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23rd May 2007.

Dear Chief Constable,

Re: the PSNI proposal to introduce Taser.

As you know, we were asked by the Policing Board to consider and advise on the human rights implications of the PSNI proposal to introduce Taser for use in Northern Ireland. Preparing our findings and advice involved extensive research. It also involved careful consideration of ACPO policy and guidance culminating in a meeting with ACPO, the Home Office and the NIO on 19th April 2007, which provided an opportunity for an extremely useful exchange of views on the legal and human rights implications of Taser use. On 14 May 2007, Carol Moore, on behalf of the NIO, wrote to Trevor Reaney at the Policing Board requesting that ACPO and the NIO be permitted to attend our briefing of the PSNI on our findings and advice so that ACPO would have the chance to ensure that where lessons could be learned, in terms of strengthening the guidance, then this could be taken on board at the earliest opportunity.

We completed our findings and advice in a draft and confidential form last week and took the unusual step of sending a copy to you and to ACC Toner so that you could both have the benefit of our findings and advice before progressing the proposal to introduce Taser. We also set up a private meeting with ACC Toner and his staff, which took place yesterday (Wednesday 22nd May 2007), to discuss our findings and advice. At the end of that meeting when we were discussing how to progress matters, ACC Toner informed us that you had, in fact, already taken the decision to introduce Taser for use in Northern Ireland, albeit that no Tasers had yet been purchased. As we understand it, that decision was taken last week (i.e. in the week 14th-18th May 2007) and your current intention is to inform the Policing Board of that decision at its meeting on 6th June 2007.

As you will appreciate from the copy of our findings and advice sent to you last week, we are concerned that the legal and human rights implications of introducing Taser have not been sufficiently thought through by any of the expert bodies interested in the subject-matter and advised that the PSNI should address this issue before progressing its proposal to introduce Taser. We also advised that the current ACPO policy and guidance on the use of Taser may not be sufficiently clear to satisfy the requirement under Article 2 ECHR. We also advised that because it had not identified the appropriate test for the use of Taser, we were not satisfied that the PSNI had (to date) made out its case for the introduction of Taser. We advised that further evidence was required from the PSNI, again before progressing its proposal to introduce Taser.

Against that background, we are obviously very concerned about the decision taken by you last week to introduce Taser for use in Northern Ireland. There are four primary reasons for our concern:

Community
Legal Service



Criminal
Defence Service



INVESTOR IN PEOPLE

- (a) First, we consider that the decision to introduce Taser for use in Northern Ireland without first waiting until the Policing Board and indeed the PSNI had considered our findings and advice on the legal and human rights implications of so doing misunderstands the Policing Board's statutory function and responsibility to monitor the performance of the PSNI in complying with the Human Rights Act 1998.
- (b) Second, we consider that in order to ensure compatibility with the Human Rights Act 1998 and to ensure best practice, the PSNI should have taken the steps set out above before progressing its proposal to introduce Taser for use in Northern Ireland.
- (c) Third, we are concerned that in taking the decision to introduce Taser for use in Northern Ireland last week, you obviously also took the decision that no equality impact assessment was required under the Northern Ireland Act 1998 without any consultation either with the Policing Board or with us as the Policing Board's Human Rights Advisors.
- (d) Finally, we consider that in taking the decision to introduce Taser for use in Northern Ireland in the week before our meeting with ACC Toner and his staff to discuss our findings and advice, the PSNI has acted inconsistently with the principle of open and positive dialogue between ourselves and the PSNI that we have been very careful to engender in the last three years. Since a factual accuracy check of parts of our draft findings and advice were sent to the NIO and ACPO on 28th March 2007 (and as we understand it, forwarded by Steven McCourt to members of the Steering Group, which includes members of the PSNI), the meeting with ACPO and the NIO took place on 19th April 2007 and on 23rd April 2007 ACC Toner wrote to us asking when our findings and advice would be ready and indicating that he thought our advice would be ready very soon, there can be no question that the PSNI knew that the delivery of our findings and advice was imminent. Against that background and in light of the approach we have adopted towards the PSNI in the course of our work in advising the Policing Board on the performance of the PSNI in complying with the Human Rights Act, we are very surprised that the PSNI did not consider that it would benefit from our findings and advice before taking the significant decision to introduce Taser for use in Northern Ireland.

It will now be necessary for us to convey our views to the Policing Board on the matter. In order to assist us in doing so accurately and fairly, we would be grateful if you could provide us with the following information:

- (a) The precise date on which the decision to introduce Taser for use in Northern Ireland was taken and the precise terms of the decision taken.
- (b) Whether the PSNI received legal advice on the legal and human rights implications of introducing Taser in Northern Ireland before that decision was taken and, if so, we would be grateful if you could provide us with the date and a copy of that advice.

(c) Whether the PSNI received legal advice on the question of whether an equality impact assessment was needed under the Northern Ireland Act 1998 before Taser was introduced for use in Northern Ireland and/or whether advice was taken from the Equality Commission on this issue.

I attach a copy of the finalised version of our findings and advice, which will be sent to Policing Board members for the June meeting.

Yours sincerely,



Keir Starmer QC

Jane Gordon

Human Rights Advisors to the Northern Ireland Policing Board

cc: ACC Toner