEXT MEETING**

The next Board meeting to be held on 17 January 2020, 9.30 am, PBNI HQ, 4<sup>th</sup> floor, Conference Room.

The meeting ended at 11 am.

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**Dale Ashford QFSM**  
**BOARD CHAIR**

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**Date**