

C370/44



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

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2 August 2004

Mr Brice Dickson
Chief Commissioner
Northern Ireland Human Rights Commission
Temple Court
39 North Street
BELFAST
BT1 1NA

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Dear Brice,

Thank you for the opportunity to comment on the latest paper on the proposed Bill of Rights for Northern Ireland. We appreciate the complexity of this issue and welcome this further opportunity to provide a police perspective.

I have included a brief attachment to this letter that provides some specific comments on those sections that fall within the remit of the police. I hope you find them of some assistance.

As you are very much aware policing has, over the years, been subject to much scrutiny, which has helped to provide some clarity to the limits of our duties as police officers and the standards that apply to that work. It is vital that such clarity is maintained in the directions issued to officers in order to avoid any potential confusion or misinterpretation by any party.

I wish you well with this project and look forward to seeing how the Bill of Rights develops in the future.

Yours sincerely

Handwritten signature of J K Gillespie.
J K GILLESPIE



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Comments on "Progressing a Bill of Rights for Northern Ireland: An Update"

Section and page ref.	Comment.
Section 1, page 21 (Read together with section 18)	The suggestion is that the Bill of Rights will take precedent over all laws whether restricted to NI or not. This will result in a variation in standards between NI and the rest of the UK. For instance the restriction re detention contained in section 7(11) will result in variation of standards.
Section 5, page 41	<p>This appears to unnecessarily confuse Article 2, which has established a strict standard for use of lethal force. An ambiguous phrase such as, "...a particularly serious crime involving grave threat to life..." introduces subjective standards and interpretations. It is unfortunate that this section does not possess the same level of explanation as other sections of the document.</p> <p>The new draft does not enhance Article 2. The first line implies an intentional killing. The last line imposes a test of hindsight with reference to "less extreme means".</p>
Section 7(1), page 45	<p>"Reasonable and proportionate procedure" – what does this mean? Is it duplication or two different tests? Surely how the procedure is applied is where proportionality ought to be the test.</p> <p>Is this actually a 'liberty issue? Would it not be more appropriately placed as an Article 8 issue in section 11?</p>
Section 7(2), page 45	"informed immediately of his or her rights..." is not a practical suggestion. It is not always possible to do so when an arrested person is violent or under the influence of alcohol or some other substance. The word 'promptly' used in Article 5(2) ECHR is far more practical.
Section 7(8), page 46	"Questioned" is too broad a term. 'Interview' is probably more practical, as a police officer may legitimately ask questions prior to arrival at a custody office.
Section 7(11), page 47	As stated above, this will mean a difference of standards from the rest of the UK.

- Section 8(2), page 49 The use of non-jury trials remains a requirement in NI due to the ongoing threat provided by paramilitary and organised crime groups.
- Section 8(3), page 49 There are well-established legal processes for dealing with unfair evidence. This has been recognised in both UK and European case law.
- Section 8(8), page 49 A right to appeal that is open ended is impractical and undesirable. Suitable criteria established by the judiciary prevent unnecessary and spurious appeals, which would clog up the system.
- Section 12(4), page 63 Considering the impact of young people committing crime, an increase in the age of criminal liability from 10 to 12 would not be supported.