



Cabinet Office

**Lessons learnt by government departments  
from Sir Desmond de Silva's Report  
of the Patrick Finucane Review**

**A report by the Cabinet Secretary, the Secretary of  
State for Defence and the Secretary of State for  
Northern Ireland**

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Introduction

1. When the report by Sir Desmond de Silva into the murder of Patrick Finucane was published in 2012, the Prime Minister committed to publish the lessons learnt by government departments. Departments and agencies have carefully considered the report and described both the action taken in response and how their internal processes have been changed in the areas that de Silva highlights. This report draws together these actions taken by the Ministry of Defence, Northern Ireland Office, Home Office and Cabinet Office, as well as identifying changes that have been made by the Police Service of Northern Ireland (PSNI) and the Security Service.
2. The Finucane murder took place at a time when there was a very limited legal framework in place and little if any external oversight of intelligence. Significant changes have been made by successive governments in the intervening quarter of a century to improve the situation and today's framework for operations bears little resemblance to that of 1989. This is not in any way to condone what happened. The Prime Minister has apologised on behalf of the Government for the state's collusion in the murder of Patrick Finucane. As he said in his statement to Parliament on 12 December 2012 "It is really shocking this happened in our country. Collusion demonstrated beyond any doubt by Sir Desmond, which included the involvement of state agencies in murder, is totally unacceptable. We do not defend our security forces or the many who have served in them with great distinction by trying to claim otherwise. Collusion should never, ever happen. On behalf of the Government and the whole country, let me say again to the Finucane family I am deeply sorry."
3. The de Silva report is important in helping us to understand what happened. In his report, de Silva acknowledges that Northern Ireland has changed significantly since Patrick Finucane was murdered in 1989. The machinery of the state activated to deal with the Troubles and associated oversight arrangements have now evolved considerably. The British Army no longer runs intelligence agents or patrols the streets in Northern Ireland. The Security Service, as the UK's national security intelligence agency, took over lead responsibility from the PSNI for national security in Northern Ireland in October 2007. This brought national security arrangements in Northern Ireland into line with the rest of the UK. Justice

and policing in Northern Ireland are now devolved to the Northern Ireland Assembly. Against this backdrop, this report summarises the Government's conclusions about specific failings as well as the way in which structures and conventions have now been improved.

4. In response to de Silva's findings, this report covers the following themes:
  - i. The need for coherence between the bodies involved in intelligence gathering in Northern Ireland;
  - ii. The need for a rigorous framework in which intelligence activity takes place, including an appropriate statutory framework, with the training, guidance and culture to underpin these;
  - iii. The need for adequate oversight and accountability of intelligence gathering;
  - iv. The need for clear structures and guidelines to ensure accountability for the use and dissemination of intelligence and to ensure intelligence is not exploited illegally;
  - v. An account of the measures taken to address the conduct of specific individuals within Government departments and agencies;
  - vi. Cooperation with the criminal justice process;
  - vii. Use of propaganda.

#### Intelligence Gathering Structures in Northern Ireland

5. As context to his specific conclusions, de Silva highlights a lack of coherence between the bodies engaged in intelligence gathering in Northern Ireland in 1989. The overall structure has now changed considerably. Some of the organisations involved in intelligence gathering in 1989 no longer exist, including the Royal Ulster Constabulary (RUC), the Ulster Defence Regiment and the Force Research Unit within the British Army. In 2007, as a result of the 2006 St Andrews Agreement, the Security Service assumed primary responsibility for national security in Northern Ireland. This led to new working arrangements between the PSNI and the Security Service. Annex E to the St Andrews Agreement of 2006 contains five key principles which clarify the relationship between the PSNI and the Security Service and their respective roles in handling national security intelligence (full text attached at Annex A):

- All Security Service intelligence relating to terrorism in Northern Ireland will be visible to the PSNI;
  - The PSNI will be informed of all Security Service counter-terrorist investigations and operations relating to Northern Ireland;
  - Security Service intelligence will be disseminated within the PSNI according to the current PSNI dissemination policy and using police procedures;
  - The great majority of national security Covert Human Intelligence Sources (CHIS) in Northern Ireland will continue to be run by PSNI officers under existing police handling protocols;
  - There will be no diminution of the PSNI's ability to comply with the Human Rights Act or the Policing Board's ability to monitor said compliance.
6. The PSNI (which incorporated the RUC in 2001) accepts the findings of the de Silva report and acknowledges the very serious issues raised in it. At the direction of the Chief Constable, the Historical Enquiries Team (HET) within the PSNI was asked to review the de Silva report, following its publication in December 2012. The HET were requested to consider the report and advise whether, as a result of its findings, further investigations are required by the PSNI in respect of the cases considered within the report. A Senior Investigating Officer (SIO) was appointed to undertake this work, which is not yet complete but will be concluded this year.

#### Frameworks for handling intelligence agents

7. De Silva draws a number of conclusions about the way in which CHIS were managed in 1989. His conclusion that "successive governments knew that agents were being run by the intelligence agencies in Northern Ireland without recourse to any effective guidance or a proper legal framework" is one that we take very seriously. De Silva acknowledges the difficulties caused to the RUC as a result of their being asked to operate in an environment which did not have sufficient regulatory structures, rules or oversight in place and he notes that they sought clarification of the situation on numerous occasions. He is right to draw these conclusions and we have carefully considered current arrangements to ensure that the failing has been addressed.

### *Regulation of Investigatory Powers Act (RIPA) 2000*

8. The introduction of the Regulation of Investigatory Powers Act (RIPA) 2000, and the associated orders and codes, now provides a clear legal framework for authorising and managing CHIS within the UK. The key provisions of RIPA are as follows:
- it provides the legal framework for authorising and managing CHIS in a way that is compatible with the European Convention on Human Rights, and particularly the right to privacy;
  - it requires that use of a CHIS is subject to prior senior officer authorisation, limits the purposes for which the CHIS may be used, ensures detailed records are maintained, establishes independent oversight and inspection, and provides an independent appeals mechanism to investigate complaints;
  - public authorities able to authorise CHIS are listed in the Regulation of Investigatory Powers (Directed Surveillance and CHIS) Order 2010 (SI 2010 No.521). The order specifies the grade level at which CHIS may be authorised and for which statutory purposes (eg. crime, national security, public safety);
  - public authorities may only authorise CHIS if:
    - satisfied this is necessary and proportionate with regard to human rights; and
    - specifically designated officers within the authority have been appointed to look after the CHIS's welfare, general oversight of his use and records relating to him.
9. The Home Office's RIPA Code of Practice on CHIS provides additional guidance to public authorities, including law enforcement and security and intelligence agencies, on the authorisation and handling of CHIS. The code has recently been revised to update and clarify the guidance. The new CHIS code was published on 10 December 2014:

<https://www.gov.uk/government/publications/covert-surveillance-and-covert-human-intelligence-sources-codes-of-practice>.

Separately, the College of Policing produces a Manual of Guidance which provides national standards for police officers in the use and management of sources. These apply throughout the UK.

### *CHIS involvement in criminality*

10. De Silva acknowledges the improvements made as a result of RIPA and its Code of Practice. However, he argues that these do not provide adequate guidance as to the limits of the activities of CHIS in criminality. Since he wrote his report, additional CHIS oversight has been put in place, including reinforcement of the RIPA framework. Where, in exceptional circumstances, it proves necessary for CHIS to participate in criminal acts in order to fulfil their authorised conduct, agencies giving such tasking will only carry out such operations subject to the most stringent processes and safeguards.

### *Arrangements for handling CHIS specific to Northern Ireland*

11. Additional guidance is in place for Northern Ireland. The PSNI has its own Manual for the Management of CHIS which is designed to augment the College of Policing Manual of Guidance, taking into account the Northern Ireland operating environment. This was last updated in January 2013 and is currently under review to ensure that practices remain relevant and continue to improve in response to new developments. The PSNI also have their own procedures ensuring that information is shared where CHIS are suspected of involvement in criminality.
12. As set out above, the PSNI adheres to both local and national policy in relation to managing sources. The PSNI reinforces this through the delivery of a professional development programme for officers and staff involved in handling sources and managing intelligence. Both programmes are accredited by an academic institution and a further course has been developed on CHIS Management for senior officers which supplements the national training that all authorising officers attend. All officers and staff involved in source management in Northern Ireland are bound by the PSNI Code of Ethics which sets standards of integrity and professionalism in the service.

### Accountability and oversight

#### *Legislation*

13. De Silva highlights failings in accountability and oversight of intelligence operations. A number of significant legislative changes have been made since 1989 which have addressed these. The intelligence agencies have been formally avowed and placed on a statutory footing: the Security Service in 1989 through the Security Service Act (the Secret Intelligence Service and GCHQ followed in 1994 through the Intelligence Services Act (ISA)). The ISA also gave Parliament a greater role in the oversight of the

intelligence agencies with the establishment of the Intelligence and Security Committee (ISC). The ISC was given further powers, and its oversight ambit increased, by the Justice and Security Act 2013. Additionally, the Human Rights Act 1998 implemented the rights and freedoms in the European Convention of Human Rights which provides a framework for how the agencies acquire much of the information they need to fulfil their statutory tasks alongside RIPA.

### *Independent oversight*

14. An Intelligence Services Commissioner was put in place alongside RIPA in 2000 and oversees CHIS authorisations for the intelligence agencies. The Office of Surveillance Commissioners (OSC), headed by the Chief Surveillance Commissioner, was established with the Police Act in 1997 and oversees CHIS authorisations for other public authorities. The Intelligence Services Commissioner and Chief Surveillance Commissioner report directly to the Prime Minister. They produce annual reports which are laid before Parliament. Additionally, the Investigatory Powers Tribunal (IPT) is a judicial body established under RIPA in 2000 which can hear complaints against the agencies' activities, including any alleged human rights infringements.

### *Oversight in Northern Ireland*

15. Since 1989, in addition to the UK-wide arrangements described above, the arrangements for oversight of intelligence in Northern Ireland have been reinforced. Policing is scrutinised by the Northern Ireland Policing Board (NIPB), with complaints subject to independent review by the Police Ombudsman of Northern Ireland. The Human Rights Advisor of the NIPB undertakes human rights reviews of PSNI processes and policies, including legal scrutiny of covert policing.
16. The Intelligence Services Commissioner visits the NIO annually and reviews the work of the Security Service in Northern Ireland twice a year. The OSC also carries out annual inspections of the PSNI. These inspections ensure that authorisations for CHIS are necessary and proportionate, and comply with current legislation and guidance, including RIPA, and the Security Service proactively raises breaches of RIPA that come to its attention to the Intelligence Services Commissioner, as does the PSNI to the Chief Surveillance Commissioner. In recent years, the OSC has reported positively on the PSNI's conduct in this area. In its most recent inspection in March 2014 the OSC concluded that the PSNI demonstrated high standards in its compliance with RIPA, and that the decision-making and processes underpinning this were "of the highest order". The IPT can consider complaints about the use of intrusive

powers, which includes the use and conduct of CHIS by the PSNI and Security Service. Individuals can also raise complaints with the Office of the Police Ombudsman in Northern Ireland (OPONI) about the conduct of approaches made in respect of CHIS recruitment by PSNI officers. OPONI can access all PSNI documentation, where there are reasonable grounds for doing so.

17. At the time of the transfer of national security responsibility to the Security Service in 2007, the Secretary of State for Northern Ireland appointed an Independent Reviewer of National Security Arrangements in Northern Ireland, Lord Carlile, to review the arrangements for national security matters. Lord Carlile reports to the Secretary of State on an annual basis. His most recent report commented on successful joint operations between Security Service and the PSNI. A Written Ministerial Statement by the Secretary of State for Northern Ireland summarising his latest findings on 6 March 2014 is attached (Annex B).

#### *Oversight of Ministry of Defence Intelligence Activity*

18. The MOD no longer runs intelligence agents in Northern Ireland. However, it has developed detailed internal guidelines for the conduct of all military CHIS operations since the events described in de Silva's report. CHIS operations are authorised by a local commander. All aspects of CHIS handling are briefed to a human intelligence management board, which includes the military commander, a legal adviser, and a policy adviser. The management board sees, approves and signs all appropriate CHIS paperwork required by RIPA to ensure that the specific conduct of each CHIS is satisfactory and lawful. The proceedings of these board meetings are recorded and forwarded to an MOD Supervisory Authority chaired by an MOD civilian, with attendance drawn from other operational and legal staff. The Intelligence Services Commissioner can hold inspections to consider the justification for the authorisation of specific operations.

#### Exploitation of intelligence

19. De Silva draws attention to the deliberate and unauthorised disclosure of classified intelligence information by members of the security forces to loyalist terrorists. His report identifies some 270 separate instances of leaks during the period 1987-89. 59 people were charged and 43 convicted (including 11 members of the Ulster Defence Regiment) for these as a result of the Stevens III inquiry of 1999-2003. Within the MOD, the nature and scale of the leaks led to fundamental changes in security procedures and access to intelligence in Northern Ireland: access to intelligence was subsequently compartmentalised strictly so that personnel

only had the access they needed to perform their job. The use of computer systems and extraction of intelligence data was closely monitored so that unusual or unauthorised activity could be identified and addressed. Since 1989, the MOD has overhauled training arrangements for agent handlers. The Defence Agent Handling Course now ensures that anyone engaged in such work is fully aware of the requirements of RIPA, including in situations where RIPA does not formally apply but where the MOD has indicated that its provisions will be observed. Training courses now take full account of modern regulatory requirements as embodied in RIPA. They are more comprehensive than in the 1980s, when de Silva noted that FRU officers received no training in legal issues.

### *Handling Threat to Life Intelligence*

20. De Silva is critical of the fact that significant amounts of intelligence collected by an army agent and passed to the police were not acted upon and that this anomaly was never challenged by those in a position to do so. The agencies involved have acknowledged that this was indeed a significant failing. The Security Service and the PSNI now have clear guidance and processes to ensure “threat to life” intelligence is always handled appropriately, acted on promptly and a clear record retained of any such action. They are under a legal obligation to ensure that those processes work well since the introduction of the Human Rights Act 1998 which gave domestic effect to our obligation to ensure we uphold Article 2 of the European Convention on Human Rights (including the State’s duty to take positive steps to prevent avoidable losses of life in certain circumstances). The guidance is now absolutely clear that the requirement to protect a source of intelligence - whilst that in itself might create a fresh Article 2 obligation - does not negate the requirement to take reasonable steps to prevent all real and immediate threats to the lives of all identifiable victims. All Security Service investigative and operational officers receive training in relation to this guidance and follow it on a daily basis each time such a scenario arises in practice. PSNI officers receive bespoke training on how to manage threats to life and providing threat to life notices is now a regular part of police work in Northern Ireland. Although no longer involved in running intelligence agents in Northern Ireland, the MOD also has similar guidance.

### Conduct of individuals and discipline

21. De Silva directly criticises the conduct of a number of individual MOD officers. The MOD has considered carefully the criticisms with a view to ensuring that the department has learned and implemented all the lessons and establishing whether even now many years on there are any further steps that might be appropriate in light of de Silva’s criticisms. In doing so,

the MOD is clear there has been a sea change across Defence and the Armed Forces in relation to the understanding of responsibilities in respect of the criminal justice system where respect for the rule of law and for the requirement to co-operate fully with investigations and inquiries and disclose fully all relevant information is now entrenched across the MOD.

22. Turning to the individuals identified by de Silva, the military officers criticised have all now left military service, and the MOD is restricted in the options available to them to take further action. The Director for Public Prosecutions for Northern Ireland decided in 2007, after a full police investigation, that no prosecutions should be brought against members or former members of the armed forces over these events. Forfeiture of pension rights for military personnel requires conviction for treason, an offence under the Official Secrets Act leading to a sentence of at least ten years, or an offence gravely injurious to the defence, security, or other interests of the state. None of the individuals has been convicted of any of these offences so this option is not available. As de Silva says, the context in which these actions took place was a lack of adequate oversight from successive governments, which this government acknowledged and regrets. De Silva refers to one MOD civilian employee who relied on misleading data on the value of Nelson's intelligence in preparing advice for the Secretary of State. This officer was junior at the time and was wholly dependent on information provided by others; therefore the Government does not believe that it would be appropriate to take further action against him now.
23. Whilst de Silva does not make direct criticism of the conduct of individual Security Service officers, he does make serious criticisms of the arrangements that the Security Service had in place at the time. The two officers de Silva identified he would have wished to have spoken to further to illuminate the issues are now deceased. In the absence of criticism of individuals and having given the matter careful attention, the Security Service has concluded that it would not be appropriate to attribute specific responsibility for institutional failings 25 years ago to individuals who cannot answer for themselves and so cannot take further action in that regard. The Security Service does, however, acknowledge at a corporate level that it did not have in place at the time adequate policies, guidance, oversight structures or means of supporting staff. This contributed to a number of failings identified by de Silva. These weaknesses have been addressed by the very substantial range of statutory, organisational and systemic changes that have been implemented in the intervening 25 years, as reflected in this response.

### Cooperation with the criminal justice process

24. De Silva describes obstruction of subsequent criminal justice processes linked to Patrick Finucane's murder on the part of a number of Army personnel. There have been significant changes across Defence and the Armed Forces in relation to understanding the responsibilities associated with the criminal justice process. This reflects the MOD's experience in Northern Ireland and the wider changes in the military justice system in light of operations in Iraq and elsewhere. The upshot is a better resourced and much more self-confident Service justice system which prizes independence in respect both of investigations and prosecutions. These are under the auspices of a civilian Director Service Prosecutions accountable to the Attorney General. All of these changes, together with others, such as the creation of the Iraq Historic Allegations Team (led and staffed by former civilian police officers) and a dedicated directorate servicing inquests and inquiries have contributed to a climate in which respect for the rule of law and for the requirement to co-operate fully with investigations and inquiries and disclose fully all relevant information is now entrenched across the MOD and the Armed Forces.

### Involvement of Intelligence Agencies in Propaganda

25. De Silva concluded that Security Service 'propaganda' referring to Patrick Finucane could have contributed to rumours linking Patrick Finucane to the IRA and that given the circumstances which then prevailed in Northern Ireland, the use of propaganda could, given the background to these initiatives, have had manifestly undesirable results. Although De Silva did not find any direct link between those rumours and the murder, the Security Service has accepted that it was ill advised to have become involved in this operation before adequate control was established in relation to the content of the propaganda (a view shared internally in the Security Service in documents viewed by de Silva at the time). Any such operation would now be subject to strict guidelines and in particular consideration would be given to ensure that the Security Service does not a) incite violence, encourage terrorism or commit other criminal offences, b) take steps which it is reasonably foreseeable may result in the targeting, harassment of or harm to an individual, c) fabricate information or d) do anything that it is reasonably foreseeable could result in unacceptable political controversy. Before authorisation, legal advice will always be sought and in appropriate cases police, senior officials at the Home Office, NIO or FCO or Ministers will be consulted. MI5 are confident that this policy will prevent recurrence of the circumstances which de Silva identified.

## Conclusions

26. The de Silva report is a document of great value, which sets out the significant failings in the Northern Ireland security apparatus during the Troubles. It is also important to note that de Silva says that his report should not be taken to establish civil or criminal liability of any individual or organisation referred to within the body of the report. The Government deeply regrets the fact that, as de Silva concludes, “a series of positive actions by employees of the State actively facilitated [Patrick Finucane’s] murder”. The Prime Minister has apologised publically for this. Since that time there have been fundamental changes in the legal and policy framework within which intelligence gathering operations are carried out today. We also now have a far more rigorous system of independent oversight and control than existed at the time of Patrick Finucane’s murder. The approach of the police and intelligence agencies to handling of CHIS has been completely transformed in the years since the appalling events under consideration in the De Silva Review. Compliance with human rights and other legal obligations has a fundamental place at the centre of activities by the police and intelligence services with the principles of necessity and proportionality now firmly embedded in the culture and systems they apply in their work.

## ANNEX A

### **Annex E to the St Andrews Agreement:**

#### **Future national security arrangements in Northern Ireland: paper by the British Government**

Building on the useful discussions that have already taken place with the parties on the issue, this paper outlines the arrangements that are being put in place for the handling of national security intelligence in Northern Ireland and the accountability measures that will be in place, once lead responsibility passes to the Security Service in late 2007.

The change will bring Northern Ireland into line with the rest of the UK, to provide a consistent and co-ordinated response to the threat from terrorism, including from international terrorist groups such as Al Qaeda. It also, since national security is an excepted matter, prepares the way for devolution.

The British Government is confident the new arrangements will bring real benefits to both the Security Service and the PSNI. A key driver behind the practical arrangements currently being devised and tested is the unique interface in NI between national security and serious/organised crime. The new arrangements preserve and build upon the Patten reforms: that is a fundamental principle of these changes.

New integrated working arrangements - the first such approach in the UK - will strengthen the PSNI's criminal intelligence capability. This is because PSNI officers will be co-located with Security Service personnel and will work in a variety of roles including as intelligence analysts/advisors and for the purpose of translating intelligence into executive action. These arrangements are designed precisely for the purpose of ensuring that intelligence is shared and properly directed within the PSNI. Integration of personnel in this way is an essential protection against concerns that some intelligence would not be visible to the PSNI.

The Security Service has no executive policing responsibilities, even in countering threats to national security. While the Security Service will provide the strategic direction, the PSNI's contribution to countering terrorism will remain absolutely central. In all circumstances, including where the interest is national security related it will be the role of the PSNI to mount executive policing operations, make arrests and take forward prosecutions under the direction of the Public Prosecution Service.

There will be no diminution in police accountability. The role and responsibilities of the Policing Board and the Police Ombudsman vis a vis the Police will not change. Police officers working with the Security Service in

whatever capacity will remain accountable to the Chief Constable and under the oversight of the Police Ombudsman. The Security Service and the Ombudsman's office have been working together to agree arrangements for the Ombudsman's access to sensitive information held by the Service, where this becomes necessary for the discharge of the Ombudsman's statutory duties. The Service has already disclosed sensitive information to the Ombudsman's office in a number of cases. It is important to ensure that comprehensive accountability mechanisms are in place for all aspects of policing in Northern Ireland, and we will continue to discuss these matters with the parties.

The Government will publish in due course high level versions of the MoUs currently being developed between the Security Service and the PSNI and others, as appropriate

The great majority of national security agents will be run by the PSNI, under the strategic direction of the Service, mirroring the arrangements the Service has with the police in GB. This makes sense in NI in particular because of the interface between serious crime and national security; the police also have the advantage of local knowledge. The Security Service will continue to run directly a small number of agents who are authorised to obtain information in the interests of national security as distinct from countering criminality, where the circumstances make that appropriate. The principles observed by the PSNI and the Security Service in running agents are the same, and are enshrined in the Regulation of Investigatory Powers Act 2000.

The Policing Board will, as now, have the power to require the Chief Constable to report on any issue pertaining to his functions or those of the police service. All aspects of policing will continue to be subject to the same scrutiny as now. To ensure the Chief Constable can be fully accountable for the PSNI's policing operations, the Security Service will participate in briefings to closed sessions of the Policing Board to provide appropriate intelligence background about national security related policing operations.

On policing that touches on national security the Chief Constable's main accountability will be to the Secretary of State, as it is now. The Security Service is fully accountable through existing statutory arrangements and the due processes of Parliament. In addition, three separate Commissioners oversee different elements of covert work in NI: the Intelligence Services Commissioner; the Interception of Communications Commissioner; and the Surveillance Commissioner. Relevant complaints relating to the actions of the intelligence agencies are investigated by the Investigatory Powers Tribunal, a panel comprising senior members of the legal profession. There is also the Parliamentary Intelligence and Security Committee whose remit is to examine the expenditure, administration and policy of the security and intelligence agencies and whose reports are placed before Parliament; the Government has

already indicated that it is prepared to consider how the Northern Ireland focus of the Committee might be strengthened.

In summary, a whole range of safeguards will continue in place: the Policing Board's continuing role in ensuring efficient policing; the safeguards embodied in RIPA; the Ombudsman's role in investigating complaints against police officers; Parliament's scrutiny of intelligence matters through the Intelligence and Security Committee; the various Commissioners' oversight of particular types of covert operations; and the Investigatory Powers Tribunal's remit to deal with complaints. Not only are these arrangements comprehensive, they are as transparent as the sensitivity of the issues allows.

Further to reinforce this comprehensive set of safeguards, the Government confirms that it accepts and will ensure that effect is given to the five key principles which the Chief Constable has identified as crucial to the effective operation of the new arrangements, viz:

- a. All Security Service intelligence relating to terrorism in Northern Ireland will be visible to the PSNI.
- b. PSNI will be informed of all Security Service counter terrorist investigations and operations relating to Northern Ireland.
- c. Security Service intelligence will be disseminated within PSNI according to the current PSNI dissemination policy, and using police procedures.
- d. The great majority of national security CHISs in Northern Ireland will continue to be run by PSNI officers under existing police handling protocols.
- e. There will be no diminution of the PSNI's ability to comply with the HRA or the Policing Board's ability to monitor said compliance.

In that connection, the Government believes that the Policing Board's Human Rights advisers should have a role in human rights proofing the relevant protocols that will underpin the Chief Constable's five key principles, and also in confirming that satisfactory arrangements are in place to implement the principles. The detailed operation of this safeguard will require further consideration.

As far as the employment of former police officers by the Security Service under these new arrangements is concerned, there will be no bar on former officers serving in the new organisation, but for operational reasons there will be a need for such individuals to have working experience of the arrangements under which the PSNI currently operate. The same rigorous vetting procedures will apply to them as they do to all new staff joining the service.

**ANNEX B****WRITTEN MINISTERIAL STATEMENT****NORTHERN IRELAND OFFICE****6 March 2014****Report by Lord Carlile on the  
National Security Arrangements in Northern Ireland**

**The Secretary of State for Northern Ireland (Theresa Villiers):** This is a summary of the main findings from the report by Lord Carlile, the independent reviewer of national security arrangements in Northern Ireland, over the period from 1 December 2012 to 31 December 2013.

“Once again I am grateful to Ministers for their close interest in the matters discussed here; several meetings with Ministers have occurred.

“I have met several stakeholders for the purposes of this report. They have included the Secretary of State and other Ministers for the time being including the Minister of Justice in the Northern Ireland Executive, Police Service of Northern Ireland (PSNI) and MI5 at senior levels, the relevant Commissioners dealing with National Security matters, the Northern Ireland Policing Board, the Police Ombudsman of Northern Ireland (PONI), and others. I have also engaged with HM Inspectorate of Constabulary (HMIC) concerning activities relevant to this Report. I have made myself available to the Northern Ireland political parties if so required, an offer which was not taken up this year.

“The liaison between Mr Ford and those responsible for national security issues is satisfactory.

“The context in which national security activities are performed in Northern Ireland is changing and remains challenging. I have considered the current threat level, and what I have learned of events of a terrorist nature during the year. The level of terrorist activity appears broadly similar to the previous year. The overall picture is of a very dangerous, unpredictable terrorist threat, though one much smaller than in the days of PIRA terrorist activity.

“There were 30 national security incidents during 2013, and several hoaxes. The authorities deserve the highest praise for the successful security operations surrounding the G8 Summit at Lough Erne on 17-18 June and the

World Police and Fire Games on 1-10 August, both of which always had the potential to be a magnet for terrorism.

“Ongoing investigations are at a high level. I was provided with information about such investigations, and of the considerable number of officers involved. Peace is in no small way the result of these efforts by PSNI and MI5 personnel.

“Additional challenges continue to be posed by the many connections which terrorists appear to have with organised crime – not least because such crime helps fund their politically motivated activities. The opposition to drugs use by dissident republican groups is less than convincing. Their continued involvement in tobacco smuggling is clear.

“As before, I asked specifically about loyalist terrorists. Basically these are people whose real interest is in making money from crime. Their groups have always suffered from fractiousness, and this has not changed. The authorities are well sighted against these organisations.

“I have asked questions again this year about the relationship between MI5 and PSNI staff working alongside each other in security sensitive operations in Northern Ireland. That they work together well and in the national interest is beyond question. Generally they are well sighted together over potential terrorist operations, better than other similar arrangements I have observed elsewhere in the world. There is no evidence of the two services in any way undermining each other’s work – quite the opposite.

“In concurrence with MI5 and national security work, the use of CHIS has been effective. I was very impressed by what I was told of the training and verification processes: they are methodical, detailed and subject to constant checking.

“The PSNI and MI5 respectively have their own in-house legal advisers. The PSNI also has an in-house Human Rights legal adviser. In addition, relations with the Director of Public Prosecutions for Northern Ireland are excellent and founded on trust and mutual respect, and as a result the services can go to the Public Prosecution Service for advice if they feel that it would be helpful.

“I am satisfied that there is undoubtedly solid scrutiny of interception, in an environment in which communications technology is developing quickly.

“I have asked about the availability and use of technology for counter-terrorism operations. The amount of technically based work is on the

increase, and the public are protected by investment in top quality and up to date technology.

“I met the Policing Board during 2013, and attempted to address their understandable concern that they cannot make full judgments of relevant issues involving policing and national security on the basis of incomplete information. The nature of national security and the Northern Ireland context necessitates these arrangements, but the Board can feel reassured that the Human Rights Advisor is able to carry out that role with greater confidence. A stronger and coherent narrative is provided, and continuing capable judgment exercised as to what can and cannot be shared with the Board.

“I consider that continuing discussion between the operational authorities and the PONI will help to define further the legitimate scope of any enquiries he may have in mind into national security issues and policy.

“In relation to prosecutions, the Director of Public Prosecutions for Northern Ireland is pursuing a policy consistent with that in GB, of prosecuting where the evidence reaches the required standards applicable to prosecution decisions generally. The threat of terrorism justifies the continuation of the non-jury system. There is no evidence of any disadvantage in terms of outcome to Defendants in the current system of non-jury trials.

“Prisons remain a problem area on two grounds. First, short-term prisoners can emerge from gaol as more determined and better informed terrorists. Secondly, prison officers are a relatively easy target for terrorist attack.

“I have measured performance in 2013 against the five key principles identified in relation to national security in Annex E to the St Andrews Agreement of October 2006.

“My conclusions in relation to Annex E are as follows:

<b>Text of Annex E</b>	<b>Conclusions</b>
Further to reinforce this comprehensive set of safeguards, the Government confirms that it accepts and will ensure that effect is given to the five key principles which the Chief Constable has identified as crucial to the effective operation of the new arrangements, viz:	
All Security Service intelligence relating to terrorism in Northern Ireland will be visible to the PSNI.	There is compliance. Arrangements are in place to deal with any suspected malfeasance by a PSNI or MI5 officer.

PSNI will be informed of all Security Service counter terrorist investigations and operations relating to Northern Ireland.	There is compliance.
Security Service intelligence will be disseminated within PSNI according to the current PSNI dissemination policy, and using police procedures.	There is compliance. Dissemination policy has developed since the new arrangements came into force.
The great majority of national security CHIS in Northern Ireland will continue to be run by PSNI officers under existing police handling protocols.	The majority of CHIS are run by the PSNI. Protocols have not stood still. A review of existing protocols and the development of up to date replacements should always be work in progress and clearly accountable.
There will be no diminution of the PSNI's responsibility to comply with the Human Rights Act or the Policing Board's ability to monitor said compliance.	The PSNI must continue to comply. The Policing Board, with the advice of their Human Rights Advisor as a key component, will continue the role of monitoring compliance.

### *Conclusions*

“I regard 2013, as 2012, as a year of continuing but challenging broad success in a very difficult environment. We remain far from the demise of all Northern Ireland terrorism. The Haass process hopefully will have left a solid and evolving basis for further discussions which will make terrorism less and less relevant. We must remain vigilant as in the past 6 years at least. However, once again I have drawn comfort from the successful joint operations between MI5 and the PSNI, and their high level of co-operation with their counterparts in Ireland. The process from segregation to integration continues steadily.”