

Content

The table below sets out the content of the post-consultation version of the guidance, the corresponding paragraph in the consultation version of the guidance, any changes made and the reasons for those changes.

Current version	Paragraph number in consultation (where relevant) How has this changed? Why has this changed?
<p>Foreword</p> <p>When a person dies or is seriously injured during or after contact with the police, it is essential that the facts surrounding that incident are fully and effectively investigated. The investigation should be comprehensive and capable of establishing the circumstances in which the incident occurred. This can only be achieved if every effort is made to ensure that the best evidence is available to the investigation and that the integrity of that evidence is preserved.</p> <p>This guidance deals with the critical period immediately following a death or serious injury involving the police. It is crucial that appropriate steps are taken at this time to ensure that the investigation is able to fully establish the facts and that the opportunity to learn lessons is not missed.</p>	<p>The first paragraph of this section mirrors paragraph 5 of the consultation version</p> <p>The foreword was added to cover the following general points which came out as needed through consultation feedback:</p> <ul style="list-style-type: none"> • make clear up front the reasons for producing the guidance • make clear when it applies • police have a legitimate authority to use force in certain circumstances but this needs to be balanced against accountability • this is not a change in the IPCC's position • people will be treated as witnesses unless there is evidence otherwise • requirements of Article 2

We carried out a wide ranging consultation as part of the development of this guidance and received a great deal of detailed and helpful feedback. A response to the points raised during the consultation is available on the IPCC website.

This is a complex area. Police officers are empowered to use force, including in some circumstances lethal force, to protect the public. The IPCC recognises that there are circumstances where legitimate actions lead to injury or loss of life. However, this must be balanced against the ability of society to hold police officers to account for their actions and the ability of the police service to learn lessons to prevent future incidents and improve policing standards.

It is in the interests of all that the evidence gathering in these circumstances is transparent, capable of scrutiny and engenders public confidence. This guidance does not indicate a change in approach by the IPCC, in that police officers and staff involved in such incidents will continue to be treated as witnesses, unless and until the available evidence requires otherwise.

This guidance is not intended to prevent the police from carrying out their crucial role in protecting the public and dealing with crime. Article 2 of the European Convention on Human Rights requires the state to protect life, as well as to ensure an effective and independent investigation. The IPCC has always accepted that the need to protect life will necessarily affect some decisions such as when and whether it is operationally safe to separate officers in order for them to record their accounts, particularly in situations where there may be an ongoing threat. Where it is not possible to follow this

- the IPCC understands that it will not always be possible to comply fully with the guidance but the next best thing in the circumstances should be done

Many responses in the consultation raised concerns about the status of officers. Although for the purposes of the investigation they are witnesses the handling of them means they could feel they are being treated like suspects.

<p>guidance to the letter, appropriate steps should be taken to achieve the effects this guidance aims to achieve. The application of the guidance should also not prevent the welfare needs of officers and staff being addressed or their access to legal, staff association or medical advice.</p> <p>Where the guidance is not followed the reasons for not doing so should be recorded as early as possible.</p>	
<p>Whom the guidance applies to</p>	
<p>1. This statutory guidance is issued under section 22 of the Police Reform Act 2002 and applies to all 43 Home Office police forces in England and Wales. Local policing bodies, chief officers, police officers, special constables and police staff working within those forces must all have regard to the guidance. It also applies to the National Crime Agency and those agencies and non-Home Office forces that have entered into agreements with the Independent Police Complaints Commission (IPCC) under sections 26 or 26BA of the Police Reform Act 2002, subject to any particular provisions contained within those agreements. Any references to police or police officers should be read as applying equally to these agencies and their staff.</p>	<p>Paragraph 1</p> <p>No change</p>
<p>2. If the people listed above do not follow the guidance, they need to have a sound rationale for departing from it. This rationale should be accurately recorded as soon as it is practicable to do so. Any failure to follow the guidance and the officer's rationale for not doing so may come under scrutiny in any future proceedings where the evidence-gathering process is relevant (for example an inquest or disciplinary proceedings).</p>	<p>Paragraph 2</p> <p>The order of this paragraph has changed to place the need for rationale first.</p> <p>This was in response to feedback during the consultation that the tone was overly negative / punitive but to retain the clarity about what the consequences would be for not following the</p>

	guidance which was also felt to be important in consultation feedback.
3. This statutory guidance aims to make everyone to whom it applies fully aware of their duties and responsibilities in achieving the most effective investigation into a death or serious injury case. There is already a clear statutory duty on the police to refer all death and serious injury (DSI) matters to the IPCC without delay and in many cases it will be necessary for the IPCC to undertake an independent investigation. However, this guidance applies from the moment a DSI matter comes to the attention of the police. <i>If a complaint is made by a member of the public or conduct matter identified by the appropriate authority during the initial stages of handling a DSI matter, this guidance should continue to be followed.</i>	<p>Paragraph 6</p> <p>This paragraph was moved to an earlier position as it fits with who the guidance applies to and places up front when the guidance applies.</p> <p>The final sentence (in italics) is an addition since the consultation to clarify what should happen if a complaint is made.</p>
Definition of a DSI matter (followed by text box containing legislative provisions)	The statutory definition of a DSI matter has been added since the consultation for clarity. Some concerns were raised in the consultation about what 'serious injury' meant and consistency of application of the guidance.
Duties to obtain and preserve evidence	
4. Chief officers have a clear statutory duty to obtain and preserve evidence relating to DSI matters. (followed by text box containing legislative provisions).	<p>Paragraph 3</p> <p>There is a very minor wording change to account for the addition of the definition of DSI above.</p>
5. Given that statutory duty, chief officers have a responsibility to ensure that everyone under their	Paragraph 4

<p>direction and control is aware of the principles set out in this guidance, to ensure that sound procedures and systems are in place to give effect to those principles and that relevant officers and staff are trained on how to operate according to this guidance. <i>This guidance does not set out who exactly should carry out specified actions, this is to be determined by those present at, or aware of an incident.</i></p>	<p>The final sentence (in italics) has been added since the consultation. This to make clear that the guidance does not specify individual roles.</p> <p>One of the comments received in the consultation was that the guidance could state who was responsible for individual actions. We wanted to be clear that this was for those dealing with the incident to determine as appropriate to the individual incident, not for the guidance to be prescriptive.</p>
<p>Identification and preservation of all potentially relevant evidence and scenes</p>	
<p>6. It is essential that attention and care is given to the preservation of all potentially relevant evidence <i>as soon as is practicable</i>. “Evidence” can include, but is not limited to, any information drawn from personal accounts, a document, or a material object, which may potentially be used to establish facts in an investigation. The relevance of some evidence to an investigation may not be immediately apparent, so anything that an individual reasonably considers to have the potential to assist the investigation <u>should</u> be preserved.</p>	<p>Paragraph 7</p> <p>“as soon as is practicable” has been added since the consultation. In the final sentence “must” has been changed to “should” (underlined in this table).</p> <p>This balances concerns about dynamic situations where dealing with a threat has to take precedence.</p> <p>There was a comment in the consultation that a ‘seize all’ approach would be unmanageable and relevance to the investigation should be considered. Our view was that at this stage in the investigation it would not always be clear what was relevant which is why the final sentence is written in the way it is.</p>
<p>7. Everyone in the police service has a responsibility to bring any potential evidence to the attention of the investigation throughout the life of the investigation.</p>	<p>Paragraph 8</p> <p>No change</p>

<p>8. From the point at which the police become aware of a DSI matter, they have the responsibility to ensure that evidence is not lost or compromised in any way. This may include, but is not limited to, establishing a perimeter to control and protect any scene and maintaining an accurate scene log recording details of everyone who enters and leaves, protecting samples of forensic evidence from damage or contamination and preventing the overwriting of visual or audio footage.</p>	<p>Paragraph 9 No change</p>
<p>9. While the police must act to preserve and control such evidence, <i>except where paragraph 10 applies</i>, they should not take any other actions in respect of its recovery, removal or analysis without the express agreement of the IPCC.</p>	<p>Paragraph 10 Exception for paragraph 10 (in italics) added for clarity.</p>
<p>10. It is recognised that in the following circumstances it may be preferable to act immediately and without waiting for IPCC approval:</p> <ul style="list-style-type: none"> • Where the immediate removal or seizure of evidence is necessary to prevent its loss or deterioration (for example where weather conditions may impair forensic evidence); • Where action is necessary to protect the public from harm (for example where a firearm is placed within reach of members of the public). 	<p>Paragraph 11 No change</p>
<p>11. If a decision is taken in accordance with paragraph 10 above, details of any actions taken in respect of evidence, and the justification for doing so, must be clearly documented by the decision maker.</p>	<p>Paragraph 12 No change</p>

Identification of all non-policing witnesses	
<p>12. References to “witnesses” in this section refer to those who have not played a policing role in the incident for example members of the public, emergency services staff and healthcare professionals.</p>	<p>Paragraph 13</p> <p>No change</p>
<p>13. Anyone who has witnessed (visually or otherwise) any part of the death or serious injury (or events connected with it) will be a potential witness. It is vital that the police act immediately to help ensure that <i>witnesses are not lost and their evidence will be available to the investigation</i>. In order to achieve this, while awaiting the involvement of the IPCC, the police should seek to obtain the names and contact details of all potential witnesses together with a brief description of the nature of their evidence. <i>Witnesses should also be advised not to discuss the incident in question.</i></p>	<p>Paragraph 14</p> <p>The second sentence has been changed from ensuring that witnesses’ testimony is not lost to that the witness is not lost (new text in italics). This stemmed from questions around how far police should be going in speaking to witnesses and getting evidence.</p> <p>The final sentence has been added since the consultation to add parity between treatment of officers and members of the public.</p>
<p>14. Detailed statements will be obtained in the course of the subsequent investigation. However, the police should obtain and note the following basic information about the nature of the information the witness can give:</p> <ul style="list-style-type: none"> • Whether s/he has witnessed all or part of the incident, or a connected incident • A concise description of what s/he has observed • Any relationship to any of the persons involved in the incident • Descriptions of individuals referred to, along with the factors to be considered when assessing that identification evidence (amount of time under observation, distance, obstructions, etc.) 	<p>Paragraph 15</p> <p>Paragraph 15 had an additional sentence at the beginning “<i>The police are not expected to obtain detailed statements from potential witnesses</i>”. This has been removed as we did not want to rule out the possibility of police officers ever obtaining statements at a later stage.</p>

Identification and handling of key policing witnesses	
15. The police should immediately identify the key policing witnesses to the death or serious injury	Paragraph 16 No change
16. For the purpose of this guidance a policing witness is a : <ul style="list-style-type: none"> • Police officer • Special constable under the direction and control of a chief officer • Member of police staff (which will include those with designated powers under section 38(2) of the Police Reform Act 2002: community support officers, detention officers, investigating officers and escort officers) • Member of contracted out staff • Person serving with National Crime Agency 	Paragraph 17 No change
Key policing witness	
17. A key policing witness is anyone from the above categories who has <i>had a significant involvement and/or witnessed, or claims to have witnessed, visually or otherwise, all or part of a death or serious injury, or events closely connected with it. This may include people who are indirectly involved for example a call handler or tactical firearms advisor. Steps should be taken to identify key policing witnesses at the outset. Further key policing witnesses may be identified as more information comes to light during the course of the investigation.</i>	Paragraph 18 People who have had a significant involvement in an incident have been added to the definition of key policing witness. Previously this paragraph had one other sentence “Such individuals must be treated as key policing witnesses at the outset”. This has been replaced with the text in italics at the end of the paragraph to make it more open ended. This addresses consultation feedback that it may not be practical to identify all key police witnesses at the outset, the guidance

	<p>should put this on a best efforts basis immediately with anyone additional to be added as they become clear.</p> <p>Consultation feedback also suggested that the definition of key policing witness should be widened to cover those who are indirectly involved in the incident e.g. intelligence officer, tactical firearms officer.</p>
<p>18. Unless there is any indication that a key policing witness may have committed a criminal offence or behaved in a manner which would justify the bringing of disciplinary proceedings, they should be dealt with as a witness. If at any stage during the investigation such an indication becomes apparent, this should be recorded as a conduct matter and a notice of investigation served.</p>	<p>New addition</p> <p>This paragraph was added to make explicit that people will be treated as witnesses unless and until an issue of conduct becomes apparent. Treating officers as suspects inappropriately was a concern which was raised by several respondents in the consultation.</p>
<p>Prohibition on conferring</p>	
<p>19. Any conferring between witnesses has the potential to undermine the integrity of their evidence, and to damage public confidence in the investigation. <i>There is a risk that if officers discuss an incident their evidence could be contaminated, whether consciously or unconsciously. A truthful account may be doubted by a jury at a criminal trial or inquest where there has been extensive conferring.</i> As a result, non-police witnesses are routinely warned not to discuss the incident in question either before or after they have given their accounts. The same should apply to policing witnesses.</p>	<p>Paragraph 19</p> <p>The sentences in italics are a new addition to make clearer some of the risks behind conferring.</p> <p>This was in part to address some of the consultation feedback that there was no issue around conferring and make clear why we felt this was important to include.</p>
<p>20. Once the key policing witnesses have been identified they should be instructed not to speak (or otherwise</p>	<p>Paragraph 20 / 20.1</p>

<p>communicate) about the incident with each other, or any other potential witnesses, both before and after they have given their accounts, <i>save for the explicit purpose described in paragraph 21. The person giving this instruction should make a record of when it was given and the content of the instruction.</i></p>	<p>The content in italics has been added, mainly to make clear that the fact the non-conferring warning has been given should be recorded.</p>
<p>21. <i>The only legitimate exception to this is where it is necessary for key policing witnesses to discuss the incident with each other because, and only to the extent that, <u>it is necessary for the safety of members of the public or police officers.</u> The extent to which such discussion has taken place, the justification for doing so and the content of that conversation, must be recorded by the key policing witnesses as soon as possible. Information that is relevant to the resolution of ongoing operational matters, should be provided to other police officers who are not key policing witnesses.</i></p>	<p>Paragraph 20.2</p> <p>There are various changes to this paragraph. The first sentence in italics has had some wording changes to make clear that there is only one real purpose for discussing the incident.</p> <p>The underlined wording was amended as a result of consultation feedback. We were persuaded that the previous wording “to avert a real and immediate risk to life” set too high a bar and there were other safety issues which could make discussion necessary.</p> <p>“By the key policing witnesses” was added in the second sentence was added to make clear who was expected to make a record of any conversation.</p> <p>The final sentence was added to acknowledge that information may be passed to officers unconnected with the incident to deal with ongoing or other matters.</p>
<p>Ensuring that officers’ accounts are not contaminated by other evidence</p>	<p>New header</p>

<p>22. In order to achieve public confidence, police must demonstrate that they have taken steps to ensure that personal initial accounts (see below) provided by key policing witnesses have not potentially been contaminated by evidence from any other source (except indisputable factual information, see paragraph 33 below), or explain their rationale for not doing so.</p>	<p>New paragraph</p> <p>This was inserted to highlight the need to avoid contamination of evidence.</p>
<p>23. The best way of achieving this is to keep key policing witnesses separate from the moment it is operationally safe to do so, until after they have provided their personal initial account and this should be the usual approach subject to below.</p>	<p>Paragraph 20.3</p> <p>The majority of this paragraph is taken from the old 20.3 with tweaks only to make it fit logically in this position.</p>
<p>24. If there are practical reasons which prevent key policing witnesses from being separated, alternative measures should be taken to ensure demonstrable integrity of their evidence and a transparent process. This may include for example prioritising the separation of certain individuals or using Body Worn Video to record the journey of a group of key policing witnesses from a scene to a post incident process. This guidance does not prescribe the alternative measures which should be taken. The most appropriate measures must be selected to fit the individual circumstances. This decision and the rationale for it should be recorded.</p>	<p>New paragraph</p> <p>This has been added to clarify that alternative measures may and should be taken where separation is not practical. This was a major theme of consultation feedback and this has been added in recognition of that.</p>
<p>25. The separation of officers should not prevent their welfare needs from being considered or prevent them having access to support such as a colleague who was not involved in the incident, legal or medical advice.</p>	<p>New paragraph</p> <p>Welfare concerns were something which were mentioned in many of the consultation responses. This has been added to</p>

	clarify that separation does not prevent access to welfare support.
Personal Initial Accounts	Title has changed from Detailed Individual Factual Accounts to prevent confusion with other 'detailed' accounts in policing
26. All key policing witnesses will be expected to assist in the investigation into the death or serious injury by providing a full and detailed account at the earliest opportunity. The public rightly expects that those who witness a death or serious injury, or incidents relating to it, whilst acting in a professional capacity, should co-operate fully with an investigation, offering up all relevant information in a prompt and open manner. Failure to do so damages not only the effectiveness of the investigation but also the public's confidence in the police service.	Combines elements of paragraphs 21 and 24.
27. Nothing in this guidance affects police officers' right to be provided with support by other people not involved in the incident, including the right to obtain legal advice, <i>support from a staff association and medical advice.</i>	Paragraph 21, second sentence We have added to this that officers may seek support from a staff association and/or medical advice. This again is to recognise feedback about welfare concerns.
28. It is accepted that no one can be compelled to give an account and that consideration must be given to the welfare of those who have been directly involved in a serious incident. <i>Where a key policing witness has been examined by an appropriate health professional and certified as medically unfit to provide an account, they will not be required to provide an account until they are fit to do so.</i>	Paragraph 24, first sentence The content in italics has been added to make clear that people should not be made to give an account if determined to be medically unfit. This was in response to consultation feedback that people may not be fit, for example owing to trauma or exhaustion, to provide an account.

<p>29. Officers have the right to refuse to provide any statement. However, a decision not to provide an account when asked to do so will be noted and may be taken into account in the investigation and, <i>where relevant</i>, in any subsequent proceedings.</p>	<p>Paragraph 21, last sentence</p> <p>“Where relevant” has been added as there will not always be subsequent proceedings and it would be misleading to suggest there would.</p>
<p>30. A personal initial account will be expected from each policing witness (<i>unless medically unfit</i>) before s/he goes off duty. It should be headed with the appropriate statutory declaration (in accordance with section 9 of the Criminal Justice Act 1967, sections 5A(3)(a) and 5B of the Magistrates’ Court Act 1980, and rule 70 of the Magistrate Court Rules 1981) and should include the following as a minimum:</p> <ul style="list-style-type: none"> • The witness’ full personal details • <i>The officer’s understanding of the nature of the incident, including any information they received before and/or during it</i> • The role they played in relation to the death or serious injury, and/or related incident(s) • Their decision making in respect of the incident or related incident(s), particularly when they have used force and/or have exercised any other police powers • Their recollection of the incident and/or related incident(s) (it should be their honestly held belief of the facts, and their reasons for holding such a belief, including what they did and what they observed others doing). 	<p>Paragraph 22</p> <p>“Unless medically unfit” has been added to reflect new content added regarding being medically unfit earlier in the document.</p> <p>The second bullet point is new and has been added for additional clarification.</p> <p>In the consultation version, the last bullet point read “their <u>full and detailed</u> recollection of the incident...”. We have removed full and detailed to acknowledge that there may be further detail provided later if memory improves.</p>
<p>31. The objective of the personal initial account is to provide sufficient information to give a clear picture of all facts</p>	<p>Paragraph 23</p>

<p>which may be relevant to the death or serious injury <i>and to enable the investigating officer to analyse these accounts in order to secure other potentially relevant evidence in the early stages of the investigation (such as retrieving forensic evidence from the scene of the incident). Key policing witnesses will have the opportunity to provide further accounts should they recall additional detail. They may refer back to the personal initial account when providing any further accounts. They may also be requested to provide further information in the form of witness interviews or further statements during the course of the investigation. However, if a first account is provided sufficiently clearly and the officer does not wish to add to it, there may be no need for further interviews or statements.</i></p>	<p>The initial part of the first sentence of this paragraph reflects paragraph 23 of the consultation version. The rest of the paragraph (in italics) is new.</p> <p>The reasons for the additions are:</p> <ul style="list-style-type: none"> • to emphasise the importance of early accounts for scene management etc. • to respond to an apparent perception, which came out through consultation feedback, that this account would be the only opportunity to provide a statement • to clarify that officers would be able to refer back to their initial account – a query which has arisen in relation to the guidance • to stress that if officers give a sufficient account in the beginning this may be all they need to do
<p>32. Following a death or serious injury, the offices involved should not view any BWV footage until they have completed their personal initial account in relation to the incident. There is a risk that watching BWV footage may affect, consciously or unconsciously, the recollections of an officer even about matters of perception, matters off camera and states of mind. The personal initial account should be based solely on the officer’s own recollection of the incident, unaffected by anyone or anything else. The investigating officer will provide an opportunity for the offices to view the BWV footage at an appropriate time after personal initial accounts have been provided and once the BWV has been downloaded.</p>	<p>New paragraph</p> <p>This has been added to plug a gap which became apparent through operational experience and questions about the IPCC’s position on this matter.</p>
<p>33. It is acknowledged that in some incidents officers will have been unable to make a contemporaneous note of</p>	<p>New paragraph</p>

<p>their actions or decisions. In such cases, to assist with the compilation of their personal initial account, they may be provided with indisputable factual information, such as times taken from a CAD or details of any recorded commentary that they themselves gave during the incident.</p>	<p>This has been added to plug a gap which became apparent through operational experience and questions about the IPCC's position on this matter.</p>
<p>34. The format of the personal initial account can be determined depending on what is most appropriate in the circumstances but may for example take the format of a statement written by the officer, a self-administered interview, a pro-forma with questions to guide the account or a written account taken by another officer who was not involved in the incident. Regardless of the format, the personal initial account should include all the relevant information.</p>	<p>New paragraph</p> <p>This has been added to address consultation feedback about the format of the account – whether this was prescribed, whether it could be a self-administered interview etc.</p>