

SI2317

Threats to Life

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A standardised and structured framework upon which to record, assess, manage and resolve matters that involve threats to life, fatal attack and serious injury.

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1. Introduction

The purpose of this Service Instruction is to set out the procedures of the Police Service of Northern Ireland (PSNI) in dealing with **Threats to Life (TTL)** arising from criminal or potential criminal actions and provides a standardised approach for police officers dealing with them. The exact course of action to be taken will be determined by the particular circumstances of each case.

This Service Instruction is not intended for use in circumstances where a threat of some description does not represent a threat to life. Such circumstances will be dealt with as a reported crime (for example harassment, malicious communications, etc.) or as an incident.

Once the PSNI has knowledge of any threat to the life, it must take all reasonable steps to protect the person whose life is in **'real and immediate'** danger.

Failure to comply with this Service Instruction may result in increased risk to the individual concerned. Further implications of this could be that the police would not fulfil their legal obligations and be vulnerable to challenge which could

lead to the undermining of public confidence.

2. Aims and Objectives

The primary objectives of this Service Instruction are to:

- Assess information received and ensure the relevant person is informed of the threat to Life if appropriate to do so;
- Protect any intended victim(s);
- Maintain the safety of those police officers involved in attempting to mitigate the risks;
- Protect members of the public who provide information; and
- Provide a standardised framework for dealing with such incidents.

Some threats may be made to cause serious injury that may prove fatal (e.g. a threat to shoot someone in the legs, an escalation of or repeated 'Low' threats or threats towards a child). It would be appropriate and reasonable to follow this guidance when dealing with threats of this nature.

3. Legal Basis

The general duties of the Police are set out in Section 32(1) of the Police (Northern Ireland) Act 2000:

“It shall be the general duty of police officers:

- To protect life and property;
- To preserve order;
- To prevent the commission of offences;
- When an offence has been committed, to take measures to bring the offender to justice.”

Section 32 (1) (a) sets out general duty on police to protect life. It also requires police to take action to prevent the commission of offences and investigate where offences have been committed. Schedule 1 to the Human Rights Act 1998 indirectly incorporates many of the rights set out in the European Convention on Human Rights (“ECHR”) into United Kingdom law. One of these rights is Article 2 of the ECHR, which protects the right to life. It is often referred to as the “positive obligation” or the “Osman ruling”. One aspect of the right to life is that it requires the State to

take feasible operational measures within its power to avert a real and immediate threat to life of which it was, or should have been, aware. The others are:

- That any lethal or potentially lethal force
- used by the State should be no more than absolutely necessary in the pursuance of a legitimate aim (in effect, the protection of life); and
- All suspicious deaths must be the subject of an effective investigation.

In its judgment in *Osman v the United Kingdom* (Judgment of ECHR 28 October 1998), the European Court held that the obligation to protect life arises where “the authorities knew or ought to have known at the time of a real and immediate risk to the life of an identified individual or individuals from the criminal acts of a third party.” The question then arises, whether the authorities took measures within the scope of their powers, which might have been expected to avoid such a risk (*Osman*, paragraph 116).

Section 6 of the Human Rights Act 1998 makes it unlawful for the police as a public authority to act in a manner incompatible

with a person's protected human rights. This means that the police can be held liable for a failure to comply with Article 2.

This Service Instruction sets out action to be taken upon receipt of a threat. It is not possible to cover every situation and should you require advice on a particular situation you should contact the Police Human Rights Legal Adviser.

'Feasible Operational Steps'

In the event that it is established that a real and immediate threat exists, the next issue is what, if anything, the police are required to do. The legal requirement is for the police to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid the risk to life. Accurate and detailed recording of relevant decisions and the decision-making process can assist in this regard.

It is not possible to give definitive advice, which would cover every situation. In many cases, the issue of a Form TM1 and the 'Protect Yourself' booklet will be sufficient. The subject of the threat should be given as much information as possible in the circumstances, so that they can take appropriate steps regarding their lifestyle

choices, patterns of life and own personal security. Issues which may be relevant in assessing what actions should be taken include:

- The range of available actions
- The consequence of such actions for the lives and safety of those affected, including police officers, police staff, members of the public; etc.
- Previous practice;
- When sufficient grounds exist to arrest, detain or charge any persons;
- The conduct of the individual concerned; and
- The proportionality of any actions as regards the interests of the individual and those of society.

It is also important to ensure that any police action does not result in discrimination against any persons. All decisions should be recorded as appropriate and reference should be made to other police policies.

Police officers should consider whether the threat indicates that an offence may be, or has been committed, such as threats to kill,

harassment or a conspiracy offence and ensure that an investigation takes place as appropriate.

Police officers are reminded of their obligations under Article 1 (Professional Duty) and Article 2 (Police Investigations) of the [Code of Ethics of the PSNI](#).

The Serious Organised Crime and Police Act 2005 and in particular Schedule 5 which provides a list of persons who may be considered for protection arrangements.

This Service Instruction is deemed to be compliant with the terms of the [European Convention of Human Rights](#) (ECHR) and United Nations Convention on the Rights of the Child (UNCRC). It has been screened for Section 75 Equality Impact Assessment considerations and complies with the PSNI Code of Ethics.

4. When is a threat a 'Threat to Life'?

A Threat to Life (TTL) is deemed to be one that could engage Article 2 of the ECHR

This would also apply in other circumstances where, as a result of a deliberate intention of the criminal act of another, the police or other Law

Enforcement Agency, has identified a real and immediate threat to the loss of life or to cause serious harm or injury to another.

'Real and Immediate'

The leading case concerning a '**real and immediate**' threat is Officer 'L' (2006) United Kingdom House of Lords 36. In this case the House of Lords said that a real and immediate threat is one that is:

- "Objectively verified"; and
- "Present and continuing".

The threshold is a high one - In making this assessment, police officers should consider all relevant sources of information and ensure that all decisions are justified and recorded.

Appendix A Contact Us

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