

**The Police Ombudsman's Review of the  
Deployment of Spit and Bite Guards by  
the Police Service of Northern Ireland**

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# 1.0

## Police Ombudsman's Foreword

I am pleased to present this report, which contains a statistical analysis and commentary on the review, by my staff, of the deployment of Spit and Bite Guards by all PSNI officers from 25 January to 25 July 2021. The timely and in depth review of these deployments has been possible, in part, due to the introduction of body-worn video and its use by all police officers in Northern Ireland.

There has been concern about the use of Spit and Bite Guards as a form of restraint and use of force and in this regard the importance of training and clear guidance cannot be overstated. That is because this is a new piece of equipment for police in Northern Ireland and the public must have confidence that police are deploying Spit and Bite Guards appropriately.

This report looks at the numbers and types of deployments during the sixth months of the review period.

The report also contains quantitative analysis on the review of the deployments and the numbers of complaints, referrals and own initiative investigations undertaken by my office.

A section on case studies highlights the challenges for police officers in using this new restraint and use of force and also the circumstances in which Spit and Bite Guards are used.

The report evidences available statistics on the 69 deployments across districts. However, statistics alone cannot provide a complete explanation for the issues identified in the review that are highlighted in my report. This report includes a number of case studies to illustrate the actions of PSNI officers in the cases captured by Body Worn Video.

For the most part, the deployment of Spit and Bite Guards reviewed over the six month period, on adults in my view are lawful, necessary and proportionate.

However, I remain concerned about the use of Spit and Bit Guards on children and young persons. Although the number of these deployments are small, I have raised concerns in my consideration of these issues. There are challenges for police offices in assessing whether a young person is, in effect, an adult. However, these challenges can be addressed by proper enquiry, in my view. The use of Spit and Bite Guards on children and young persons should, in my view, be prohibited. My main concern is that a number of the cases have highlighted a general trend in conduct by officers that is not related to the deployment of Spit and Bite Guards and is indicative of aggressive and, at times, oppressive and overbearing conduct. I acknowledge the statistical base is limited, however the conduct I have viewed on video is a cause for concern.

Although this report has highlighted a number of recommendations relating to the deployment of Spit and Bite Guards, the review also identified broader issues relating to officer conduct that I have highlighted to the Chief Constable and which must, in my view, be monitored. I recommend that the Chief Constable gives consideration to how these general conduct issues, identified by the review of individual cases, may be addressed.

The video evidence demonstrated a number of officers whose conduct focused towards escalation rather than de-escalation. There are also signs of visible aggression and poor behaviour by officers. This observation is my own view and also that of my senior staff who have viewed the deployments. Although this has occurred in a limited number of instances, I remain concerned. However, if the Chief Constable accepts this is an issue that he wishes to address, then it requires careful analysis and monitoring by PSNI. This is in my view necessary to advance the public's confidence in policing in Northern Ireland. My review has highlighted a number of instances that cause me concern and if a wider trend is established, a cultural change will take time and commitment from the senior leadership of PSNI. The support and oversight of the Northern Ireland Policing Board for the Chief Constable addressing these issues will also be necessary.

I wish to acknowledge with thanks the work of the Director of Current Investigations (PONI), my Deputy Senior Investigating Officer and his staff who conducted this review. Without our Head of Communications and his statistical analysis team, this report would not have been completed.

My thanks also to PSNI for co-operation in providing information on recent developments in service instructions to police officers and other key information. Professional Standards Department (PSD) in PSNI have been supportive of this review work and have approached my recommendations in an open and constructive manner. I am grateful for this engagement with my staff.

I trust this publication is of assistance to the Chief Constable, Northern Ireland Policing Board and relevant stakeholders and that it provides an evidential basis for further discussion on the value of the use and deployment of Spit and Bite Guards by PSNI.

**Marie Anderson**

**Police Ombudsman for Northern Ireland**

## 2.0

### Background

- 2.1 A Spit and Bite Guard is a restraint device, designed to be breathable, made from a mesh material that covers a subjected person's face and head. The purpose of the Spit and Bite Guard is to prevent the wearer from being able to spit at police officers or others. It cannot prevent the subjected person from biting but can potentially lessen the risk of serious injury arising from a bite.
- 2.2 Spit and Bite Guards were first introduced by UK police forces in 2011. Since this time, their introduction has been rapidly adopted by many police forces across the UK. The introduction of Spit and Bite Guards has been controversial. Many human rights and civil liberties organisations, and particularly those which focus on the interests of children and disabled persons, have expressed concerns about this use of force and its potential for breaching the human rights of detained persons and the potential of injury and risk to life of a person subjected to the use of Spit and Bite Guard.
- 2.3 The Police Service of Northern Ireland (PSNI) recognises in its Equality Impact Assessment on the Introduction of Spit and Bite Guards that 'the application of the Spit and Bite Guard on a subject is a use of force and must be recorded as such.' Due to the fact that Spit and Bite Guards are a use of force, their deployment must be conditional on the force used being lawful, proportionate and compliant with the human rights of the subjected person.
- 2.4 In March 2020, Spit and Bite Guards were introduced for use by the PSNI in response to the challenges faced by police when policing during the COVID-19 pandemic, although it is acknowledged within the PSNI's Equality Impact Assessment consultation document that Spit and Bite Guards are not Personal

Protective Equipment (PPE) for the purposes of preventing the transmission of COVID 19. Prior to the introduction, the PSNI had early discussions with the Office of the Police Ombudsman and agreed that the Police Ombudsman would be notified of all deployments and all Body-Worn Video would be reviewed. Police officers faced risks when policing during the pandemic. The vast majority of policing roles cannot be conducted from home. Police needed to maintain a visible presence and respond to reports of criminality on the streets and in communities. They were still required to arrest individuals, detain them and escort them to custody. This necessitated close contact with individuals who may have posed a risk of infection for police officers.

2.5 Spit and Bite Guards were initially introduced by the PSNI on a temporary basis in the emergency of the COVID-19 pandemic and were deployed to a limited number of officers in specific roles:

- Custody staff
- COVID-19 response crews
- Officers deployed in cell vans
- Armed Response Unit.

2.6 On 25 January 2021 the Chief Constable expanded the deployment of Spit and Bite Guards, for the duration of the COVID 19 pandemic, to:

- Local Policing and Neighbourhood Policing Teams
- Tactical Support Groups
- Roads Policing
- Specialist Firearms Officers within Special Operations Branch

2.7 This represented a significant expansion of the deployment of Spit and Bite Guards to many frontline PSNI officers across Northern Ireland.

## 3.0

# Police Ombudsman Review of the Deployment of Spit and Bite Guards

- 3.1 The Police Ombudsman requested, when the Chief Constable commenced the roll out of Spit and Bite Guards that her office be notified of each deployment of Spit and Bite Guard. The aim was to ensure that each deployment could be *independently* reviewed to identify potential criminality or misconduct on the part of the deploying officers. The mandatory activation of Body Worn Video<sup>1</sup> is an important protection for officers and for the public, to ensure that the deployment of a Spit and Bite Guard is appropriate and evidenced for future review purposes. It is also necessary for PSNI officers and staff to be trained on the appropriate deployment of a Spit and Bite guard. PSNI have developed policies and guidance to ensure consistent standards in how these restraints are deployed.
- 3.2 On 25 January 2021 the Chief Constable's announced the wider roll out of Spit and Bite Guards to include a number of frontline policing units. In response the Police Ombudsman developed a process by which a Single Point of Contact (SPOC) in her office would review the Body Worn Video and related documentation for the purpose of reporting on the wider roll out of Spit and Bite Guards.
- 3.3 The initial timeframe for the Police Ombudsman to carry out the independent review was for a period of three months. This timeframe was extended by the

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<sup>1</sup> [https://www.psnipolice.uk/advice\\_information/body-worn-video/](https://www.psnipolice.uk/advice_information/body-worn-video/)

Police Ombudsman for a further three months which ended on 25 July 2021.

- 3.4 This report covers the Police Ombudsman's investigation and observations on deployments during the six-month period 25 January 2021 to 25 July 2021 of the review.

### **Police Ombudsman's Review of the Use of Spit and Bite Guards by PSNI**

3.5 The aims of the Police Ombudsman review were to:

- I. Examine police Body-Worn Video (BWV) and other material as deemed necessary to ensure that the deployment of any Spit and Bite Guard was in accordance with the law, (including Human Rights obligations) and PSNI policies;
- II. Consider carefully any deployment of Spit and Bite Guards on the most vulnerable in our community with particular oversight on the use of Spit and Bite Guards on a child or young person;
- III. Determine if PSNI have adequate policies and procedures in place for the application of Spit and Bite Guards by officers;
- IV. Assess if officers have undertaken bespoke SBG training and are adhering to PSNI training and instructions when deploying Spit and Bite Guards.
- V. Identify any areas of poor practice and/or learning for PSNI.
- VI. Participate in the PSNI Spit and Bite Guard Working Group to ensure awareness of changes in PSNI policy or practice.

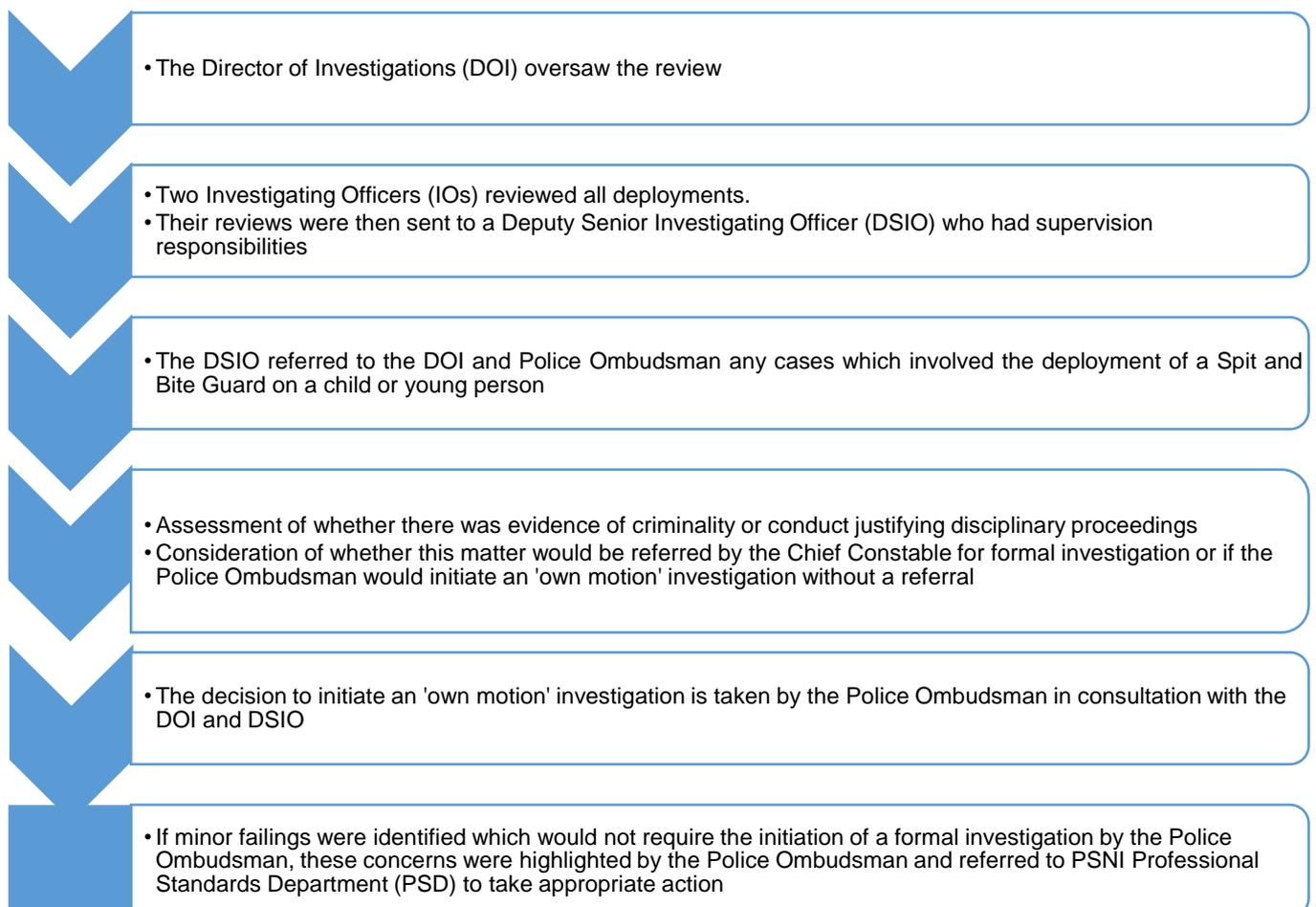
3.6 The purpose of the detailed examinations of Body Worn Video and related documents about the deployment of Spit and Bite Guards by Police Ombudsman staff was as follows:

- I. To identify criminality or misconduct on the part of any officer
- II. To ensure that the action and decisions of police in deploying Spit and Bite Guards reflect PSNI's legal obligations, in particular the European Convention of Human Rights (the Convention), balancing the engaged Human Rights of the deploying officers in the discharge of their duties

- III. To investigate related complaints from members of the public and referrals from the Chief Constable
- IV. To identify lessons learned and report on these to PSNI, the Northern Ireland Policing Board and the Department of Justice.
- V. Where there is an indication that the conduct of any police officer may amount to criminality or misconduct (and no complaint has been received), to decide if it is in the public interest to commence an own motion investigation.

### Police Ombudsman Resources

3.7 The Police Ombudsman committed resources by way of a dedicated team tasked with reviewing all deployments of Spit and Bite Guards notified to her Office during this period. The process for Police Ombudsman’s review was:



3.8 Throughout the review period of 25 January – 25 July 2021 there were 69 deployments of Spit and Bite Guards. These deployments have occurred in a variety of locations across Northern Ireland including in police vehicles, custody suites, hospitals and in residential premises.

## 4.0

# Statistical Analysis of Police Ombudsman Review

### Statistics on Deployment

- 4.1 During the review period there were 69 deployments of Spit and Bite Guards across Northern Ireland. Seven of these deployments occurred prior to the deploying officer/staff member completing the required training. There were six deployments on children under the age of 18 at the time of the deployment. 48 of the 69 deployments (70%) of Spit and Bite Guards were carried out on those in the 18-34 age group.
- 4.2 There were at least two Spit and Bite Guard deployments in each policing district with Belfast City (22 deployments) and Armagh City, Banbridge and Craigavon (10 deployments) accounting for the highest numbers of deployments.

Further detail on these headline figures is provided later in this section of the Report.

### Complaints, Referrals and Own Motion Investigations

- 4.3 The following table sets out the breakdown of the data on deployments during the six month review period

Table 1: Outcome of Police Ombudsman review of deployment.

<b>Outcome of Police Ombudsman Review</b>	<b>Count</b>
Police Ombudsman Own Motion Investigation	2
Chief Constable Referral	7
Concerns Sent back to PSNI	28
No Further Action	32
<b>Total</b>	<b>69</b>

- 4.4 Police Ombudsman investigators have completed an initial review the 69 deployments during the review period. In 41% of those reviews (28 deployments) Police Ombudsman investigators reverted to the Professional Standards Department with concerns about the deployment. These concerns did not meet the threshold of criminality or misconduct and could be resolved by police. A further 13% of reviews (nine deployments) resulted in either a Chief Constable referral to the Police Ombudsman (seven deployments) or the Police Ombudsman made the decision to commence an own motion investigation (two deployments).
- 4.5 In 46% of reviews (32 deployments) the investigators from the Office of the Police Ombudsman concluded that No Further Action was required. Of the 28 reviews that resulted in concerns for resolution by PSNI there were 52 concerns identified. These figures do not include any concerns that might arise out of the 9 reviews being dealt with as either a Police Ombudsman Own Motion decision or Chief Constable Referral.

#### **Potential Criminality and Misconduct / Chief Constable Referral**

- 4.7 In seven cases a Chief Constable referral to the Police Ombudsman on grounds of potential criminality or misconduct was received. Of the seven cases referred by the Chief Constable, two Police Ombudsman investigations involved potential criminal behaviour on the part of the deploying police officer. In one of these cases, a file has been submitted to the Public Prosecution Service (PPS).
- 4.8 In five of the Chief Constable referrals, the Police Ombudsman investigation has identified potential misconduct on the part of police officers. A significant percentage of the potential misconduct identified by the Police Ombudsman's investigation have been instances of non-compliance with the training requirement on the deployment of Spit and Bite Guards.

## Own Motion Investigations

4.9 There were two cases where the Police Ombudsman initiated an ‘*own motion*’ investigation in the absence of a referral from the Chief Constable. Both cases related to the deployment of a Spit and Bite Guard on a child. In one of the cases the Spit and Bite Guard was deployed on a child over the course of several hours. The Police Ombudsman initiated an ‘*own motion*’ investigation because of concerns over the length of time that the Spit and Bite Guard was deployed. The guidance states that continued deployment of Spit and Bite Guards must be necessary. In the second case there were no concerns identified about the deployment of the Spit and Bite Guard. However the Police Ombudsman’s review of the Body Worn Video identified other police conduct issues which require investigation.

## Public Complaints

4.10 It is important to note that, of the 69 deployments of Spit and Bite Guards recorded during the Police Ombudsman’s review, none have resulted in a public complaint to the Police Ombudsman from the subject.<sup>2</sup>

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<sup>2</sup> Prior to the review period, a public complaint regarding the deployment of a Spit and Bite Guard was received by the Police Ombudsman. However, an initial investigation identified that no Spit and Bite Guard had been deployed in this case.

## **Conduct Issues Arising from the Review**

- 4.11 There have been 28 instances where the Police Ombudsman has identified concerning conduct on the part of police officers during the course of the review. These instances of improper conduct are not directly related to the deployment of the Spit and Bite Guard. However, because the deployment of a Spit and Bite Guard necessitates that officers use Body Worn Video, it has been through the review of the Body Worn Video that the review team identified improper behaviours. Some of these behaviours were considered to be minor and for resolution by the Professional Standards Department (PSD). Examples of these minor concerns are highlighted in the case studies in Chapter 5 of this report. However in some instances the conduct is potentially in breach of the ethical stances required by the PSNI Code of Ethics. In this case, the Police Ombudsman initiated an own motion investigation.
- 4.12 The Police Ombudsman is concerned at the general conduct issues identified through the Body Worn Video as part of the review of the deployment of Spit and Bite Guards. Without the Police Ombudsman's review of Spit and Bite Guards, this improper conduct may not have been identified. The Police Ombudsman has alerted the Chief Constable to her concerns in this regard.

## **General Conduct Concerns**

4.13 The following table outlines a number of issues that emerged from a review of the 69 deployments

Table 2: Concerns raised with PSNI

<b>Type of concern</b>	<b>No. of concerns raised</b>
Body Worn Video not Activated	14
Issues with Deployment of Spit and Bite Guard	12
Incivility	10
Lack of PPE worn	4
Record Keeping	4
Training not completed	3
Insufficient warning prior to deployment	2
Handling of bio-hazard	1
Lack of Supervision of subject while Guard is Applied	1
Inconsistency between Body Worn Video and written Records	1
<b>Total</b>	<b>52</b>

## **Deployment by Age**

4.14 The table below highlights the age group of relevant subjects

Table 3: Deployment of Spit and Bite Guards by Age of Subjected Person

<b>Age</b>	<b>No. of Deployments</b>
< 18	6
18-34	48
35-55	13
55+	2
<b>Total</b>	<b>69</b>

4.15 It is noteworthy that individuals under the age of 35 account for 78% of all Spit and Bite Guard deployments which occurred during the review period.

## **Children and Young Persons**

- 4.16 As part of the Police Ombudsman review, particular consideration was given to the deployment of Spit and Bite Guards on children and young persons. The Northern Ireland Commissioner for Children and Young People (NICCY) had raised concerns about deployments on children and young persons. The Police Ombudsman had committed to personally reviewing the Body Worn Video of each deployment on a child or young person.
- 4.17 The Police Ombudsman's '*own motion*' investigations related to the deployment of Spit and Bite Guards on children. Of the seven deployments which resulted in Chief Constable referrals to the Police Ombudsman, two referrals involved deployment on a child.
- 4.18 The gender of persons subjected to the deployment of a Spit and Bite Guard is not recorded. However, a review of Body Worn Video indicates that the majority of deployments have been on male subjects.

## **Deployment by Locality**

- 4.19 During the review period, deployments of Spit and Bite Guards in Belfast City District Area accounted for 32% of all Spit and Bite Guard deployments across Northern Ireland. It is to be expected that the highest number of deployments would occur within Belfast. However, it is not possible to draw conclusions more generally about the geographical location of Spit and Bite Guard deployments because of the small numbers.

Table 4: Deployment of Spit and Bite Guards by Police District

<b>District</b>	<b>No. of Deployments</b>
Antrim & Newtownabbey	4
Ards & North Down	3
Armagh City, Banbridge & Craigavon	10
Belfast City	22
Causeway Coast & Glens	3
Derry City & Strabane	6
Fermanagh & Omagh	5
Lisburn & Castlereagh City	4
Mid & East Antrim	2
Mid Ulster	6
Newry, Mourne & Down	4
<b>Total</b>	<b>69</b>

## 5.0

### Case Studies of Police Ombudsman Reviews

In this section of the report, the Police Ombudsman outlines a number of case studies. There are a number of ongoing investigations into the conduct of police officers identified during Police Ombudsman review of Spit and Bite Guard deployments and it would not be appropriate to use them as case studies at this time.

#### Case Study 1 – Proper and Proportionate Deployment

- 5.1 On 21 July 2021, police received a report of an alleged assault. Police then attended and arrested the alleged perpetrator (Man A) on suspicion of common assault and breach of a restraining order. When being placed into the rear of the police vehicle, Man A became aggressive and began spitting at police.
- 5.2 Man A was warned about his behaviour and that a Spit & Bite Guard would be applied. He did not stop spitting and a Spit & Bite Guard was applied by a trained officer. Even when the Spit & Bite Guard is applied, Man A continued to spit. Man A was subsequently arrested for criminal damage, assault on police and disorderly behaviour.
- 5.3 Throughout the journey to custody, police checked on the welfare of Man A, maintaining regular observations on him. The Spit & Bite Guard was then removed once Man A had calmed down. The officers dealing with Man A had their Body Worn Video activated throughout the incident.
- 5.4 The review by the Police Ombudsman staff concluded that the application of the Spit & Bite Guard was justified and proportionate in the circumstances and the deploying officer complied with PSNI training and service instructions.

## Case Study 2 – Concerns Raised with Professional Standards Department (PSD)

- 5.5 On 17 March 2021, police attended an altercation in Banbridge. Man A was arrested for criminal damage and possession of an offensive weapon. Following his arrest, Man A became aggressive and began kicking out. Man A then spat on a police officer, hitting him on the eye. A Spit and Bite Guard was then applied by police. The Spit & Bite Guard was subsequently removed before Man A was taken to hospital for treatment to an eye injury he sustained prior to police arrival.
- 5.6 When waiting to go into the hospital, Man A became aggressive again, kicking the centre console of the police vehicle and spitting. A Spit and Bite Guard was then applied to Man A for a second time.
- 5.7 Although the Police Ombudsman was satisfied that the use of a Spit and Bite Guard was proportionate and justified in the circumstances, she had a number of concerns including:
- I. That the first deployment of a Spit and Bite Guard was not captured on Body Worn Video by the deploying officer, per the PSNI guidance and instruction
  - II. That Man A was handcuffed in a manner which allowed him to remove the Spit and Bite Guard
  - III. That the same Spit and Bite Guard was used on both occasions, contrary to PSNI training which states that Spit and Bite Guards are single-use only
  - IV. That there was a significant delay in the deploying officer recording his use of a Spit and Bite Guard on a Use of Force form.
- 5.8 These concerns were considered not to meet the threshold for misconduct or criminality but were general concerns about the conduct of officers which were raised with PSD for the PSNI who agreed to progress and take appropriate action.

### **Case Study 3 – Proper and Proportionate Deployment**

- 5.9 On 18 July 2021, police on mobile patrol in the vicinity of Castle Place, Belfast, a woman on the ground being set upon by another woman. As police were attempting to split the women up, another woman, Woman A, approached police. She shouted and swore at police and threatened the woman who had been on the ground.
- 5.10 Despite numerous warnings that she would be arrested, Woman A's aggressive behaviour continued. She used racial language towards a police officer and proceeded to spit at police, which led to her arrest and detention. Woman A was placed into a police vehicle and taken to Musgrave Street Custody Suite for processing.
- 5.11 During Woman A's detention in the police vehicle, a police officer informed her that a Spit and Bite Guard would be applied to prevent her from spitting at police officers. When police identified that Woman A's breathing became laboured, they immediately turned her on her side to assist breathing.
- 5.12 Upon arrival at Musgrave Street Custody Suite, Woman A was brought straight to a cell because of her level of aggression and searched. A police officer informed Woman A that she was going to remove the Spit and Bite Guard and it was removed.
- 5.13 The Police Ombudsman's review identified that the Spit and Bite Guard was applied by a trained police officer who correctly applied police guidance and training in the deployment of the Spit and Bite Guard. The Police Ombudsman identified no issues with this deployment of the Spit and Bite Guard.

#### **Case Study 4 – Concerns Raised with Professional Standards Department (PSD)**

- 5.14 On 20 July 2021, police were called by the Northern Ireland Ambulance Service to provide assistance with a man, Man A, who was outside in the Green End area of Newtownabbey. Man A was reported to be abusive towards members of the public.
- 5.15 Upon arriving at the scene, police noticed that Man A appeared to be under the influence of a substance and was distressed. Police arrested Man A for breach of court bail. Man A resisted arrest and was restrained by police. During his arrest, Man A attempted to bite a police officer and a Spit and Bite Guard was applied to him.
- 5.16 The Police Ombudsman’s review noted that the Spit and Bite Guard had been deployed by a trained police officer, however that the deploying officer failed to provide a warning to Man A that a Spit and Bite Guard would be applied to him for the protection of police officers. This was contrary to police guidance. The Police Ombudsman also noted that a police officer swore at Man A during his arrest, contrary to Article 6.1 of the PSNI Code of Ethics.
- 5.17 These concerns were considered not to meet the threshold for misconduct or criminality but were general concerns about the conduct of officers which were raised with PSD for the PSNI who agreed to progress and take appropriate action.

#### **Case Study 5 - Concerns Raised with Professional Standards Department (PSD)**

- 5.18 On 22 June 2021, police responded to a report from a woman in the Dungannon area that a man, Man A, had assaulted her and was damaging her property.

- 5.19 On arrival at the scene, police arrested Man A for common assault and criminal damage. Man A resisted arrest and was restrained by a police officer who handcuffed him to the front of his body.
- 5.20 While in the police vehicle, Man A spat towards one of the police officers and a Spit and Bite Guard was applied to him. Due to the fact that Man A was handcuffed to the front of his body, he was able to remove the Spit and Bite Guard from the front of his face. Police immediately secured the Spit and Bite Guard in place but Man A attempted to remove the Spit and Bite Guard on two other occasions before being removed from the police vehicle.
- 5.21 The Police Ombudsman's review of the deployment of the Spit and Bite Guard identified that the deployment was justified and proportionate. However, other matters were identified by reviewing the Body Worn Video which led to concerns raised with Professional Standards Department. These matters included:
- I. A failure by multiple officers to wear Personal Protective Equipment appropriately while in close proximity to Man A
  - II. A failure to securely apply the Spit and Bite Guard appropriately to Man A and to handcuff him to the rear in compliance with police guidance on the deployment of Spit and Bite Guards, and
  - III. One of the officers who assisted in the deployment of the Spit and Bite Guard had not yet completed the most recent police training package on Spit and Bite Guards.
- 5.22 These concerns were considered not to meet the threshold for misconduct or criminality but were general concerns about the conduct of officers which

were raised with PSD for the PSNI who agreed to progress and take appropriate action.

## 6.0

### Deployments on Children and Young Persons

6.1 The PSNI's policy and training on the use of Spit and Bite Guards contains sections on Human Rights and Vulnerabilities in which officers and staff are encourage to give special consideration to those who are vulnerable by age or a mental health condition. The policy states:

*'Where officers or staff are aware that a member of the public is under 18, the presumption will be that a Spit and Bite Guard should not be used.'*<sup>3</sup>

6.2 The Police Ombudsman acknowledges the addition of this presumption that Spit and Bite Guards should not be used on children. However, she is concerned by deployments that she has reviewed, where she does not believe that this presumption against deployment has been considered by officers. This concern is reflected in the policy recommendation issued by the Police Ombudsman outlining her view that police should develop clear guidance on what is meant by 'presumption' and that this guidance should be communicated to all relevant officers.

6.3 The Police Ombudsman has given particular consideration to the deployments of Spit and Bite Guards on children and young people. She made a commitment to the Northern Ireland Commissioner for Children and Young People (NICCY) to personally review each deployment of a Spit and Bite Guard on a child or young person to ensure that the necessary protection of children and young people has been considered by police officers.

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<sup>3</sup> <https://www.psni.police.uk/globalassets/advice--information/our-publications/conflict-management-manual/chapter-16---spit-and-bite-guards---8-20-external.pdf>

- 6.4 In response to the PSNI Equality Impact Assessment on the introduction of Spit and Bite Guards, the Northern Ireland Commissioner for Children and Young People (NICCY) said:

*“Children cannot be treated the same as adults. It is widely recognised that they must be treated differently because of their distinct vulnerabilities, evolving capacities and greater developmental needs. ...Using a spit-hood risks not only heightens the fight or flight response but could also risk subsequent psychological damage. This is compounded by the fact that children who come into contact with the police are some of the most vulnerable in society – many have experienced abuse or violence, are victims of criminal exploitation, and have special educational needs (SEN), communication needs or serious mental health conditions.”*

- 6.5 NICCY welcomed the PSNI policy of the presumption against deploying a Spit and Bite Guard on a child but also stated:

*“However, we understand there is still risk for PSNI Officers to potentially wrongly identify a young person as over 18, when circumstances do not allow officers to ascertain identification and age.”*

- 6.6 NICCY recommended that PSNI amend this policy to state: *“Where officers or staff are aware or believe that a member of the public, is under 18, the presumption will be that a Spit and Bite Guard should not be used.”*

- 6.7 During the review period, the Police Ombudsman has been notified of six occasions when Spit and Bite Guards have been deployed on children under the age of 18. This represents 9% of all Spit and Bite Guard deployments.

- 6.8 During the review period in relation to these deployments, the Police Ombudsman has identified concerning behaviours exhibited by police officers when deploying Spit and Bite Guards on children and young people. In particular there is evidence of aggressive and overbearing officer conduct in some instances.
- 6.9 PSNI training and guidance on the deployment of Spit and Bite Guards advises that a Spit and Bite Guard should be deployed for the minimum necessary length of time to prevent the subjected person from spitting at police officers.
- 6.10 However, the Police Ombudsman has identified, during the course of this review, an instance in which a Spit and Bite Guard has been deployed on a young person for many hours. Police guidance indicates that there should be an ongoing risk assessment of the subjected young person to determine if the Spit and Bite Guard should be removed when the young person stops spitting. The Police Ombudsman is critical of circumstances when this has not happened.
- 6.10 Although the vulnerability of children is recognised within PSNI guidance on Spit and Bite Guards, there have been occasions when police officers have given insufficient regard to the fact that children should not be treated in the same manner as adults. The Police Ombudsman is concerned that their intrinsic vulnerability requires ongoing consideration of the best interests of the child or young person by police officers. This is particularly important in the context of decisions regarding the use of force.
- 6.11 The Police Ombudsman believes that there remains a significant amount of work required to embed a the Best Interests of the Child in policing This approach is necessary to ensure that all children and young people, are protected in their interactions with police.

## 7.0

### Conclusions

- 7.1 The Police Ombudsman has conducted a six month review of the PSNI's introduction of Spit and Bite Guards as a tactical option and use of force to prevent and / or stop a person from spitting at or biting police officers.
- 7.2 During the course of the review period, the Police Ombudsman has identified a number of conduct issues on the part of police officers who have deployed a Spit and Bite Guard. In response to behaviours identified as part of the review period, the Police Ombudsman has issued 14 policy recommendations to police regarding the deployment of Spit and Bite Guards which are drafted to ensure that officers comply with police training and guidance, the PSNI Code of Ethics and human rights obligations. The Police Ombudsman's policy recommendations are included in the appendix to this report.
- 7.3 If effectively implemented, these recommendations will have a significant positive impact on police practices regarding the deployment of Spit and Bite Guards and will reduce the likelihood of harm befalling a person subjected to the deployment of a Spit and Bite Guard. As outlined in the appendix to this report, the PSNI has responded positively to the Police Ombudsman's policy recommendations.
- 7.4 During the review period, the positive working relationship between the PSNI Professional Standards Department (PSD) and Police Ombudsman staff has been further enhanced. This is a welcome development. The Police Ombudsman wishes to acknowledge PSD staff for their engagement in this review.

- 7.5 The Police Ombudsman remains concerned about the intrinsic vulnerability of children and young people and the potential for their safety and human rights to be compromised by the deployment of a Spit and Bite Guard. She is also concerned about the possibility that the deployment of a Spit and Bite guard can have a dehumanising effect on the subjected person which could increase the risk that their vulnerability and human rights would be given insufficient consideration by the police officers who are responsible for them.
- 7.6 The Police Ombudsman has identified, through reviewing the Body Worn Video of police officers during the deployment of Spit and Bite Guards, concerns about the general conduct and attitudes of police officers. These were often behaviours which did not meet the threshold for criminality or misconduct however, were sufficient for concerns to be raised with the Professional Standards Department. These behaviours were identified in 41% of the cases reviewed by the Police Ombudsman.
- 7.7 The Police Ombudsman recommends that the Chief Constable gives consideration to the aggressive and domineering conduct by police officers, which has been identified as part of this review and identifies steps to monitor and address this issue.
- 7.8 The Police Ombudsman's six month review of the deployment of Spit and Bite Guards has had significant resource implications for her Office.
- 7.9 However, the Police Ombudsman is of the view that the Northern Ireland Policing Board should continue to monitor the deployment of Spit and Bite Guards across Northern Ireland. The Police Ombudsman is also of the view that PSNI and the Northern Ireland Policing Board should give consideration to their deployment on children and other vulnerable persons.

# Appendix 1

## **Recommendations Arising from the Police Ombudsman Review**

During the course of the review period, the Police Ombudsman has issued 14 policy recommendations to the PSNI Professional Standards Department in response to concerns identified by the Office's review of the deployment of Spit and Bite Guards. All of the recommendations have been accepted by PSNI. In order to ensure that the recommendations are fully implemented, follow up on the outstanding recommendations will be led by the Director of Current Investigations.

### 1. Recommendation Issued 12 April 2021: Training Compliance Rates

As part of the Police Ombudsman's review of all deployments of Spit and Bite Guards, enquiries conducted by Police Ombudsman staff identified that, as of 24 March 2021, a total of 2,444 officers had completed the online training course. It was believed that around 4,500 officers would have been eligible for this training.

In spite of clear communication from Assistant Chief Constable and the new training programme having been active for over two months, the compliance rate for completion of the training has remained relatively low across the service. This was a matter of concern to the Police Ombudsman as training in this use of a restraint is an important safeguard for both the officer and the detained person.

The use of the Spit and Bite Guards is recognised as a use of force. Therefore this requires officers/staff to consider the impact upon, and the protection of, the person's human rights when deciding to apply a Spit and Bite Guard and to justify the continuation of its use. The Police Ombudsman expressed a concern to the Chief Constable and a desire to understand the reasons for the low level of uptake and completion of the mandatory training.

The Police Ombudsman has recommended that, as a priority, consideration be given to implementing a deadline date for the training to be completed by eligible officers/staff. Depending on all of the circumstances, the officers/staff who do not undertake the mandatory training may be subject to conduct/management measures under the Police (Performance and Attendance) Regulations (Northern Ireland) 2016. It was also the Ombudsman's view that there are no circumstances in which an untrained officer should be in possession or have access to a Spit and Bite Guard.

The Police Ombudsman believes that this policy recommendation will assist in raising the compliance rates for the mandatory training and assist the operational performance of police in this area.

Following this recommendation, PSNI issued correspondence to officers stressing the importance of the mandatory training and the Police Ombudsman is satisfied that this has led to a significant increase in officers completing the training programme in the use of Spit and Bite Guards and that all outstanding officers have since accessed training.

## 2. Recommendation issued April 2021: Recording Deployment of Spit and Bite Guard as Use of Force

During the week commencing 26 April 2021, the Police Ombudsman was notified of two incidents involving the deployment of a Spit and Bite guard which previously occurred in mid-March. The deployments were not linked and occurred in different districts. It appeared that the delay in the notification stemmed from an initial failure by the deploying officer to complete a Use of Force form.

The first deployment occurred on 12 March 2021 but the Police Ombudsman was only notified on 26 April 2021. The relevant Use of Force form was submitted on 23 April 2021. The second deployment occurred on 17 March 2021 but the Police Ombudsman was only notified on 28 April 2021. The relevant Use of Force form was submitted on 28 April 2021.

The subsequent delay in completing the Use of Force form carries a number of potential consequences including the possibility of losing related evidence. For example, Body Worn Video is only retained on the system for around thirty days. Furthermore, a failure to complete the Use of Force form as soon as practicable could have an adverse impact on the perception of transparency and accountability and thereby, negatively impact on public confidence in policing.

In order to ensure that similar circumstances do not arise again, the Police Ombudsman recommended that police circulate guidance to all relevant officers/staff to remind them of their obligations in accordance with PSNI instruction and training; to complete a Use of Force form as practicable and in any event, prior to the termination of duty.

This recommendation was accepted by police and an email was circulated reminding officers and staff of these obligations. This recommendation was assessed by police as being complete.

### 3. Recommendation Issued April 2021: Training and Use of Force

Further to the above recommendation, the Police Ombudsman recommended that police should consider updating the training video on Spit and Bite Guards to remind officers that they must verbally report any Use of Force to their immediate supervisor in accordance with the PSNI Manual of Policy, Procedure and Guidance on Conflict Management.

Police initially decided against implementation of this recommendation because of their view that any amendment to the current e-learning package creates disproportionate implications.

However, police have since indicated that they intend to review their training package and developing a new online 'LEARN' training video. This reviewed training package will address the Police Ombudsman's recommendations with regard to training.

#### 4. Recommendation Issued April 2021: Body Worn Video

As part of the Police Ombudsman's review of the deployment of Spit and Bite Guards, investigators identified a number of instances when the officer deploying the Spit and Bite Guard has failed to activate their Body Worn Video, contravening PSNI policy and training on the use of Spit and Bite Guards.

Although another officer present may have activated their Body Worn Video, the deploying officer has failed to provide an explanation for not complying with training and guidance. In a further incident, an officer deploying a Spit and Bite Guard did so in the knowledge that he did not have a Body Worn Camera as part of his kit. Police Ombudsman investigators also identified a number of incidents when, following the deployment of the Spit and Bite Guard, the Body Worn Video is de-activated.

Chapter 16 of the PSNI Manual of Policy, Procedure and Guidance on Conflict Management and the related training package reflect that Body Worn Video MUST be activated by the officer deploying the Spit and Bite Guard. This will ensure the highest levels of transparency and accountability.

The Police Ombudsman recommended that following deployment of a Spit and Bite Guard, Body Worn Video should remain activated until either the Spit and Bite Guard

is removed, or the person arrives in a Custody Suite. This will allow continuing transparency and accountability as well as enhancing the monitoring of the person when the Spit and Bite Guard is in place.

Police have accepted this recommendation and officers and staff have been further informed that Body Worn Video must also be activated when applying a Spit and Bite Guard in the waiting bay of a Custody Suite. This recommendation was assessed by police as being complete.

#### 5. Recommendation Issued July 2021: Body Worn Video

The Police Ombudsman had previously made a policy recommendation regarding police circulating a reminder to all officers/staff to activate their Body Worn Video when deploying a Spit and Bite Guard outside of the custody suite. Further to this recommendation, a number of instances were noted during the course of the Police Ombudsman's review whereby the officer deploying the Spit and Bite Guard has failed to activate their Body Worn Video. While another officer present may have activated their Body Worn Video, the deploying officer had failed to provide an explanation for not complying with training and guidance.

In another incident, an officer deploying a Spit and Bite Guard did so in the knowledge that he did not have a Body Worn Camera as part of his kit. The Police Ombudsman has also noted a number of incidents whereby, following the deployment of the Spit and Bite Guard, the Body Worn Video had been de-activated.

In light of these circumstances, the Police Ombudsman made further policy recommendations specific to Body Worn Video.

The Police Ombudsman recommended that Chapter 16 of the PSNI Manual of Police, Procedure and Guidance on Conflict Management and the related training package

should make it specifically clear that Body Worn Video MUST be activated by the officer deploying the Spit and Bite Guard. This will ensure the highest levels of integrity and accountability.

Police have informed the Police Ombudsman that this change has been communicated to police officers and staff and the recommendation is assessed by police as being complete.

#### 6. Recommendation Issued July 2021: Body Worn Video

Further to the circumstances above, the Police Ombudsman made a second recommendation regarding the use of Body Worn Video during the deployment of a Spit and Bite Guard.

The Police Ombudsman recommended that, following deployment of a Spit and Bite Guard, Body Worn Video should remain activated until either the Spit and Bite Guard is removed or the person arrives in a Custody Suite. This will allow for continuing transparency and accountability as well as enhancing the monitoring of the person when the Spit and Bite Guard is in place.

Police have informed the Police Ombudsman that this change has been communicated to police officers and staff and the recommendation is assessed by police as being complete.

## 7. Recommendation Issued July 2021: 'Single Use' Spit and Bite Guards

The Police Ombudsman recommended that police provide clear guidance regarding what is meant by 'single use' and this guidance should be communicated to all officers. Furthermore, police should consider updating the relevant training and practical examples of what 'single use' means for the purposes of officer training. These training and guidance updates should ensure that operational officers fully understand the circumstances in which a new Spit and Bite Guard should be applied.

Police have informed the Police Ombudsman that service police will be amended to define 'single use' more clearly, thereby avoiding confusion among officers deploying a Spit and Bite Guard. A communication will also be circulated to all officers and staff to clarify this point. Changes to the training video will take further time to progress and this recommendation was, therefore, assessed by police as being ongoing.

## 8. Recommendation Issued July 2021: 'Presumption' Against Use on Children and Other Vulnerable Persons

The Police Ombudsman recommended that the PSNI should provide clear guidance regarding what is meant by the 'presumption' that a SBG will not be used on children and other vulnerable persons who have a mental health or another debilitating condition.

This guidance should be communicated to all officers. Ultimately it will be for the person applying the Spit and Bite Guard to be responsible for justifying any operational decision they make regarding its deployment on a child or other vulnerable person. However, related police training, policy and guidance should give realistic, practical guidance on the manner and circumstances in which police officers can subject vulnerable groups, particularly children, to a Spit and Bite Guard, while simultaneously respecting their human rights.

Furthermore, police should consider updating the relevant training, with practical examples provided as part of the officer training. This will assist in providing greater understanding and clarity to officers as to the circumstances in which they can consider deploying a Spit and Bite Guard on a child or other vulnerable person.

This recommendation is particularly pertinent given that two of the last three deployments on children had been on 14 year olds. Therefore, it could no longer be said that the deployments have been at the upper definition of a 'child.'

Police have informed the Police Ombudsman that they are currently considering changes to policy and training to reflect how officers and staff balance the vulnerability of the subject and public/officer safety, in the decision making process regarding the use of a Spit and Bite Guard. Police acknowledged that the language currently being used may be confusing for some officers and other options are being actively considered. Changes to the training video will take further time to progress, therefore, this recommendation was assessed by police as being ongoing.

#### 9. Recommendation Issued July 2021: Training on the Correct Application of a Spit and Bite Guard

The Police Ombudsman recommended that police circulate a reminder to all relevant officers/staff to remind them of their relevant training in this area and the following sections of Chapter 16 of the PSNI Manual of Policy, Procedure and Guidance on Conflict Management:

- *If the Spit and Bite Guard is not correctly secured it may rise over the face (16.30)*
- *Officers and staff must have control of the subject with either mechanical or physical restraints prior to attempting to place the Spit and Bite Guard and it is recommended that they are handcuffed to the rear, this will ensure that they*

*cannot remove or adjust the Spit and Bite Guard once it has been applied.  
(16.34)*

- *The Spit and Bite Guard should be removed from the back of the head to the front. (16.43)*

Police have informed the Police Ombudsman that a communication has been circulated to remind all officers and staff of the relevant sections of Chapter 16 of the Conflict Management Manual; including the need to ensure that subjected persons are secured by way of handcuffing to the rear to prevent them from removing or adjusting the Spit and Bite Guard. Similarly, officers and staff have been advised on how to properly remove a Spit and Bite Guard. This recommendation was assessed by police as being complete.

#### 10. Recommendation Issued July 2021: The Type of Spit and Bite Guard Procured by PSNI

The type of Spit and Bite Guard currently used by the PSNI is the Spit Guard Pro. Further research should be considered in partnership with other police services using the Spit Guard Pro in order to establish if there is any consistency to the concerns expressed with regards to finding the front of the Guard. If relevant, consideration should then be given to liaising with the manufacturer in order to establish if any amendments can be made so that they front and back of the guard is make more easily distinguishable, thereby making it more user friendly.

Alternatively, the PSNI should consider the effectiveness of other Spit and Bite Guards currently used by other police services and law enforcement agencies. This recommendation was made within the context of the Spit and Bite Guard currently being a temporary tactical option and therefore is cognisant that this recommendation may be dependent on current stock levels held by the PSNI.

Police have informed the Police Ombudsman that the manufacturer of the Spit Guard Pro has no current plans to place markers on the product. All supervisors have been directed to show officers and staff a Spit and Bite Guard during briefings, to allow them to familiarise themselves with the product prior to potential deployment. Other options in terms of Spit and Bite Guards are currently being considered. This recommendation was, therefore, assessed by police as being ongoing.

#### 11. Recommendation Issued July 2021: Training Video

The training video depicts a compliant person. In many cases, the person to whom the Spit and Bite Guard has been applied, is actively resisting the application of the Spit and Bite Guard and/or being aggressive towards police. Therefore the training is unrealistic.

The Police Ombudsman appreciates the circumstances in which police have had to utilise online training. However, should the circumstances allow in relation to the pandemic, the Police Ombudsman recommended that Spit and Bite Guard training should involve practical / face to face training which provides officers with the opportunity to apply a Spit and Bite Guard to both compliant and non-compliant persons. This training could form part of the Personal Safety Programme (PSP) training. Furthermore, such training will allow instructors to provide information and practical experience regarding deployments as well as allowing officers to seek clarity/ask questions in a training environment regarding relevant areas such as 'single use' and the use of Spit and Bite Guards on vulnerable persons, including children.

Police have informed the Police Ombudsman they will review and develop a new online 'LEARN' training video which will illustrate how to deploy a Spit and Bite Guard on a subject person who is actively resisting or being aggressive towards officers or staff members. This potential change will take further time to progress and an update

on progress will be provided at a later date. This recommendation was, therefore, assessed by police as being ongoing.

#### 12. Recommendation Issued July 2021: Trained Officers

The Police Ombudsman recommended that police circulate a reminder to all relevant officers/staff to remind them of their obligation in accordance with PSNI instruction and training that a 'subject' wearing a Spit and Bite Guard MUST NOT be in the custody or care of a Police Officer / Civilian Detention Officer who has not received training in Spit and Bite Guards. As part of this reminder, the communication should include that it is the responsibility of the officer applying the Spit and Bite Guard to ensure that they leave the 'subject' in the care of a trained officer.

Police have informed the Police Ombudsman that a communication has been circulated to remind all officers and staff that, where a Spit and Bite Guard has been applied, the subjected person must not be left in the custody or care of a person who has not received training in Spit and Bite Guards. It was emphasised that it is the responsibility of the officer deploying the Spit and Bite Guard to ensure that the subjected person is left in the care of a trained officer or staff member. If in doubt, officers and staff have been encouraged to ask a colleague if they are trained in the use of Spit and Bite Guards. This recommendation was assessed by police as being complete.

#### 13. Recommendation Issued July 2021: Personal Protective Equipment

The Police Ombudsman recommended that police circulate a reminder to all relevant officers / staff to remind them of their responsibility to wear Personal Protective Equipment and the importance of same. This would serve as a timely reminder to ensure that officers are protecting themselves, their colleagues and members of the public.

Police have informed the Police Ombudsman that a communication has been circulated to officers and staff reminding them to ensure that they wear the correct Personal Protective Equipment, in line with the current response by the PSNI to the COVID-19 pandemic. This recommendation was assessed by police as being complete.

#### 14. Recommendation Issued July 2021: Consistent Use of the Term 'Spit and Bite Guard'

The Police Ombudsman recommended that police circulate a reminder to all relevant officers / staff that the appropriate term for this use of force is 'Spit and Bite Guard' or SBG. When an explanation is being provided this term should be used, or Spit Guard for short. However, the term 'spit hood' should be avoided. In doing so, the officers will demonstrate their recognition of the potential sensitivities and perceived community concerns regarding the word 'hood' / 'hooding' being used by police within the context of Northern Ireland.

Police have informed the Police Ombudsman that a communication has been circulated to remind officers and staff that the appropriate term for the product is 'SBG' and that 'Spit Hood/Hood' must not be used, due to the potential sensitivities and community concerns regarding this term. This recommendation was assessed by police as being complete.