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Police Investigations &
Review Commissioner



AGREEMENT

between

THE POLICE INVESTIGATIONS AND REVIEW COMMISSIONER

AND

THE BRITISH TRANSPORT POLICE

AND

THE BRITISH TRANSPORT POLICE AUTHORITY

Document Details	
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Glossary of Terms

The following acronyms and abbreviations are used throughout this document:

Abbreviation	Explanation
BTP	Chief Constable of the British Transport Police
The PIRC	The Police Investigations and Review Commissioner
BTPA	The British Transport Police Authority
COPFS	Crown Office and Procurator Fiscal Service
BTP(Conduct) Regs 2015	British Transport Police (Conduct) Regulations 2015
BTP(Complaints and Conduct) Regs 2020	The British Transport Police (Complaints and Misconduct) Regulations 2020
'the 2003 Act'	Railways and Transport Safety Act 2003
'the 2006 Act'.	The Police Public Order and Criminal Justice (Scotland) Act 2006 Act,
'the 2013 Regulations'	The Police Investigations and Review Commissioner (Investigations Procedure, Serious Incidents and Specified Weapons) Regulations 2013
'the Order'	The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013
ECHR	European Convention on Human Rights
GDPR	General Data Protection Regulations
DPA	Data Protection Act 2018

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1. Introduction

An 'Agreement' between:

- The British Transport Police (BTP);
- The British Transport Police Authority (BTPA); and
- The Police Investigations and Review Commissioner (PIRC);

2. Purpose

- 2.1 This agreement allows the PIRC, where requested to do so by the BTPA or the Chief Constable of the BTP, to investigate and report on a serious incident involving the British Transport Police Force in Scotland.
- 2.2 This agreement gives cognisance to the requirements of the European Convention on Human Rights (ECHR), decisions of the European Court of Human Right (ECtHR) and the European Commissioner for Human Rights for independent investigation of the actions of the police that engage Article 2 and 3 of ECHR, serious incidents involving the police, more commonly referred to as Death or Serious Injury (DSI) incidents.
- 2.3 Under the Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013, a serious incident involving the BTP has the same meaning as a 'serious incident involving the police' in terms of Section 41B of the Police, Public Order and Criminal Justice (Scotland) Act 2006, except that 'a person serving with the police' means a constable of the British Transport Police Force and any other persons specified in the agreement who serve with that Force or who are employed by the British Transport Police Authority.
- 2.4 This agreement sets out procedures and processes for the respective parties, any member of their staff or police officer, to adhere to in respect of the provision, sharing and exchange of information or services to allow each organisation to fulfil their functions and where necessary, obligations under legislation. This agreement is in respect of the investigative functions of the PIRC.

3. Reviewing the Agreement

- 3.1 This agreement becomes effective on 10 December 2020.
- 3.2 This agreement will be reviewed every three years. Any of the parties may request a review at an earlier point if required. Interim reviews must be implemented should any changes to the legislative framework the agreement operates within be made.
- 3.3 Any party may seek to end this agreement giving 1 months' notice, in writing to all other parties.

INVESTIGATIONS

4. PIRC Investigations

4.1. The primary legislative functions of the PIRC, the BTP and the agreement under 'the 2013 Order' are set out at Appendix A.¹

4.2. The PIRC will undertake an investigation in the following circumstances:

Crown directed investigations:

- When directed to do so by an appropriate prosecutor (of the Crown Office and Procurator Fiscal Service - COPFS) to investigate any circumstances in which there is an indication that a person serving with the BTP may have committed an offence.
- To investigate on behalf of the relevant procurator fiscal, the circumstances of any death involving a person serving with the BTP which that prosecutor is required to investigate under Section 1 of the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 - death in police custody or following police contact

BTP referred investigations:

- Where requested to do so by the Chief Constable of the BTP, to investigate and report on certain serious incidents involving the BTP.

A serious incident involving the BTP has the same meaning as a serious incident involving the police as specified in Section 41B of the 2006 Act,

(a) a circumstance in or in consequence of which a person has died or has sustained serious injury where:

(i) the person, at or before the time of death or serious injury, had contact (directly or indirectly) with a person serving with the police acting in the execution of that person's duties; and

(ii) there is an indication that the contact may have caused (directly or indirectly) or contributed to the death or serious injury;

(b) any other circumstance in or in consequence of which:

(i) a person has otherwise sustained a serious injury at a time when the person was being detained or kept in custody by a person serving with the police; or

(ii) a person serving with the police has used a firearm or any other weapon of such description as the Scottish Ministers may by regulations specify.

¹ See Appendix A

5. Referrals by the BTP to the PIRC

- 5.1 The PIRC's on-call arrangements provides the appropriate prosecutor and policing body with a call out response to urgent incidents on a 24 hour basis, 365 days a year and are reproduced at Appendix E
- 5.2 In terms of the 2013 Order the BTP agree to request that the PIRC investigate any serious incident involving the BTP as described in Section 41B of 'the 2006 Act'.
- 5.3 Notification timescales are set out in Section 6.
- 5.4 Referrals by the BTP will be made via PSD, except for Taser and Captor referrals.
- 5.5 The referral to the PIRC will normally take the form of a briefing document outlining the full circumstances of the incident. The briefing document may be accompanied by statements, CCTV or any other material considered appropriate by the BTP to allow the PIRC to gain an understanding of the incident.
- 5.6 Where insufficient information is available to allow the PIRC to determine whether or not an investigation is required, the PIRC may request additional material from the BTP to assist their assessment.
- 5.7 The PIRC will assess the referral from the BTP and decide whether to investigate the incident. The PIRC undertakes to complete its assessment within 7 working days of receipt of the referral (and any additional material provided) and notify the BTP of its decision.
- 5.8 Referrals in respect of the use of Taser by a Specially Trained Officer (STO) or Captor by all officers will be made on agreed pro-forma documents by BTP in Scotland.
- 5.9 Deaths in custody, deaths following police contact or discharge of conventional firearms leading to injury may be referred verbally to the PIRC by the BTP (PSD) to allow immediate decisions to be taken. A follow up briefing document and other relevant material will be provided to the PIRC as soon as practicable thereafter.
- 5.10 Where the BTP instigate Post Incident Procedures (PIP) following a death or serious injury, the PIRC will be notified immediately of the decision by PSD and afforded the opportunity to attend the incident and PIP suite. Such a notification will be considered a referral to the PIRC. Police Scotland would ultimately retain primacy in managing police post incident procedures involving a death in a custody suite in Scotland.
- 5.11 Where the BTP refer a matter which arises from a 'Whistle-blower', the status of the Whistle-blower will be clearly identified to the PIRC and all the rights and protection enshrined in legislation will be afforded by the PIRC, to ensure a consistent approach.

6. Notification Timescales

6.1 Notification timescales:

- For a death following police contact and where it is considered that there may be contributable or causal factors notification will occur as soon after the incident as reasonably practicable;
- For incidents where serious injury has occurred and the person's life may be at risk given the nature of the injuries, notification will occur as soon after the incident as reasonably practicable.
- For incidents, including use of Taser, notification will occur within 24 hours of PSD being informed of the incident or on the Monday following an incident occurring at a weekend.
- For a Captor discharge, notification will occur within 5 days of the incident.

7. COPFS directed investigations

7.1 The COPFS may direct the PIRC to undertake investigation of:

- Criminal allegations against serving BTP officers,
- Death in custody or death following police contact.

7.2 The BTP will notify the COPFS of any death in police custody.

7.3 The BTP will notify the COPFS of any death following police contact, where it is considered that there may be contributable or causal factors. The COPFS may direct the PIRC to investigate the circumstances (Section 33A(b)(ii) of the 2006 Act) or if the BTP make the referral only, the PIRC may decide to investigate the circumstances under the 2013 Order.

7.4 Notification timescales

- Notification by the BTP to the COPFS and the PIRC should occur as soon after the incident as reasonably practicable. In the case of a death occurring 'out of hours' BTP should notify COPFS at the earliest opportunity.
- Where the PIRC are directed by the COPFS to investigate a criminal allegation against a police officer or member of the BTP, the PIRC will notify the BTP within two working days.

8. Misconduct

8.1 The PIRC has no powers or authority to undertake misconduct investigations against members of the BTP.

8.2 The PIRC recognises that where it identifies actions which may breach the Standards of Professional Behaviour or may be considered a performance matter and where there is scope for improvement(s), there is a legitimate public interest and expectation that such matters may be investigated or considered and ultimately improved by the BTP. Where the PIRC identifies potential breaches of Standards of Professional Behaviour or a performance issue(s) during any investigation, it will notify the BTP accordingly and provide relevant information to allow the BTP to examine the matter.

9. Co-operation, Assistance and the Provision of Information

9.1 The BTP agree that a relevant person will where requested to do so by the Commissioner for the purposes of an investigation produce, in a form acceptable to the Commissioner, any document, record or other information the Commissioner may require;

9.2 A relevant person is:

- A constable of the BTP;

9.3 The Commissioner will issue a notice in the form of a letter to the Chief Constable of the BTP setting out the nature of the investigation and requesting information, documents or other records required for the purposes of the investigation.

9.4 Section 46 of the 2006 Act allows for the disclosure of information by and to the PIRC. Information obtained by the Commissioner in connection with any of the Commissioner's functions may be disclosed by the Commissioner to any public body or office-holder:

(a) for any purpose connected with the carrying out of any of the Commissioner's functions; or

(b) for the purpose of enabling or assisting the public body or office-holder to carry out any function.

Nothing in this section requires or authorises the disclosure of any information relating to a particular investigation carried out by the Commissioner on the direction of the appropriate prosecutor in pursuance of paragraph (b) of section 33A (unless the appropriate prosecutor consents to such disclosure).

Information Sharing for Conduct or Misconduct Proceedings where a Criminal Investigation Occurs

9.5 Information may be provided by the PIRC to the BTP for the purpose of conduct or misconduct proceedings. Such information will advise of the nature of any allegations at the outset, whether there is likely to be additional offences, the evidence at the conclusion of the investigation and following a decision by the COPFS to prosecute or not.

9.6 During the investigation if there are any significant developments that substantially weakens or strengthens the case against the officer, the timing and disclosure of

such information will be discussed and agreed with the COPFS to ensure that the ongoing investigation and any potential criminal proceedings are not compromised.

- 9.7 Such information will be provided on a confidential basis solely for the purpose of disciplinary considerations and not for any other purpose such as civil proceedings.
- 9.8 The PIRC will notify the BTP when they submit a report to CAAPD and advise of the category of report in order for the BTP to notify Subject Officers and, when there is a reasonable inference of criminality, provide specific detail of the allegation in order that they comply with regulation 15 of the British Transport Police (Conduct) Regs 2015 or similar provision as contained in the forthcoming British Transport Police (Complaints and Misconduct) Regulations 2020 which are scheduled to be implemented in late 2020.

Witness Statements

- 9.9 The BTP agree that a relevant person will, where requested to do so, produce, in a form acceptable to the Commissioner, any document, record or other information the Commissioner may require. Where a BTP officer is a witness to the matter being investigated, the PIRC may request them to produce information in the form of a witness statement or have the information produced in the form of a witness statement taken from them by PIRC investigators.
- 9.10 The BTP may request any police officer or member of police staff who is a witness in a PIRC investigation to co-operate with the investigation and provide any document, record or other information, which may include the provision of a witness statement or witness account.
- 9.11 Where a BTP officer or member of BTP staff refuses to co-operate with a PIRC investigation through the provision of information, the PIRC will notify the BTP accordingly for their consideration of misconduct or disciplinary proceedings.
- 9.12 The BTP and the PIRC will work co-operatively in the obtaining (by the PIRC) of any witness testimony provided by any person identified as a potential witness in a PIRC investigation.
- 9.13 The PIRC will take cognisance of the needs of any person identified (to the PIRC) as having or who identifies that they have a '**relevant protected characteristic**' and put in place any necessary or reasonable adjustments in order to facilitate the gathering of their evidence.

10. Investigation Processes

- 10.1 The PIRC will notify the Chief Constable of the BTP, in writing, of any decision to investigate or of the COPFS instruction to investigate an incident or criminal allegation.
- 10.2 The PIRC will also notify the Head of PSD and relevant point of contact in PSD of the decision or instruction to investigate.

- 10.3 The PIRC will make clear the status of any person involved in an investigation (witness or suspect). If a person's status changes, the BTP and the person will be notified accordingly. The BTP will notify any BTP officer when they are the subject of a criminal investigation by the PIRC, unless the investigation may be hampered in doing so. The PIRC will ensure the BTP are informed when they can advise these officers or staff at the earliest opportunity to allow appropriate welfare support.
- 10.4 The PIRC will appoint a member of its Investigations staff as the lead investigator for any investigation and notify the BTP of that person.
- 10.5 The BTP will appoint an appropriate 'single point of contact' (SPOC) for every PIRC investigation to facilitate the acquisition and provision of any document, record or other information to the PIRC. The SPOC will also be the conduit for facilitating any witness or other interviews of the BTP staff. Where a SPOC is on annual leave or absent during a PIRC investigation, they will identify another person to undertake their role.
- 10.6 For complex investigations it may be necessary to appoint additional SPOCs to facilitate the provision of information, etc.

11. PIRC Reports

11.1 The PIRC produce different reports dependent on the type of investigation:

- Standard Prosecution Report (SPRs) – submitted to the COPFS
- CAAPD reports – submitted to the COPFS;
- Death investigation reports – submitted to the COPFS;
- Investigation reports – submitted to the BTP.

Report Publication

11.2 The PIRC may publish:

- BTP referred investigation reports;
- COPFS death reports where the COPFS have decided that no Fatal Accident Inquiry will take place; and where agreement has been obtained from the COPFS prior to publication; and
- Public Interest reports.

11.3 The PIRC will not publish:

- SPRs or CAAPD reports;
- Death reports where an FAI is to be or has been held;

11.4 The PIRC produces two types of report in respect of investigations referred by the BTP:

- Full reports; and
- Public Facing reports.

- 11.5 Full reports contain all the details of the PIRC investigation and are for consideration by the BTP. Full reports contain the names of any person relevant to the investigation. Full reports are not published.
- 11.6 Public facing reports are published and contain a summary of the investigation, findings and recommendations but do not normally identify any person.
- 11.7 Prior to the issuing of any report, the PIRC will submit a draft of the Full Report and Public Facing report to the BTP for factual accuracy checking. The PIRC will take cognisance of any identified error of fact, omission or additional representation made by the BTP before finalising the report. Where significant changes are requested, the PIRC will re-submit the draft report for a further factual accuracy check prior to publication.
- 11.8 Where the BTP have taken steps, implemented change or introduced revised policies and procedures as a result of their own internal review of the matter subject to investigation, the PIRC should be notified during the factual accuracy check and will make mention of these measures within their published report.
- 11.9 Where the PIRC identify any matter, during the course of any investigation, which may impact on public, officer or staff safety and require immediate action by the BTP the PIRC will notify them at that time and not wait until the issuance of its report.
- 11.10 The PIRC will issue its reports to:
- Full Report – The BTP
 - Public Report – The BTP
- 11.11 The PIRC may issue its reports to;
- Public Report - The BTPA, COPFS, HMICS and Scottish Government.
- 11.12 Prior to publication of a Public Facing report, the PIRC will provide the BTP with at least 48 hours' notice of the date and time of publication.

Sensitive and Intelligence Material

- 11.13 Where a PIRC investigation has examined 'sensitive or intelligence material' during the course of the investigation and it may be necessary to make mention of that material or the content of that material in a report, albeit in a heavily redacted or anonymised form, a copy of the draft report should also be provided to the BTP Force Intelligence Bureau (FIB). The FIB can identify any concerns it has in respect of the report or section of the report containing the material. The PIRC will examine the FIB concerns and may, thereafter, adapt the report to address those concerns.
- 11.14 Where a PIRC investigation examines highly sensitive material during the course of an investigation, the final report may require to be protectively marked and may not or cannot be published. Such concerns would be identified by the FIB in accord with para 11.13.

Findings and Recommendations

- 11.15 The PIRC's reports may contain Findings and Recommendations.
- 11.16 Recommendations are designed to address any issues identified as a result of the investigation. Recommendations may be specific to the investigation or to address wider issues identified as a result of the investigation.
- 11.17 The BTP agree to notify the PIRC within 3 months of receiving the report of any steps taken or measures implemented to address the Recommendations.
- 11.18 Where the BTP disagree with any Findings or Recommendations, they should identify this during consideration of the draft report and their view will be taken cognisance of by the PIRC prior to finalising the report.

COPFS directed Investigations

- 11.19 In terms of a COPFS directed investigation, the PIRC will submit its report to the appropriate prosecutor.
- 11.20 The PIRC will notify BTP at the time it is directed to investigate any matter, of the nature of the investigation.
- 11.21 Where the PIRC are directed to undertake a criminal investigation, it will notify the BTP of the identity of any police officers or the BTP member of staff who are subject to investigation and the nature of the allegations. This is to allow the BTP to consider implementing certain decisions to mitigate the risk to the public, the officer and the BTP. This may include 'Duty Restrictions' or on the rare occasion, suspension from duty. It will also allow for other measures, including welfare considerations, for a subject officer or member of the BTP. The BTP will notify the subject officer or member of the BTP staff that they are subject to a criminal investigation by the PIRC.
- 11.22 The PIRC will notify the BTP when it submits an SPR or CAAPD report to the COPFS. This notification will provide details of the alleged offences and the category of the submitted report in order for the BTP to consider their obligations under applicable conduct or discipline regulations.

12. Suspension or Duty Restrictions

- 12.1 The PIRC do not take decisions on whether a BTP officer or member of BTP staff is to be suspended or have restrictions placed on their duties.
- 12.2 Where the PIRC identify that allowing the person to remain in their current role may hamper or interfere with a PIRC investigation, they will notify the BTP outlining their reasons and concerns. It will be a decision for the BTP as to what action should be taken to address any concerns.

12.3 Where a person is suspended during a PIRC investigation, the PIRC undertake to complete its investigation as quickly as possible. It will notify the BTP as soon as its investigation is complete and a report submitted to the COPFS.

13. Suspect Interviews and Arrest procedures

13.1 PIRC investigators have all the powers and privileges of a constable when undertaking any investigation on behalf of the Commissioner.

13.2 During the course of a criminal investigation the PIRC investigators may require to interview a BTP officer or member of the BTP staff as a suspect.

13.3 The PIRC will notify PSD of any intention to interview a BTP officer or member of staff as a suspect.

13.4 The PIRC will not normally arrest any BTP officer or member of police staff at their home or place of work, unless in specific circumstances this is deemed appropriate.

13.5 PSD will notify the BTP officer or member of the BTP's staff that they are to be subject to a suspect interview and invite them to present themselves at a suitably identified time and date, at an identified police office, for the purposes of interview.

13.6 PSD will appoint a dedicated liaison officer to any PIRC investigation where a BTP officer or member of BTP's staff is to be subject to a suspect interview.

13.7 PIRC and the BTP may seek assistance from Police Scotland PSD to facilitate aspects of the PIRC interview including, identification of suitable premises, access to premises, video and audio recording equipment and briefing of custody staff.

13.8 Where it is necessary to arrest a BTP officer or member of the BTP's staff, other than a person who has attended a pre-arranged suspect interview, PSD staff will accompany PIRC investigators at the arrest.

13.9 Care and Welfare - whilst a BTP officer or a member of the BTP's staff is under arrest in custody, responsibility for the individual's care and welfare rests with Police Scotland. A dedicated BTP liaison officer would also be appointed on a welfare basis.

13.10 The PIRC will take cognisance of the needs of any person identified (to the PIRC) as having or who identifies that they have a 'relevant protected characteristic' and notify Police Scotland custody staff /PSD of any necessary or reasonable adjustments required to be put in place.

14. Provision of Support

Incident Scenes and Investigation Considerations

- 14.1 The BTP may, on request, provide assistance to the PIRC in scene examination and evidence recovery.
- 14.2 Following any incident which may give rise to a PIRC investigation, the BTP will inevitably be first on the scene and will be responsible for initial scene management.
- 14.3 Whilst the PIRC has its own scene managers, the BTP passing control and scene management responsibilities to the PIRC during the course of a scene examination may present a fragmented approach to evidence gathering. Consequently, where the PIRC take over investigative responsibility but the BTP has begun scene examination, the BTP examiners should complete their work.
- 14.4 The PIRC may request the BTP's scene examiners to undertake additional actions in respect of incident scene examination and evidence gathering.
- 14.5 Situations may arise where a dual investigation occurs: In such circumstances, the senior staff in charge of both investigations will liaise and determine which investigation or aspect of the investigation may take primacy in respect of the need for evidence gathering and scene examination.
- 14.6 Where required, investigation strategy meetings will be held to ensure remit and roles are understood and key actions agreed. This will include forensic strategies which will be documented and all decisions made in relation to the examination of the scene will be recorded.
- 14.7 Once scene examination has been completed the PIRC and the BTP lead investigators and scene examiners should meet and agree a strategy for the submission and examination of the productions.

Family Liaison

- 14.8 Following any death investigated by the BTP or the PIRC, Family Liaison Officers (FLOs) will be deployed.
- 14.9 Responsibility for notification of the death to family members (immediately following the death) rests with the BTP. This will be the case irrespective of who the investigating agency will be.
- 14.10 PIRC FLOs will be deployed in the following instances:
 - Death in Police custody,
 - Death following Police contact or
 - In investigations, not involving death, where the involvement of FLOs may enhance the gathering of evidence from family members and/or the provision of information and assistance.
- 14.11 Where the BTP has deployed FLOs following a death, as the initial investigating agency, and there is a later decision that the investigation should be undertaken by the PIRC, responsibility for family liaison should transfer to the PIRC FLOs. Taking cognisance of the need to effectively support the family, it is imperative that during the initial decision making stage and any handover there are no gaps in the

provision of support to the family. All decisions will be documented. This will be covered and agreed within any initial strategy meeting or discussions.

14.12 The PIRC FLOs will take cognisance of the needs of any person identified (to the PIRC) as having or who identifies that they have a 'relevant protected characteristic' and put in place any necessary or reasonable adjustments in order to facilitate the gathering of their evidence or the provision of information to them.

15. Communications & the Media

15.1 The BTP and the PIRC have communication teams that manage liaison with the media.

15.2 Following any incident which involves the BTP which has been referred to the PIRC for investigation there may be media interest or media requests for information.

15.3 Each organisation recognises the demand that can arise for an immediate news release or statement following any incident.

15.4 In order to ensure consistency of the facts provided to the media, the communications teams of the BTP and the PIRC should, where feasible, liaise before issuing statements to the media.

15.5 In any investigation instructed by the COPFS, the PIRC and the BTP will liaise with the COPFS communication team before making any media release.

15.6 Prior to the publication of any PIRC investigation report, an 'embargoed' copy of the report and associated media release will be provided to the BTP at least 48 hours in advance of publication for information purposes only.

15.7 The PIRC may publish an initial statement confirming they have been instructed by the COPFS to investigate a criminal matter, but give no other details.

15.8 Active' proceedings (i.e. following an arrest)

- Where the media intend to publish anything where proceedings are 'active' the PIRC and the BTP communication teams will ensure that the media are made aware of the 'active' status of the proceedings.
- Proceedings are 'active' on arrest, the granting of a warrant for arrest, the service of an indictment or complaint, or the grant of a warrant to cite.
- [Amended Guidelines](#) issued by the Lord Advocate for Police and the Media will be adhered to.

16. Signatories

Enactment: This Agreement comes into effect on 10 December 2020.

Signed 

Date: 10/12/2020

Chief Constable of The British Transport Police

Signed 

Date: 01/12/20

Chief Executive of The British Transport Police Authority

Signed 

Date: 02/12/20

Police Investigations & Review Commissioner

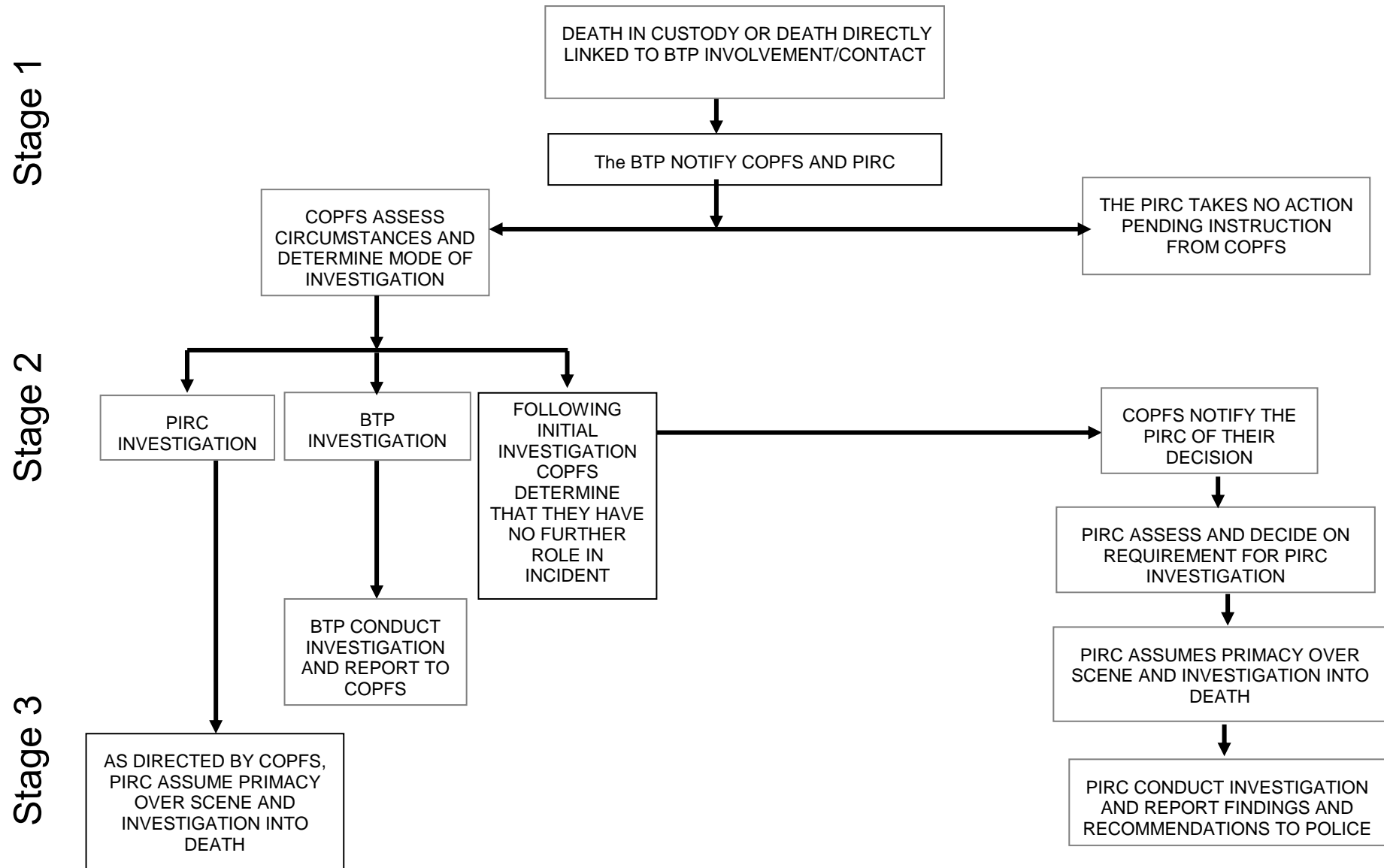
Appendix A

Legislative Framework for the PIRC and the BTP

- A1 Section 33A of the The Police Public Order and Criminal Justice (Scotland) Act 2006, as amended by the Police and Fire Reform (Scotland) Act 2012, outlines the general functions of the PIRC.
- A2 Section 33A(b) of the 2006 Act provides that the PIRC, where directed to do so by the appropriate prosecutor, (i) investigate any circumstances in which there is an indication that a person serving with the BTP may have committed an offence; (ii) investigate, on behalf of the relevant procurator fiscal, the circumstances of any death involving a person serving with the police which that procurator fiscal is required to investigate under Section 1 of the Inquiries into Fatal Accidents and Sudden Deaths (Scotland) Act 2016.
- A3 In terms of Article 3(1) of the '2013 Order' the PIRC and the BTPA may enter into an agreement for the PIRC to investigate and report, where requested to do so by the chief constable of the British Transport Police Force, on any serious incident involving the BTP..
- A4 In terms of Article 3(2) of the '2013 Order, a serious incident involving the BTP has the same meaning as a 'serious incident involving the police' in section 41B of 'the 2006 Act' except that 'a person serving with the police' means a constable of the British Transport Police Force and any other persons specified in the agreement who serve with that Force or who are employed by the British Transport Police Authority.
- A5 **Applicable legislation:**
- The Human Rights Act 1998;
 - Railways and Transport Safety Act 2003 (the 2003 Act)
 - The Police Public Order and Criminal Justice (Scotland) Act 2006 Act, (the 2006 Act);
 - The Police and Fire Reform (Scotland) Act 2012 (the 2012 Act);
 - The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (the Order)
 - British Transport Police (Conduct) Regulations 2015
 - The Criminal Justice (Scotland) Act 2016;
 - The General Data Protection Regulations (GDPR);
 - The Data Protection Act 2018 (DPA)

APPENDIX B

INITIAL OPERATIONAL RESPONSE



APPENDIX C

INITIAL OPERATIONAL RESPONSE

Stage 1

DEATH INDIRECTLY LINKED OR SERIOUS INJURY DIRECTLY OR INDIRECTLY LINKED TO BTP INVOLVEMENT/CONTACT



BTP NOTIFY PIRC



FOLLOWING PIRC ASSESSMENT INFERENCE OF CRIMINALITY EMERGES

COPFS ASSESS AND DETERMINE MODE OF INVESTIGATION



Stage 2

PIRC INVESTIGATION

BTP INVESTIGATION

FOLLOWING INITIAL INVESTIGATION COPFS DETERMINE THAT THEY HAVE NO FURTHER ROLE IN INCIDENT

PIRC ASSESSES AND DECIDE ON REQUIREMENT FOR PIRC TO INVESTIGATE

Stage 3

AS DIRECTED BY COPFS, PIRC ASSUME PRIMACY OVER SCENE AND INVESTIGATION

BTP CONDUCT INVESTIGATION AND REPORT TO COPFS

SERIOUS INJURY RESULTS IN DEATH, INFORM COPFS AND AWAIT INSTRUCTION

PIRC ASSUMES PRIMACY OVER SCENE AND INVESTIGATION INTO INJURY

PIRC CONDUCT INVESTIGATION AND REPORT FINDINGS AND RECOMMENDATIONS TO POLICE

APPENDIX D

Sharing of Information between the BTP, the PIRC and the COPFS in conduct matters

Information may be provided with the prosecutors consent to PSD for the purpose of conduct or misconduct proceedings. Such information will advise PSD of the nature of any allegations at the outset, advise if there is likely to be additional offences and of the evidence at the conclusion of the investigation and following a decision by the COPFS to prosecute or not.

During an investigation, if there are any significant developments that substantially weakens or strengthens the case against the officer, the timing and disclosure of such information will be discussed and agreed with the COPFS to ensure that the ongoing investigation and any potential criminal proceedings are not compromised.

Such information will be provided on a confidential basis **solely** for the purpose of conduct considerations and not for any other purpose such as civil proceedings.

APPENDIX E

The PIRC's on-call arrangements

The PIRC provides the appropriate prosecutor and police forces in Scotland with a call out response to urgent incidents on a 24 hour basis, 365 days a year.

The response will be directed by, at a minimum, one of the PIRC's Deputy Senior Investigator. There will be a designated Deputy Senior Investigator on-call at all times.

There is a dedicated, single use, mobile telephone held by the PIRC Deputy Senior Investigator This number is: **07854 672164**.

In the case of a death in custody or death following police contact there should be minimal delay in BTP following the processes set out in Appendices B and C. In the early stages there may be only limited relevant information available about the circumstances. However, this should never prevent early notification once it is clear that the incident falls into one of the relevant categories.

The PIRC Duty Senior Investigator will contact the BTP police incident officer or senior investigating officer and confirm the information. He/she will request that BTP undertake certain actions pending the deployment of the PIRC team (including the call out of specialist and/or forensic assistance where that is deemed to be necessary).

The PIRC will deploy to the scene as soon as is reasonably practicable at which point there will be a formal 'minuted' meeting between the PIRC and BTP senior investigators. The meeting will clarify who has primacy for the scene, identify roles and responsibilities, and set out the process for information-sharing.

APPENDIX F (SPECIMEN LETTERS)

SPECIMEN NOTIFICATION - A COPFS Instructed investigation into a Death

Recipient Details
Chief Constable
British Transport Police

Operation Name
PIRC Ref Number

cc: Head of PSD

Date

Dear XXXX

Death in Custody / Death Following Police Contact Date and Locus

The Crown Office and Procurator Fiscal Service (COPFS) has instructed the PIRC under the terms of Section 33A(b)(ii) of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (as amended) to investigate the death of xxxx, who died on xxxx.

I hereby give notice that the information or documents specified below should be produced to the PIRC within 7 days.

I understand that BTP will appoint a single point of contact (SPOC) to facilitate the production of the specified information or documents and to deal with any subsequent requests for information.

The PIRC is required to give the Chief Constable a reasonable time provide the requested information and, in this regard, should the appointed SPOC encounter any difficulties in complying with the timeframes for the production of information or documents, I will be obliged if they can inform the appointed PIRC investigator accordingly.

I have appointed xxxx Deputy Senior Investigator (DSI) with PIRC to undertake the investigation.

I will be obliged if you will arrange for the specified information and documents outlined hereafter to be submitted to xxxx Deputy Senior Investigator (DSI) by specific date. Please note that the documents or other information should, where possible, be produced in the form specified.

Please provide documents in Microsoft Word format or Adobe pdf format, any audio material in WAV format, and ensure that any video material supplied can be viewed/played in Windows Media files.

Please provide all witness statements from civilian witnesses and police officers and staff in MS Word format on the National Standard statement form. In this regard, please ensure that all appropriate sections of the statement form are fully completed with the relevant details of the witness, including rank or occupation of witness, police identification or shoulder number, full citation address including post code for citation purposes, all relevant contact details, including landline telephone number, mobile number and email address where relevant.

Documents of Information specified:

1. Witness statements from all police officers or members of police staff, involved in the incident from the time that the deceased xxxx was reported to be at xxxx until he was pronounced life extinct at xxxx;
2. Copies of witness statements from all civilian witnesses, including paramedics and other medical personnel obtained during the course of the police investigation;
3. Copies of recordings of all telephone communications and Airwave radio traffic related to the incident and index of content to show file number/dates/times of recordings and identification of police officers and police staff;
4. Copies of relevant command and control incident logs (Full STORM prints);
5. Copies of the Death Report and medical records/background in relation to xxxx;
6. Copies of any records held by BTP, etc. in relation to the deceased xxxx, including any records from the Intelligence systems, other databases, criminal record and PNC systems ;
7. Copies of custody records and CCTV footage from xxxx at xxxx, in relation to the deceased;
8. Copies of public space CCTV in relation to the report of xxxx at;
9. A list of productions seized by BTP as part of their investigation.
10. Copies of any Forensic Services reports, photographs and video footage taken in relation to the deceased;

BTP may consider or be aware of other documents or information which are connected to this incident and which have not been initially specified above. I would be obliged if you can identify any such document in order that I can provide BTP with a request to provide these documents or information.

Where possible all documents should be transmitted electronically to the following secure email address at referrals@pirc.scot.gov The availability of the hard copy material should be notified to xxxx PIRC DSI who will arrange collection.

xxxx DSI can be contacted on telephone number on xxxx or by email to xxxx@pirc.gov.scot

Should you have any queries in respect of this matter please do not hesitate to contact me.

Yours sincerely

Head of Investigations

SPECIMEN NOTIFICATION - BTP Referral

Recipient Details
Chief Constable
British Transport Police

Operation Name
PIRC Ref No

cc: xxxx PSD

Date

Dear xxxx

Police Referred Investigation – (Nature of Serious Incident)

On (date), BTP referred the above incident to the Police Investigations and Review Commissioner (PIRC) in terms of the agreement made under the Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013, as a serious incident involving the BTP, within the meaning of a 'serious incident involving the police' in Section 41B of the Police, Public Order and Criminal Justice (Scotland) Act 2006.

I have decided that the PIRC will investigate this matter. The investigation will examine (terms of reference of the investigation).

I hereby give notice that the information or documents specified below should be produced to the PIRC within 7 days.

I understand that BTP will appoint a single point of contact (SPOC) to facilitate the production of the specified information or documents and to deal with any subsequent requests for information.

The PIRC is required to give the Chief Constable a reasonable time provide the requested information and, in this regard, should the appointed SPOC encounter any difficulties in complying with the timeframes for the production of information or documents, I will be obliged if they can inform the appointed PIRC investigator accordingly.

I have appointed xxxx Deputy Senior Investigator (DSI) with PIRC to undertake the investigation.

I will be obliged if you will arrange for the specified information and documents outlined hereafter to be submitted to xxxx Deputy Senior Investigator (DSI) by specific date.

Please note that the documents or other information should, where possible, be produced in the form specified.

Please provide documents in Microsoft Word format or Adobe pdf format, any audio material in WAV format, and ensure that any video material supplied can be viewed/played in Windows Media files.

Please provide all witness statements from civilian witnesses and police officers and staff in MS Word format on the National Standard statement form. In this regard, please ensure that all appropriate sections of the statement form are fully completed with the relevant details of the witness, including rank or occupation of witness, police identification or shoulder number, full citation address including post code for citation purposes, all relevant contact details, including landline telephone number, mobile number and email address where relevant.

Documents of Information specified:

1. Witness statements from all police officers or members of police staff, involved in the incident from the time that the deceased xxxx was reported to be at xxxx until he was pronounced life extinct at xxxx;
2. Copies of witness statements from all civilian witnesses, including paramedics and other medical personnel obtained during the course of the police investigation;
3. Copies of recordings of all telephone communications and Airwave radio traffic related to the incident and index of content to show file number/dates/times of recordings and identification of police officers and police staff;
4. Copies of relevant command and control incident logs (Full STORM prints);
5. Copies of the Death Report and medical records/background in relation to xxxx;
6. Copies of any records held by BTP, etc. in relation to the deceased xxxx, including any records from the Intelligence systems, other databases, criminal record and PNC systems ;
7. Copies of custody records and CCTV footage from xxxx at xxxx, in relation to the deceased;
8. Copies of public space CCTV in relation to the report of xxxx at;
9. A list of productions seized by BTP as part of their investigation.
10. Copies of any Forensic Services reports, photographs and video footage taken in relation to the deceased;

BTP may consider or be aware of other documents or information which are connected to this incident and which have not been initially specified above. I would be obliged if

you can identify any such document in order that I can provide BTP with a request to provide these documents or information.

Where possible all documents should be transmitted electronically to the following secure email address referrals@pirc.gsi.gov.uk. The availability of any hard copy material should be notified to Investigator xxxx who will arrange collection.

Investigator xxxx can be contacted on xxxx, by mobile telephone number on xxxx or by email on xxxx@pirc.scot.gov

Should you have any queries in respect of this matter please do not hesitate to contact me.

Yours sincerely

Head of Investigations

SPECIMEN NOTIFICATION - A COPFS Instructed Criminal Investigation

Recipient Details
Chief Constable
British Transport Police

Operation Name
PIRC Ref No

cc: xxxx PSD

Date

Dear xxxx

COPFS Instructed Investigation – (Nature of Investigation)

On (date), the COPFS, instructed the Police Investigations and Review Commissioner (PIRC) in terms of Section 33A(b) of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (as amended) to investigate (outline the nature of the investigation).

I hereby give notice that the information or documents specified below should be produced to the PIRC within 7 days.

I understand that BTP will appoint a single point of contact (SPOC) to facilitate the production of the specified information or documents and to deal with any subsequent requests for information.

The PIRC is required to give the Chief Constable a reasonable time provide the requested information and, in this regard, should the appointed SPOC encounter any difficulties in complying with the timeframes for the production of information or documents, I will be obliged if they can inform the appointed PIRC investigator accordingly.

I have appointed xxxx Deputy Senior Investigator (DSI) with PIRC to undertake the investigation.

I will be obliged if you will arrange for the specified information and documents outlined hereafter to be submitted to xxxx Deputy Senior Investigator (DSI) by specific date. Please note that the documents or other information should, where possible, be produced in the form specified.

Please provide documents in Microsoft Word format or Adobe pdf format, any audio material in WAV format, and ensure that any video material supplied can be viewed/played in Windows Media files.

Please provide all witness statements from civilian witnesses and police officers and staff in MS Word format on the National Standard statement form. In this regard, please ensure that all appropriate sections of the statement form are fully completed with the relevant details of the witness, including rank or occupation of witness, police identification or shoulder number, full citation address including post code for citation purposes, all relevant contact details, including landline telephone number, mobile number and email address where relevant.

Documents of Information specified:

1. Witness statements from all police officers or members of police staff, involved in the incident except those officers or staff identified as criminal suspects;
2. Copies of witness statements from all civilian witnesses.
3. Copies of recordings of all telephone communications and Airwave radio traffic related to the incident and index of content to show file number/dates/times of recordings and identification of police officers and police staff;
4. Copies of relevant command and control incident logs (Full STORM prints);
5. Copies of medical records/background in relation to xxxx;
6. Copies of any records held by BTP, etc. in relation to the witness (specify) xxxx, including any records from the Intelligence systems, other databases, criminal record and PNC systems ;
7. Copies of custody records and CCTV footage from xxxx at xxxx, in relation to the witness (specify);
8. Copies of public space CCTV in relation to the report of xxxx at;
9. A list of productions seized by BTP as part of their investigation.
10. Copies of any Forensic Services reports, photographs and video footage taken in relation to the deceased;

BTP may consider or be aware of other documents or information which are connected to this incident and which have not been initially specified above. I would be obliged if you can identify any such document in order that I can provide BTP with a request to provide these documents or information.

Where possible all documents should be transmitted electronically to the following secure email address referrals@pirc.gsi.gov.uk. The availability of any hard copy material should be notified to Investigator xxxx who will arrange collection.

Investigator xxxx can be contacted on xxxx, by mobile telephone number on xxxx or by email on xxxx@pirc.scot.gov

Should you have any queries in respect of this matter please do not hesitate to contact me.

Yours sincerely

Head of Investigations

SPECIMEN NOTIFICATION - Notification that a matter will not be Investigated

Recipient Details
Chief Constable
British Transport Police

cc: xxxx PSD

Date

Dear,

Serious Injury Following Police Contact, etc. – NAME on DATE

Thank you for your referral on **** in respect of the above incident.

Having considered the circumstances and the information provided, I have concluded that we will not be carrying out an investigation into this matter at this time.

Should you subsequently become aware of any additional information regarding this incident please notify me accordingly.

Yours sincerely,

Head of Investigations

SPECIMEN - Request for Factual Accuracy Check

Recipient Details
Chief Constable
British Transport Police

Operation Name
PIRC Ref No

cc: xxxx PSD

Date

Dear XXXX

[INSERT NATURE AND DATE OF INCIDENT]

I attach for your consideration a draft report of the PIRC investigation in respect of the incident on [INSERT] in [INSERT] where [INSERT].

I will be obliged if you can arrange for the report to be checked for factual accuracy and notify me within 5 working days of any errors of fact that you consider require amendment.

Following your response I will issue the final report to BTP. A public facing report will be / will not be published on the PIRC website.

Yours sincerely

Head of Investigations