

A REPORT ON THE USE OF SPIT HOOD AND BITE GUARD INCIDENTS NOTIFIED TO THE POLICE OMBUDSMANS OFFICE

INTRODUCTION

The Police Service of Northern Ireland introduced the use of Spit Hood and Bite Guards for use by its officers in April this year.

They were first used during the 'lockdown' period and after a number of reported incidents when members of the public were said to have spat at police officers. A PSNI statement at the time said it had taken the measure "as result of the Covid 19 Pandemic and the associated potential dangers for officers and staff dealing with persons who may spit or bite."

The devices, which are currently in use by police forces across Great Britain and Ireland, are a restraint, but are used as a mechanism to help protect officers and staff. Spit Hoods and Bite Guards are made of a mesh type fabric and are placed over an individual's head to reduce the effects should that person attempt to bite or spit at officers. The Police Ombudsman acknowledges the competing obligations on the Chief Constable to ensure the health and safety of his staff and his human rights obligations to ensure that Spit Hoods and Bite Guards are used properly and proportionately with regard to the dignity and human rights of the subject.

Their introduction to Northern Ireland followed initial discussions with a number of key stakeholders, including the Police Ombudsman's Office. As part of that discussion, the Police Ombudsman requested that her Office should be notified each time they were deployed. This was to ensure that each incident could be independently reviewed to identify if there had been any criminality or misconduct on behalf of the officers, or if the particular use of the device was disproportionate, improper or in breach of the PSNI Code of Ethics. An important aspect of any deployment of a Spit Hood or Bite Guard is the use of Body Worn Video by the relevant officer(s) which the Police Ombudsman believes to be essential to enable any checks to be made about the use of a particular deployment.

Where there was evidence to indicate that there may have been criminality or misconduct on the part of a police officer and no complaint had been received or formal referral from the Chief Constable, the Police Ombudsman determined that she would then consider whether it was in the public interest to commence an own motion investigation.

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POLICY, PROCEDURE AND GUIDANCE.

Chapter 16 of the PSNI Manual of Policy, Procedure and Guidance on Conflict Management set out the procedure to be adopted when using a Spit Hood and Bite Guards. It specifies at 16.3 of that policy who the device can be applied to:

- It can only be applied to a person who is spitting, has spat, is preparing to spit or is threatening to spit.
- Is biting, has bitten, is preparing to bite or is threatening to bite.
- Previous instances of the above will not provide justification for its use in isolation, but combined with the above may provide justification.
- It cannot be applied to children under 10 years of age.

This policy was updated by PSNI on 17th April 2020 to read:

- It cannot be applied to children under 10 years of age. Special consideration should be given to the heightened vulnerabilities of children Article 3 of United Nations Convention of the Rights of the Child (UNCRC) requires the best interests of children to be a primary consideration in all actions concerning children.

This policy was further updated by PSNI following representations by the Police Ombudsman and the Children's Commissioner for Northern Ireland (NICCY) in relation to the use of Spit Hoods and Bite Guards on children and young persons and now reads:

- Where officers or staff are already aware that a member of the public is vulnerable by way of age (under 18), mental health or other debilitating condition which the use of a Spit and Bite Guard could exacerbate, the use of a Spit and Bite Guard should be carefully considered.

PSNI NOTIFICATIONS TO THE POLICE OMBUDSMAN

The Police Ombudsman's Office has received more than 70 notifications from the PSNI about the use of spit hood and bite guards by its officers since their introduction here. Those incidents have taken place in a variety of locations including police custody suites, in hospitals and in people's homes.

This paper provides detail of a review of the PSNI spit hood and bite guard matters which were notified to the Police Ombudsman's Office between 3 April and 18 September 2020.

It is based on the identification of a random sample of notifications to the Office on the operational use of the spit hood and bite guards.

A random sample of 10 notifications up to September 2020 was undertaken. This was to ensure a broad overview of the instances where the spit hood and bite guards were being deployed.

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The sample spanned Northern Ireland geographically, with varying individuals as subjects and officers applying the restraint. This was deemed a reasonable sample size to aid comparative analysis to each instance.

OUTCOME OF SAMPLE REVIEWED

The random sample of 10 deployments identified that the subject to whom the technique was applied were all male and with the exception of one subject, all were adults.

In all instances reviewed in the sample set, the subject was violent and had consumed alcohol and/or suspected drug taking was present.

The ten deployments did not identify any instance of criminality, misconduct or gross misconduct on the part of police officers.

In one instance the device was used on a child, as per the legal definition of a child i.e. anyone under the age of 18 years.

This incident was raised with the Chief Constable by the Police Ombudsman and the Children's Commissioner for Northern Ireland (NICCY). As detailed above, the PSNI has since updated its policy on the use of the device on people under 18 years of age.

In one instance, a police officer's body worn video had been completely obscured to such a degree that nothing could be seen on the video footage, although the exchange between the police officer and the member of the public could be heard.

The Police Ombudsman noted that had this person made a complaint to her Office the video would have been of only limited use in any subsequent Police Ombudsman investigation.

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CONCLUSION

The Police Ombudsman's Office has received more than 70 notifications from PSNI relating to the use of spit hoods and bite guards in Northern Ireland

The Office has not received any complaints from members of the public about their use during this period. The Police Ombudsman has also not identified any criminality or misconduct on the part of the police officers involved in the matters notified to the Police Ombudsman's Office between 3 April and 18 September 2020.

The samples included one occasion when the device was deployed in a professional manner and was regarded as an example of good practice. The Police Ombudsman has suggested to PSNI that this case be shared with training staff and officers as to how the devices ought to be safely deployed to avoid harm to the subject and protect officers.

She has also recommended that PSNI align its policy for the use of spit hoods and bite guards with the policy governing the use of Body Worn Video to ensure that police officers must switch on their camera when deploying a spit and bite device. She has asked that any incidents without a recording will require a reasoned explanation why this is so, which will need to be agreed by the officer's supervisor.

Although to date the Office has not received complaints about the use of the spit hood/bite guards, further to a more recent notification, Police Ombudsman investigators identified issues of concern. As a result the Police Ombudsman has commenced an 'own motion' investigation under section 55(6) of the Police (Northern Ireland) Act 1998.

If the PSNI Chief Constable were concerned about any deployment that had resulted in death or serious injury to any individual then he would be obliged to refer the matter to this Office for independent investigation. To date no such formal referrals have been made.

In any future roll out of these restraints, the Police Ombudsman remains of the view that it is essential that Body Worn Video is used and that officers receive adequate training and supervision. Notifications to her Office will be a key aspect of ensuring independent oversight of the actions of individual officers. This will enable evidence including body worn video footage to be viewed and considered with a view to an own motion investigation, where the Police Ombudsman considers it is in the public interest to do so.

Marie Anderson

Police Ombudsman for Northern Ireland

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