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## SI2317

### Threats to Life

This Service Instruction and its associated appendices provide the Police Service of Northern Ireland with a standardised and structured framework upon which to record, assess, manage and resolve matters that involve threats to life, either direct or indirect.



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## 1. Introduction

The purpose of this Service Instruction to set out the procedures of the Police Service of Northern Ireland (PSNI) around dealing with threats to life arising from criminal or potential criminal actions and provides a standardised procedure to 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 contains advice on the legal obligations placed on police officers. The Service Instruction and appendices describe the process to be followed and the roles and responsibilities of police officers involved in that process.

### Origin

The PSNI must always operate to the highest professional standards. This imposes a number of obligations on police which includes a duty to protect life and to seek to prevent the commission of offences. This requires members of the police, once they have knowledge of any threat to the life of an individual, to take all reasonable steps to protect the person whose life is in 'real and immediate' danger from the criminal acts of another.

### Implication of Service Procedure

#### Financial Implications/Best Value/

### Continuous Improvement/ Efficiency

Each threat must be assessed on its own merit. In some 'High' risk cases the implementation of this Service Instruction may have some financial implications.

### Human Resources/Training

Training in relation to this procedure will be provided to all police officers and police staff to include those receiving threats to life, delivering threat messages, carrying out Threat Assessments and monitoring the threat investigation.

### Partnerships

Consultation has taken place with the Youth Justice Agency (YJA), Security Services, Northern Ireland Housing Executive (NIHE), Department of Health and Social Services (DHSS). These agencies have assisted in the development of this Service Instruction.

### Risks

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 its legal obligations and thus be vulnerable to challenge which could lead to the undermining of public confidence.

### **Bureaucracy**

In order to reduce bureaucracy this process will be managed on Niche and will provide a standardised approach to the management of threats. The previous procedures (PM1, PM2 and PM3) have been streamlined and incorporated into the electronic process.

### **Application**

This Service Instruction will apply to all police officers and police staff involved in dealing with threats of this nature.

## **2. Aims**

This Service Instruction provides a standardised and structured framework upon which to record, assess, manage and resolve Threats to Life. 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 procedure guidance when dealing with threats of this nature.

It is essential that a properly documented Threat Assessment is conducted in each case to ensure appropriate steps are taken to manage the threat.

The primary objectives of this Service Instruction are to:

- Protect any intended victim(s);
- Prevent serious injury;
- Ensure public safety;
- Maintain the safety of those police officers involved in attempting to mitigate the risks;
- Protect members of the public who provide information;
- Provide a standardised framework for dealing with such incidents.

## **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.

#### **‘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.”

#### **‘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 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.

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, 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 a proper and adequate investigation takes place.

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.

## 4. Policy Links

This Policy is linked to the following Service Procedures:

- Service Procedure No 2/2011 - Police Response to Honour Based Violence (HBV);
- Service Procedure 10/12 – Critical Incident Management and Community Impact Assessments.

Other Policies, Procedures and Directions may also apply depending on the circumstances.

All police officers are required to exercise their professional judgment and refer to the appropriate guidance, when relevant.

## 5. Consultation

This Service Instruction has been the subject of extensive consultation both internal and external. A summary of the extent of consultation follows:

### Internal

- C3 Intelligence Branch;
- District Senior Management Teams;
- Human Resource Managers;
- Human rights Legal Advisor;
- District – Local Policing Team Inspectors and Sergeants;
- Public protection Units (PPUs);
- Information and communication services;
- Anti-Corruption Unit & Vetting and Discipline;
- Policing With The Community;

- Northern Ireland Police College;
- C1 and C2 Serious Crime branch, Crime Operations Department.

### External

- Recipients – Members of Public/Police;
- Comparative Forces (including Strathclyde, Greater Manchester Police, An Garda Síochána and Merseyside Constabulary);
- Police Ombudsman for Northern Ireland (PONI);
- Youth Justice Agency (YJA);
- National Policing Improvement Agency (NPIA).

## 6. Human Rights/United Nations Convention on the Rights of the Child (UNCRC)/Equality/Code of Ethics/Freedom of Information

This Service Instruction is deemed to be Human Rights and United Nations Convention on the Rights of the Child (UNCRC) compliant. It has been screened for Section 75 considerations and complies with the PSNI Code of Ethics.

## **Appendix A Contact Us**

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