



Police Investigations &
Review Commissioner



Home Office

AGREEMENT

between

THE POLICE INVESTIGATIONS & REVIEW COMMISSIONER

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

To establish and maintain procedures in relation to the investigation of any serious incident involving an immigration officer, general customs officials, customs revenue official or other relevant individual acting in the exercise of specified enforcement functions in Scotland.

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Abbreviations

The following abbreviations are used in this document:

the Secretary of State	Secretary of State for Home Department
the PIRC	The Police Investigations and Review Commissioner
COPFS	Crown Office and Procurator Fiscal Service
'the 1999 Act'	Immigration and Asylum Act 1999
'the 2006 Act'.	The Police Public Order and Criminal Justice (Scotland) Act 2006 Act,
'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
IPA 2016	Investigatory Powers Act 2016
DPA	Data Protection Act 2018

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1. An 'Agreement' between:

- The Secretary of State for the Home Department; and
- The Police Investigations and Review Commissioner (the PIRC).

2. Purpose

2.1 This agreement allows the PIRC, where requested to do so by the Secretary of State to investigate and report on a serious incident involving immigration or asylum or the Borders Revenue 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 Borders Revenue staff that engage Article 2 and 3 of ECHR, serious incidents involving a State Agency engaging enforcement functions, more commonly referred to as Death or Serious Injury (DSI) incidents.

2.3 Under sections 3(12),(15) and (17) of the Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013, a serious incident involving an immigration officer or an official of the Secretary of State, a general customs official or a customs revenue official 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;

- an immigration officer, an official of the Secretary of State carrying out functions relating to immigration or asylum, but only when acting in the exercise of such enforcement functions;
- a general customs official, or any other person exercising general customs functions under the authority of the Secretary of State or the DBR, but only when acting in the exercise of such enforcement functions;
- or a customs revenue official or any other person exercising customs revenue functions but only when acting in the exercise of enforcement functions.

2.4 An 'enforcement function' includes any action taken physically by any person mentioned above against any person (arrest, use of restraint and personal protective equipment) or any action taken directly or indirectly by any of these persons acting in the exercise of specified enforcement functions in Scotland; and which also includes;

- a) powers of entry;
- b) power to search persons or property;
- c) power to seize or detain property;

- e) power to detain persons;
- f) powers to examine persons or otherwise to obtain information (including powers to take fingerprints or to acquire other personal data);
- g) powers regulated by the Investigatory Powers Act 2016
- h) powers regulated by Part III of the Police Act 1997.

2.5 This agreement sets out procedures and processes for the respective parties and any member of their staff, 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 26 February 2021.

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 there be any changes to the legislative framework within which the agreement operates.

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 and the Secretary of State for the Home Department and the Director of Border Revenue are set out at Appendix A.

4.2 The PIRC will undertake either Crown directed or Home Office referred investigations.

4.3 Crown directed investigations will take place:

- When the PIRC is directed by the relevant procurator fiscal (of the Crown Office and Procurator Fiscal Service - COPFS) to investigate any circumstances in which there is an indication that a person employed by the Secretary of State or the DBR may have committed an offence.
- When the PIRC is directed to investigate on behalf of the relevant procurator fiscal, the circumstances of any death involving a person employed by the Secretary of State or the DBR which the procurator fiscal is required to investigate under section 1 of the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016.

4.4 The Secretary of State referred investigations will take place:

- When the PIRC is requested by the Permanent Secretary to investigate and report on serious incidents involving an immigration officer or an official of the Secretary of State, a general customs official or a customs revenue official but only when acting in the exercise of such enforcement functions;

4.5 The Secretary of State agrees that it will refer to the PIRC all serious incidents involving an immigration officer or an official of the Secretary of State, a general customs official or a customs revenue official, with 'serious incident' having the same meaning as set out under sections 41B(1)(a) and (b) of the Police, Public Order and Criminal Justice (Scotland) Act 2006, but not as specified in regulations made under 41B(1)(c) of the same Act.¹

"A serious incident" means:

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

- I. the person, at or before the time of death or serious injury, had contact (directly or indirectly) with an immigration officer, general customs official, customs revenue official or relevant individual exercising enforcement functions; 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 a person has otherwise sustained serious injury at a time when the person was being detained or kept in custody by an immigration officer, general customs official, customs revenue official or relevant individual; c) any circumstance in which an immigration officer, general customs official, customs revenue official or relevant individual has, while acting in the exercise of enforcement functions, used any item to:

- I. attempt to cause a member of the public a serious injury; or
- II. cause or attempt to cause a member of the public an injury which is not serious;

d) any circumstance in which an immigration officer, general customs official, customs revenue official or relevant individual has, while exercising enforcement functions, used a straight, side handled or friction lock truncheon (sometimes known as a baton).

4.6 For the purpose of this agreement, 'enforcement functions' has the same meaning as in article 2 of the Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 ² The Secretary of State's enforcement functions also include any compliance action taken in respect of the functions of the Secretary of State. Compliance action includes the Secretary of State's civil compliance and criminal investigative activity.

¹ See Appendix A for the detailed provisions.

² See Appendix A.

- 4.7 This agreement does not apply to any matter that relates to the direction and control of an immigration officer or an official of the Secretary of State, a general customs official or a customs revenue official by the Secretary of State. Any direction and control matter will not be subject to referral to the PIRC.
- 4.8 The PIRC shall not have functions in relation to acts or omissions of any person exercising a specified enforcement function conferred on him by or under part 8 of the Immigration and Asylum Act 1999
- 4.9 Cross border incidents, or incidents for which the PIRC's jurisdiction is in question, will be considered on a case by case basis upon referral to the PIRC by the Secretary of State.

5. Referrals by the Secretary of State or the DBR to the PIRC

- 5.1 The PIRC's on-call arrangements provide the appropriate prosecutor and the Secretary of State with a call out response to urgent incidents on a 24 hour basis, 365 days a year
- 5.2 Notification timescales are set out in Section 6.
- 5.3 Referrals by the Secretary of State will be made via the National Command and Control Unit/National Command Centre if the incident occurs 'out of hours'. If the incident occurs during normal office hours then the Home Office Professional Standards Unit (PSD) will be responsible for the referral.
- 5.4 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 or any other material considered appropriate by the Secretary of State to allow the PIRC to gain an understanding of the incident.
- 5.5 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 Secretary of State to assist their assessment.
- 5.6 The PIRC will assess the referral from the Secretary of State 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 Secretary of State or the DBR of its decision.
- 5.7 Deaths in custody or deaths following contact with the Secretary of State may be referred verbally to the PIRC 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.

6. Notification Timescales

- 6.1 Notification timescales:

- For a death or serious injury following contact with an immigration officer, general customs official, customs revenue official or other relevant individual 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, out with office hours, notification will occur within 24 hours of the incident or on the Monday following an incident occurring at a weekend.

7. COPFS directed investigations

- 7.1 The COPFS may direct the PIRC to undertake investigation of death in custody or death following contact with an immigration officer, general customs official, customs revenue official or other relevant individual exercising enforcement functions.
- 7.2 The Secretary of State will notify the PIRC of any death following 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 Secretary of State makes the referral only, the PIRC may decide to investigate the circumstances under the '2013 Agreement'.

8. Misconduct

- 8.1 The PIRC has no powers or authority to undertake misconduct investigations against an immigration officer or an official of the Secretary of State, a general customs official or a customs revenue official.
- 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 Secretary of State. Where the PIRC identifies potential breaches of Standards of Professional Behaviour or a performance issue(s) during any investigation, it will notify the Secretary of State accordingly and provide relevant information to allow the Secretary of State to examine the matter.

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

- 9.1 Any officer of the Secretary of State may make a disclosure to the PIRC for the purpose of enabling the Commissioner to discharge their functions (including the function to investigate complaints as agreed with the Secretary of State). Article 3 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (Consequential Provisions and Modifications) Order 2007 provides that any person may disclose information to the PIRC if, the disclosure is made for the purposes of the exercise or carrying out by the PIRC of any of the Commissioners functions within the meaning of the Act.
- 9.2 The Secretary of State agrees that employees will, where requested to do so by the PIRC for the purposes of an investigation produce, in a form acceptable to the PIRC, any document, record or other information the PIRC may require

- 9.3 The PIRC will issue a notice in the form of a letter to the Secretary of State 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 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).

Witness Statements

- 9.5 Further to 9.2 above, where an employee of the Secretary of State is a witness to the matter being investigated, the PIRC may request the witness 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.
- 9.6 The Secretary of State may request any person listed at para 2.3 above 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.
- 9.7 Where an employee of the Secretary of State refuses to co-operate with a PIRC investigation through the provision of information, the PIRC will notify the Secretary of State accordingly for their consideration or appropriate action.
- 9.8 The Secretary of State 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.
- 9.8 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 Secretary of State in writing, of any decision to investigate or of the COPFS instruction to investigate an incident or criminal allegation.
- 10.2 The PIRC will make clear the status of any person involved in an investigation (witness or suspect). If a person's status changes, the Secretary of State and the person will be notified accordingly.
- 10.3 The PIRC will appoint and identify a member of its Investigations staff as the lead investigator for any investigation and notify the Secretary of State of that person.
- 10.6 The Secretary of State 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 Secretary of State's staff. Where a SPOC is on annual leave or absent during a PIRC investigation, they will identify another person to undertake their role.
- 10.7 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
 - Death investigation reports – submitted to the COPFS;
 - Investigation reports – submitted to the Secretary of State.

Report Publication

- 11.2 The PIRC may publish:
- Secretary of State 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.
- 11.3 The PIRC will not publish:
- SPRs 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 Secretary of State;
- Full reports; and
 - Public Facing reports.

- 11.5 Full reports contain all the details of the PIRC investigation and are for consideration by the Secretary of State. 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 Secretary of State for factual accuracy checking. The PIRC will take cognisance of any identified error of fact, omission or additional representation made by the Secretary of State 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 Secretary of State has 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 or staff safety and require immediate action by the Secretary of State, the PIRC will notify the Secretary of State at that time and not wait until the issuance of its report.
- 11.10 Prior to publication of a Public Facing report, the PIRC will provide the Secretary of State with at least 48 hours' notice of the date and time of publication.

Findings and Recommendations

- 11.11 The PIRC's reports may contain Findings and Recommendations.
- 11.12 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.
- 11.13 The Secretary of State agrees to notify the PIRC within 3 months of receiving the report of any steps taken or measures implemented to address the Recommendations.
- 11.14 Where the Secretary of State disagrees 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

- 11.15 In terms of a COPFS directed investigation, the PIRC will submit its report to the appropriate prosecutor.
- 11.16 The PIRC will inform the Secretary of State, at the time it is directed by COPFS to investigate any matter, of the nature of the investigation.

11.17 The PIRC will notify the Secretary of State when it submits an SPR to the COPFS. This notification will provide details of the alleged offences and the category of the submitted report in order for the Secretary of State to consider the obligations under applicable conduct or discipline regulations.

12. Family Liaison

12.1 Following any death investigated by the PIRC, Family Liaison Officers (FLOs) may be deployed.

12.2 Responsibility for notification of the death to family members (immediately following the death) rests with the police. This is the case irrespective of who the investigating agency will be.

12.3 PIRC FLOs may be deployed in the following instances:

- Death in custody,
- Death following 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.

12.4 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.

13. Communications & the Media

13.1 The Secretary of State and the PIRC have communication teams that manage liaison with the media.

13.2 Following any incident which involves the Secretary of State which has been referred to the PIRC for investigation there may be media interest or media requests for information.

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

13.4 In order to ensure consistency of the facts provided to the media, the communications teams of the Secretary of State and the PIRC should, where feasible, liaise before issuing any statements to the media.

13.5 In any investigation instructed by the COPFS, the PIRC and the Secretary of State will liaise with the COPFS communication team before making any media release.

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

13.7 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.

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

- Where the media intend to publish anything where proceedings are 'active' the PIRC and the Secretary of State 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.

14. Signatories

Enactment: This Agreement comes into effect on 26 February 2021

Signed



Date 26 February 2021

Police Investigations and Review Commissioner



Signed

Date 23 February 2021

On behalf of Secretary of State for the Home Department

Appendix A

Legislative Framework for the PIRC and the Secretary of State or Director of Borders Revenue

- 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 as modified by article 4 of the Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 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 Secretary of State or the Director of Border Revenue, 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 The 2013 Order provides that the PIRC, where requested to do so by the Secretary of State or the Director of Border Revenue, investigate and report on certain serious incidents involving the Secretary of State or the Director of Border Revenue, as described in Section 41 of the 2006 Act.
- A4 Regulation 3(11) of the '2013 Order' provides that the PIRC where requested to do so by the Secretary of State may enter into an agreement for the PIRC to investigate and report, on any serious incident involving an immigration officer or an official of the Secretary of State carrying out functions relating to immigration or asylum.
- A5 In terms of Regulation 3(12), of the '2013 order' a "serious incident involving an immigration officer or an official of the Secretary of State carrying out functions relating to immigration or asylum" 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 an immigration officer or an official of the Secretary of State carrying out functions relating to immigration or asylum, but only when acting in the exercise of such enforcement functions as may specified in an agreement made under paragraph (11).
- A6 Regulation 3(14) of 'the 2013 Order' provides that the PIRC where requested to do so the Secretary of State may enter into an agreement for the PIRC to investigate and report on a serious incident involving a general customs official.
- A7 In terms of Reg 3(15) of 'the 2013 Order' a "serious incident involving a general customs official" has the same meaning as in section 41B of the 2006 Act except that "a person serving with the police" means a general customs official or any other person exercising general customs functions under the authority of the Secretary of State or the Director of Border Revenue, but only when acting in the exercise of such enforcement functions as may be specified in an agreement under paragraph (14).
- A8 Regulation 3(16) of 'the '2013 Order' provides that the PIRC where requested to do so by the Director of Border Revenue may enter into an agreement for the

Commissioner to investigate and report on a serious incident involving a customs revenue official.

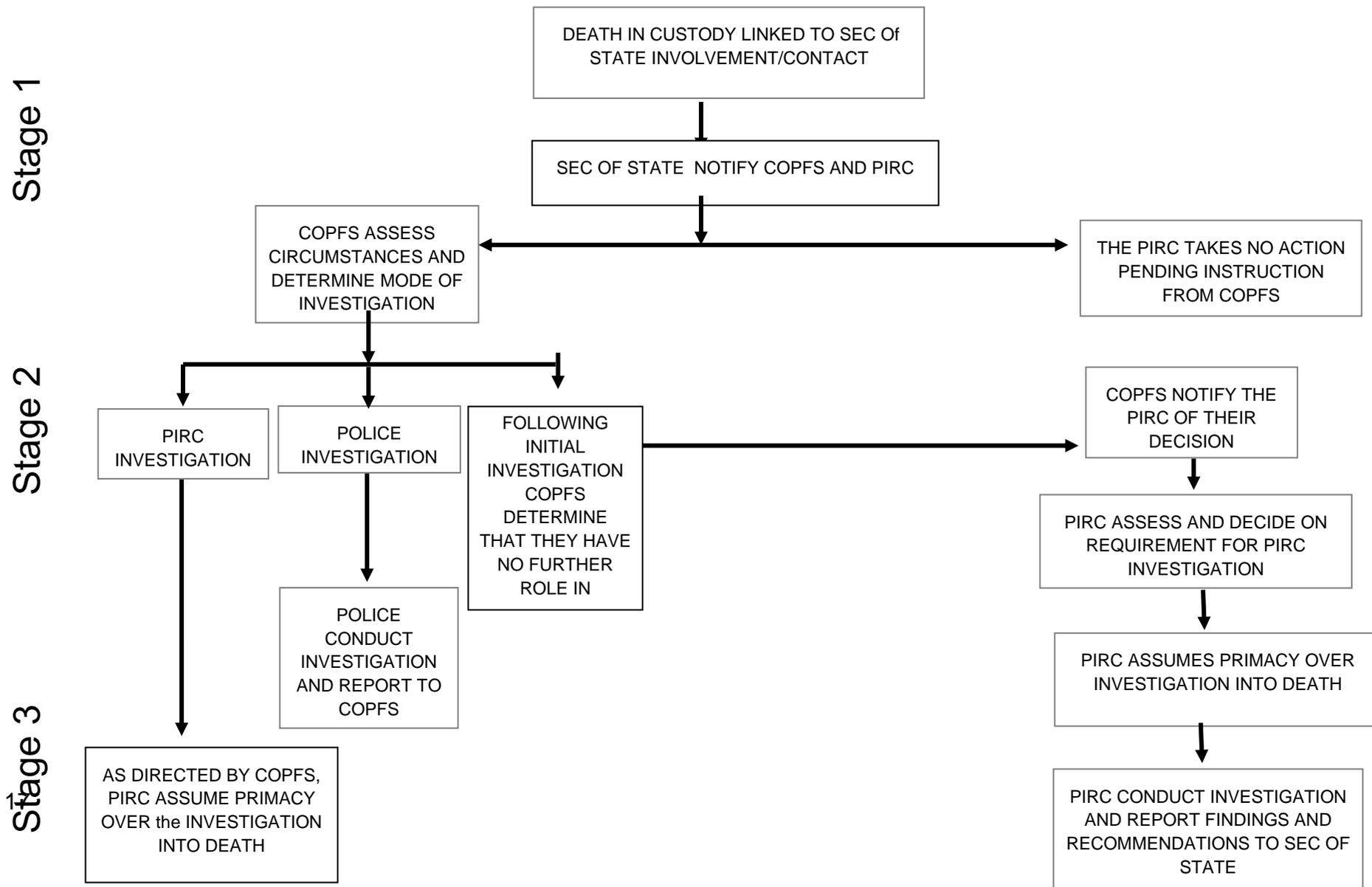
A9 In terms of Reg 3(17) of 'the 2013 Order' a "serious incident involving a customs revenue official" has the same meaning as in section 41B of the 2006 Act except that "a person serving with the police" means a customs revenue official or any other person exercising customs revenue functions under the authority of the Director of Border Revenue, but only when acting in the exercise of such enforcement functions as may be specified in an agreement made under paragraph (16).

A10 **Applicable legislation:**

- The Human Rights Act 1998;
- 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)
- The General Data Protection Regulations (GDPR);
- The Data Protection Act 2018 (DPA)

APPENDIX B

INITIAL OPERATIONAL RESPONSE



APPENDIX C

Death or Serious Injury Referrals

Stage 1

DEATH OR SERIOUS INJURY
DIRECTLY OR INDIRECTLY LINKED TO SEC of
STATE INVOLVEMENT/CONTACT



Stage 2

SEC of STATE NOTIFY PIRC



PIRC ASSESSES AND
DECIDE ON
REQUIREMENT FOR
INVESTIGATION



Stage 3

NO
INVESTIGATION
REQUIRED



INVESTIGATION
REQUIRED

REFER BACK TO
SEC OF STATE

PIRC CONDUCT
INVESTIGATION AND
REPORT FINDINGS AND
RECOMMENDATIONS TO
SEC OF STATE

APPENDIX D

The PIRC's on-call arrangements

The PIRC provides the appropriate prosecutor and PS 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 (called the "The PIRC Duty Senior Investigator") on-call on a weekly basis.

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

The on-call contact number will be associated with the dedicated telephone number only. The phone will be allocated to the person on-call at the commencement of their period of time on-call. Once the person's period of being on-call terminates the phone will be passed to the next member of staff on the rota.

In the case of a death in custody, or case of death or serious injury following police contact (direct or indirect) there must be no delay in following the processes set out in Appendices A and B. 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, based on the information supplied and in consultation with the appropriate prosecutor (where investigating on the instructions of the appropriate prosecutor), will make the initial assessment as to how to resource the PIRC response to the reported incident. The PIRC Duty Senior Investigator will ascertain, as far as possible, from the appropriate prosecutor

1. A concise account of the incident
2. The location of the incident
3. Time occurred and time elapsed
4. The principal parties identified
5. Any actions taken by police to preserve the scene or to collect evidence
6. Contact details of the senior police officer at the scene (from the appropriate prosecutor)

The PIRC Duty Senior Investigator will then contact the police incident officer or senior investigating officer at the scene and confirm the information. He/she will require that PS 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 Duty Senior Investigator will obtain direct

contact details for the responsible Police Command and Control Centre dealing with the incident.

The PIRC Duty Senior Investigator will note the information supplied by the appropriate prosecutor and PS in writing. He/she will also note any requests made to PS and the subsequent responses. The police incident officer or senior investigating officer should also note down any requirement made by the PIRC Senior Investigator and his/her response to it.

For the purpose of independence of investigation the police incident/senior investigating officer will undertake to perform the actions requested by the PIRC Duty Senior Investigator.

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 PS 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 E

SPECIMEN NOTIFICATION - Secretary of State Referral

xxxx
Professional Standards Unit

Operation Name
PIRC Ref No

Date

Dear xxxx

Secretary of State Referred Investigation – (Nature of Serious Incident)

On (date), the Secretary of State 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 Border Revenue, 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 the Secretary of State 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 Secretary of State 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 in MS Word format on standard statement forms. In this regard, please ensure that all appropriate sections of the statement form are completed with the relevant details of the witness, including rank, grade or occupation of witness, 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 Border Revenue 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 obtained from any other witnesses held by Border Revenue;
3. Copies of any records held by Border Revenue in relation to the deceased xxxx, including any records from the databases, criminal records, etc.;

The Secretary of State 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 Border Revenue 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.gov.scot 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 Investigation

SPECIMEN NOTIFICATION - Notification that a matter will not be Investigated

Name
Professional Standard Unit

Date

Dear,

Border Revenue Referral – (Nature of Serious Incident)

Thank you for your referral of **** 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

xxxx
Professional Standard Unit

Operation Name
PIRC Ref No

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 the Secretary of State. A public facing report will be / will not be published on the PIRC website.

Yours sincerely

Head of Investigations