



House of Commons  
Northern Ireland Affairs  
Committee

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**Cross-border co-  
operation between the  
Governments of the  
United Kingdom and  
the Republic of Ireland:  
Government Response  
to the Committee's  
Second Report of  
Session 2008–09**

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**Second Special Report of Session  
2008–09**

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## 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 (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

Sir Patrick Cormack MP (*Conservative, South Staffordshire*) (Chairman)  
Mr David Anderson MP (*Labour, Blaydon*)  
Rosie Cooper MP (*Labour, West Lancashire*)  
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### 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).

### Publication

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/niacom](http://www.parliament.uk/niacom).

### Current Committee staff

The current staff of the Committee are David Weir (Clerk), Alison Groves (Second Clerk), Emma McIntosh (Senior Committee Assistant), Becky Crew (Committee Assistant), Karen Watling (Committee Assistant), Becky Jones (Media Officer) and Mr Tes Stranger (Committee Support Assistant).

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## Second Special Report

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The Committee published its Second Report of Session 2009-09 on 18 June 2009.<sup>1</sup> The Government's response from the Rt Hon Paul Goggins MP, Minister of State for Northern Ireland, was received in the form of a letter and memorandum on 27 September 2009. The response is published as the Appendix to this Report.

In the Government response, the Select Committee's conclusions and recommendations are in bold text, the Government's response is in plain text.

## Appendix: Government response

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Letter from Rt Hon Paul Goggins MP, Minister of State for Northern Ireland, to Sir Patrick Cormack MP, Chairman of the Committee.

I am writing in response to the Committee's report and recommendations following its inquiry into Cross Border Co-operation between the Governments of the United Kingdom and the Republic of Ireland. I would like to begin by thanking the Committee for its interest in this important issue.

I welcome the Committee's recognition that excellent co-operation already exists between the PSNI and the An Garda Síochána. This co-operation is based on good personal relationships, trust and mutual assistance which is supported by a range of powers contained in both domestic legislation, European Conventions and Agreements.

It is also important that we recognise that there are limitations to the extent in which the police can operate outside their jurisdiction. This is a consequence of PSNI and An Garda Síochána operating in two different sovereign States under separate legislative provisions. However, they share the same aims as police officers: to prevent and detect crime; to protect life and property; and to preserve public order.

I remain committed and ready to listen to any calls for changes that would assist policing across the border.

Updates on these and other matters are recorded in the attached Annex, which sets out the Government's response to the Committee's recommendations. The paragraph numbers reflect the corresponding paragraphs in the "Conclusions and Recommendations" section of the Committee's Report.

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<sup>1</sup> Northern Ireland Affairs Committee, Second Report of 2008-09, *Cross-border co-operation between the Governments of the United Kingdom and the Republic of Ireland*, HC 78

## Memorandum

**1. The fact that individuals from both the United Kingdom and the Republic of Ireland and from all communities can say without fear of contradiction that relationships between the two countries have never been closer and more co-operative is in itself remarkable. Whatever view individuals may take of the constitutional position, warm and effective cross-border relations represent, in themselves, very positive development. (Paragraph 3)**

The Government welcomes the Committee's positive findings regarding cross border relationships.

**2. We note Lord Carlile's broadly positive assessment of co-operation between the Irish and UK authorities over national security issues. We urge the relevant authorities on both sides of the border to work towards the 'even greater' co-operation which he recommends in order to make counter-terrorism activity 'seamless'. (Paragraph 12)**

Government welcomed Lord Carlile's report when it was published. Where appropriate, UK authorities work with their counterparts, and, as Lord Carlile noted, co-operation with the Republic of Ireland is already "extensive, everyday, operational and essential". Opportunities for better co-operation continue to be explored.

**3. The devolution of criminal justice and policing matters will not diminish the need for close co-operation between London and Dublin. The close intergovernmental relationships built between the Northern Ireland Office and Ministers and officials within the Irish Government must not only be maintained but, where necessary, augmented when responsibility for these matters transfers to a Justice Minister from the Northern Ireland Assembly. (Paragraph 13)**

As we move towards the devolution of policing and justice powers the two Governments are working hard to ensure that the necessary structures will be in place to enable continued co-operation in the policing and justice fields between the Irish Government and the devolved administration in Northern Ireland post-devolution. At the same time, the Government is committed to ensuring that the devolution of policing and justice matters to the Northern Ireland Assembly will not diminish the willingness to cooperate between the UK and Irish governments. We will retain common interests and responsibilities, including constitutional matters, security, the economy and Europe and it is in the interests of both countries that the close working relationship that has grown in recent years continues to flourish and advance as we pursue our shared objectives

**4. We were heartened during our visits to Northern Ireland in October and March and to Dublin in January to meet police officers from both sides of the border who spoke warmly of the growing reach and effectiveness of the network of formal and informal relationships which are growing between the Police Service of Northern Ireland and An Garda Síochána. (Paragraph 16)**

The Government welcomes the Committee's comments and it is clear that the Committee have seen first hand the good working relationship which exists across jurisdictions.

**5. It will be vital that the close personal relationship Sir Hugh Orde has established with his counterpart in Dublin be maintained by his successor. (Paragraph 17)**

Matt Baggott was the unanimous choice of the Policing Board and has made an impressive start. He is committed to continue providing the people of Northern Ireland with an outstanding police service including building on the strong relationships which exist with the An Garda Síochána at all levels.

**6. The PSNI's budget is considerably greater per officer than that of any other United Kingdom police service, and there are regular calls for it to be reduced. While the growing normalisation of policing and security arrangements in Northern Ireland justify careful monitoring of the police budget, we urge the Government to ensure that the service remains fully funded to cope with the unique challenges which counter-terrorism, the presence of significant organised criminal gangs, the need to deal with the past, and the fact of the United Kingdom's only land border with another country place upon the PSNI. (Paragraph 24)**

With a budget of £1.2bn we believe that the Police Service of Northern Ireland is a well-resourced police service. The budget reflects the unique demands placed upon it, which is why the funding allocation made available to the PSNI is considerably higher than allocations per head of population to comparable forces in the UK

The Government recognizes the importance of ensuring front-line policing is maintained – not only policing with the community, but also the specific challenges of counter-terrorism, organized crime and policing a land border. We have confidence in the judgement of the Chief Constable and his Senior Command Team as they seek to improve delivery and to do so more efficiently. And we commend the work of the Policing Board in securing the efficiency and effectiveness of the Service.

Government has provided the Chief Constable with access to an additional £28.7m in 2009/10 to meet the Dissident threat; with a bid for 2010/11 to be considered at a later stage. It is in the interests of protecting normal policing that the Government has ensured that the Chief Constable has the resources he needs.

As part of the wider drive to increase efficiency, the Government continues to seek efficiencies from the PSNI. This matter is currently the subject of detailed discussions with the PSNI and the Policing Board with a view to securing outcomes which enable the PSNI to deliver on the strategic direction they and the Board have agreed upon whilst recognising the wider pressures which result from the current economic climate.

**7. The quiet, matter-of-fact bravery shown by law enforcement officers in the face of the enduring dissident terrorist threat is something that must never be forgotten or taken for granted. (Paragraph 26)**

The Government welcomes the Committees recognition of the bravery and sacrifices shown by law enforcement officers in Northern Ireland.

**8. We urge the Minister of State to open discussions as soon as is practicable with his counterpart in Dublin on whether the hot pursuit and surveillance provisions along the model of those outlined in the Schengen Convention should be put into practice across the land border between the UK and the Republic of Ireland. (Paragraph 36)**

Current cross border policing co-operation (including in 'real time' operational scenarios) is at an extremely high level. I am aware that the Justice Minister wrote to the Committee after he had given evidence to explain his position on the use of Article 41. He highlighted that it was not his intention to imply that Ireland wished to adopt Article 41 of Schengen, from which they have specifically opted-out. He also highlighted that the Garda Commissioner has never made a case for adopting Article 41. It is also noteworthy in this context that the outgoing Chief Constable has never made the case for adopting these provisions. While all those involved in cross border policing continue to seek to improve co-operation between the two forces, at this time I remain unconvinced that the implementation of Article 41 would materially assist this process.

**9. The Patten programme of secondments and exchanges is working well without long-term lateral transfer. We recommend that the NIO give further consideration to the recommendation for long-term lateral transfer, in particular on the removal of bureaucratic barriers to such movement. (Paragraph 43)**

We acknowledge the extensive co-operation between the PSNI and the An Garda Síochána, based on excellent personal relationships, trust and reciprocated assistance.

There are inevitable barriers limiting the extent to which the two services can implement the full merits of lateral entry and in particular in relation to the pension transferability. This is a consequence of PSNI and the An Garda Síochána operating in two different sovereign states under separate legislative provisions. However they share the same aims as police officers – to prevent and detect crime; to protect life and property; and to preserve public order – and will continue to work together to share knowledge and transfer skills to build on this.

The Government is committed and ready to consider all proposals to bring the Patten recommendation regarding lateral entry to an acceptable conclusion for all concerned.

The issues relating to pension transferability between the North and South are not restricted to Police Officers and similar issues exist between other jurisdictions. Work continues to find a resolution in the context of policing which will be acceptable to both An Garda Síochána and the PSNI. Although the pension transferability is unresolved it does not exclude any member of An Garda Síochána from applying for posts within PSNI. Legislation is already in place to allow external applicants (including from An Garda Síochána) to be considered for vacancies within PSNI.

**10. There is clearly a potential role for Joint Investigation Teams involving PSNI and An Garda Síochána officers in investigating major cross-border incidents that require a long-term focus and that allow for the comparatively slow and sometimes bureaucratic process of forming such a team. They are not, however, a mechanism appropriate to replace the benefits of close personal and inter-service co-operation among officers on the ground when a speedy response is required to deter or detect most types of criminal activity. (Paragraph 46)**

We recognise that Joint Investigation Teams are another tool available for the investigation of cross border incidents; however like the Committee we also recognise their limitations.

**11. Unilateral action of the sort taken by the PSNI in sharing its radio technology with An Garda Siochana will often be the quickest, simplest way to solve a problem. We note, however, that the full cost of co-operation falls, on this occasion, on the UK-based police service. We recommend that this not be allowed to become a routine means of funding cross-border initiatives. (Paragraph 48)**

Following extensive discussions between both technical and business representatives from PSNI and An Garda Siochàna, it has been agreed that an interim cross-border communications solution will be provided using the PSNI's Barracuda Radio Infrastructure. This will be made possible via transmission sites within Northern Ireland that provide a footprint into the Republic of Ireland.

It has also been agreed that An Garda Siochàna will fund the provision of the Barracuda radios used in the Republic of Ireland.

PSNI has configured existing radios in Northern Ireland for cross-border use and are currently programming the An Garda Siochàna radios.

The next step is the installation of the necessary radio antenna at agreed locations by An Garda Siochàna. The timescales for PSNI / AGS cross-border operational deployment is currently estimated to be September / October 2009

**12. We applaud the innovative initiative taken by the Fiscal Crime Liaison Officer in Dublin to experiment with the use of greater powers to co-ordinate efforts with the relevant agencies in the Republic of Ireland and the flexibility shown by the UK authorities in undertaking such an experiment. We hope that if the model established by this work displays the expected benefits, similar arrangements may be introduced where practicable in jurisdictions beyond the British Isles. (Paragraph 63)**

We want to thank the committee for their kind words in relation to this initiative.

**13. The co-operative arrangements made by the forensic science authorities on either side of the border are a further encouraging sign of how law enforcement agencies are joining forces against cross-border criminals. We urge that they be further developed. (Paragraph 67)**

We support this recommendation. FSNI continues to co-operate closely with the Irish Forensic Science Laboratory both bilaterally and under the aegis of the Association of Forensic Science Providers (AFSP). Recently the two services have agreed to develop a Memorandum of Understanding to formalise mutual assistance arrangements whereby forensic services would be provided by one of the organisations in the event that the other suffers a major disruption which impacts on its ability to provide service.

**14. We welcome the fact that the Northern Ireland Office is in discussion with the Irish Republic's Department of Justice, Equality and Law Reform on how the**

**International Letter of Request process may be improved. We would welcome an early indication of what progress has been made in reducing delay within the system. (Paragraph 71)**

NIO officials met with the UK Central Authority for mutual legal assistance (UKCA) to discuss the system for handling letters of request. UKCA has been responsible for all letters of request to Northern Ireland from 1 April 2008. The UKCA receives approximately 5000 new requests every year along with supplemental requests. UKCA has recently been through a major restructuring exercise which has resulted in increased legal expertise and extra case-working staff being recruited. This is all aimed at ensuring requests are handled in a timely and efficient manner and that delays are kept to a minimum. We are confident that this restructure is having a positive impact on incoming letters of request and that UKCA are doing all they can to ensure that delays are being reduced as far as is possible.

Outgoing requests from the PPSNI (other than for those requiring coercive measures) are sent directly to the Irish Central Authority. In this way needless bureaucracy is reduced and the MLA system as a whole is expedited in order that justice is served as quickly as possible. The United Kingdom remains committed to assisting any international partner in the fight against crime wherever possible

**15. There are many means of achieving close relations, and there should be no presumption in any publicly funded authority that a secondment programme is, of itself, a good thing, unless the benefits have been carefully assessed and quantified. (Paragraph 72)**

We would like to thank the committee for their comments and will draw this to the attention of the PPS.

**16. We recognise the clear perception that exists in Northern Ireland that those found guilty of so-called “victimless” crimes ... are not given sentences commensurate with the seriousness of their crimes. If this perception continues, it will have a detrimental effect on confidence in the administration of justice and on the process of upholding and enforcing the law in Northern Ireland. (Paragraph 75)**

Sentencing is a matter for the judiciary and it is important that judges have the necessary discretion to balance the merits of each individual case.

**17. There is a clear perception among law enforcement agents on both sides of the border that criminals are not being adequately punished for their crimes. We recommend that the NIO press the Government to review sentencing guidelines relating to the serious organised crimes that have blighted Northern Ireland society for decades. (Paragraph 77)**

Sentencing is a matter for the judiciary and it is important that judges have the necessary discretion to balance the merits of each individual case.

**18. We welcome the Minister of State’s sympathetic attitude towards extension of the range of offences contained in the Criminal Jurisdiction Act 1975. We recommend that the NIO undertake a full review of offences including human trafficking, sex offences, e-crime, money laundering and fraud with a view to providing that offenders**

**who commit such crimes in Northern Ireland may be tried in the Republic and vice versa. (Paragraph 91)**

We welcome the Committee's finding in relation to the Criminal Jurisdiction Act 1975. Work is currently ongoing to establish which offences are not covered by the Criminal Jurisdiction Act 1975 and how best to address these gaps in the legislation.

**19. We recommend that the two Governments explore every avenue towards establishing an information-sharing regime that acts as an effective register of sex offenders across the island of Ireland. (Paragraph 96)**

A Memorandum of Understanding between the UK and Irish Governments requires police services to exchange information which they may have about sex offenders who plan to travel between jurisdictions. This is information which relates to offenders subject to Part 2 of the Sexual Offences Act 2003 in the United Kingdom and the Sex Offenders Act 2001 in Ireland. There is also a memorandum in place between the PSNI and An Garda Síochána which facilitates the disclosure of personal data between the two services.

The exchange of the information aims to assist in the protection of the public from the risks posed by sex offenders and the investigation of serious sexual offences, in operational terms.

The Government considers that the memoranda put in place to facilitate the exchange of information about sex offenders, subject to either jurisdiction's notification requirements, in effect establishes information-sharing that acts as an effective register of sex offenders across the island of Ireland.

There is ongoing work between NIO officials, Irish officials and Home Office officials to further harmonise and strengthen existing notification legislation and to ensure that any future legislative development is as complementary as possible.

**20. We welcome the fact that the regular intergovernmental contacts between the Governments of the UK and the Republic of Ireland involve routine discussion of matters relating to sex offenders travelling between the two jurisdictions and urge the Government to continue to promote the primacy of the protection of children in its discussions with Irish Ministers. (Paragraph 99)**

We remain committed to cooperating with the Irish Government on further developing cross border arrangements to ensure maximum public protection for all against the risk posed by sex offenders travelling between jurisdictions. Protection of children and vulnerable adults was identified as the first priority for newly established public protection arrangements in Northern Ireland. We will continue to ensure this priority is reflected at Ministerial level.

On a wider front, the devolved administration's North/South Ministerial Council has included child protection as a significant part of its agenda. Under the auspices of the Council, the work is progressing in the following areas:

- A cross-border group of officials meets twice yearly to consider areas for co-operation on child protection and to receive progress updates from five sub-groups which consider cooperation on areas of mutual benefit relating to Internet Safety; Movement of Children between Jurisdictions; Media Awareness; Research; and Vetting and Barring;
- Work is underway to develop jointly a number of leaflets containing advice and guidance on safeguarding for parents/carers, employers, and anyone who has concerns about a child. The joint leaflets will also signpost individuals to appropriate organisations within respective jurisdictions;
- NI officials continue to keep ROI counterparts apprised of the new vetting and barring scheme being implemented in NI under new Safeguarding Vulnerable Groups legislation with a strong focus on shared learning. ROI officials have outlined proposals for a new vetting and barring regime in line with the recommendations of the Oireachtas Committee;
- A scoping paper has been developed jointly by practitioners outlining existing advice and guidance relating to the movement of children between jurisdictions. Recommendations contained in the paper are being considered;
- Researchers from universities North and South are meeting with other key stakeholders to consider models of good practice and existing links and networks and whether these can be utilised and extended; and

Officials continue to keep each other apprised of ongoing developments relating to internet safety within respective jurisdictions in areas such as the Byron Review and ROI Internet Safety Advisory Council.