

Agreement  
between  
The Crown Prosecution Service,  
The National Police Chiefs' Council,  
The Chief Coroner  
and  
The Coroners'  
Society of England  
and Wales



March 2016

## **1. Introduction**

- 1.1 This document sets out an agreement between the Crown Prosecution Service (CPS), the National Police Chiefs' Council (NPCC), the Chief Coroner and the Coroners' Society of England and Wales (CSEW).

## **2. Purpose of this agreement**

2.1 This agreement:

- establishes a common understanding of the roles and responsibilities of the CPS, police, and coroners where an investigation gives rise to a suspicion that a serious criminal offence (other than a health and safety or regulatory offence<sup>1</sup>) may have caused a death, (see Annex A);
- sets out good practice on the communication between CPS, NPCC and coroners, and the bereaved family / next of kin; and
- ensures that coroners will be kept informed of the progress made during the various outcomes of a criminal investigation.

## **3. Basic principles of co-operation**

3.1 This agreement encourages constructive co-operation between police forces in England and Wales (including British Transport Police and Royal Military Police), the CPS and coroners, and aims to improve the service provided by the State to bereaved families / next of kin in the event of a suspicious death.

3.2 The parties to this agreement:

- recognise the principles agreed upon are not legally binding, and are not intended to create any legally enforceable rights or obligations, although each party will discharge their own statutory obligation in such circumstances;
- agree the principles outlined in this agreement reflect a national minimum expectation for all signatories.

3.3 The CPS Single Points of Contact (SPOC) will work with local partners to establish arrangements to ensure effective implementation and delivery of the principles of this agreement.

## **4. Criminal proceedings**

4.1 In the event of a police investigation into a death where there is a suspicion that a serious criminal offence may have caused the death:

- The police will notify the coroner and provide details of the deceased.

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<sup>1</sup> These matters are covered by the Work Related Deaths Protocol, to which the police (via ACPO) and the CPS are signatories.

- The coroner will suspend his or her investigation (and adjourn any inquest held as part of that investigation) upon the police notification, pending completion of the police investigation (and, where appropriate, prosecution).
- The police will, when referring a case to the CPS for early advice or where a charging decision is being requested, provide the details of the coroner to enable the prosecutor to establish early contact.
- The CPS will notify the coroner where his or her investigation can run in parallel with the criminal proceedings.
- The coroner will only resume the investigation (and any inquest where one was adjourned) after the outcome of the criminal proceedings is communicated by the appropriate officer of the court or where the coroner is informed that there is to be no prosecution.

4.2 Both the police and CPS have their own statutory powers; coroners will not attempt to direct criminal investigations or the prosecutor. It is not unusual for the police to also conduct investigations into the circumstances of the death on the coroner's behalf. The police have responsibility for referring cases to the CPS, either for early investigative advice or where the officer considers there is sufficient evidence to charge a suspect with an offence connected with the cause of death.

### ***Early investigative advice stage***

4.3 The police are encouraged to refer all cases involving a death (where the commission of a serious criminal offence is suspected) to the CPS as early as possible<sup>2</sup>.

- Where a case is referred to the CPS at this stage, the prosecutor may provide early investigative advice to the senior investigating officer
- The police will notify the coroner when early investigative advice has been sought from the CPS, and will request the coroner to suspend their investigation.
- The police will inform the coroner if and when they decide to terminate their investigation.
- The police are responsible for keeping the coroner informed as to the timescales for the investigation including when police are likely to decide whether to request a charging decision from the CPS.
- The prosecutor may find it useful to make contact with the coroner before a charging decision is requested in order that an agreement can be reached for effective liaison.

### ***Charging decisions***

4.4 A request for a charging decision is a request made by the police for the prosecutor to review the evidence in accordance with the [Code for Crown Prosecutors](#) with a view to a prosecution.

- When a charging decision is requested the prosecutor will give a timescale for that decision to the coroner.

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<sup>2</sup> The police may seek advice at any stage of an investigation. Where a prosecutor provides early investigative advice to the police, they will do so without a full file of evidence, and will provide advice about possible charges and points to prove only.

- A charging decision can only be made where the investigation is complete and a full file of evidence has been provided by the police. If further investigation is required or further evidence needs to be obtained then no charging decision can be made.
- Where the CPS advises the police that further investigation is required or further evidence needs to be obtained then the prosecutor will inform the coroner of that request and the police are responsible for keeping the coroner informed as to timescales.
- The CPS may make contact with the bereaved family / next of kin to explain the CPS's role. Any initial communication may benefit from the inclusion of information about the role of the police and coroner, and what may happen next in the criminal process.

### ***CPS decision to charge an individual(s) or organisations(s)***

4.5 Following a charging request from the police when the investigation is complete and a full file of evidence has been supplied by the police, the prosecutor will review all evidence and material in accordance with the Code for Crown Prosecutors. If the CPS decides to bring charges against an individual(s) or organisation(s):

- Unless other arrangements are made, the police will inform the bereaved family of the charge(s).
- The CPS will offer to meet the bereaved family or (if preferred) provide a written explanation of the charging decision and next key stages of the criminal process, especially if it is anticipated that the case will progress to trial.
- The CPS will contact the coroner to inform them that a criminal charge has been brought, and requesting that the coroner investigation remains suspended until the criminal proceedings have been concluded.
- The police will keep the coroner informed of the progress of the trial.
- The police will ensure appropriate contact with the bereaved family through the family liaison officer.
- The police will inform the coroner of the outcome of the proceedings.
- Upon being notified that the criminal proceedings have been concluded, the coroner may not resume his or her investigation (and any inquest that was adjourned) unless the coroner considers there are sufficient reasons for resuming.
- If the coroner does resume the investigation, the conclusion of the inquest proceedings cannot be inconsistent with the findings of the criminal proceedings.

### ***CPS decision not to charge an individual(s) or organisation(s)***

4.6 Following a charging request from the police when the investigation is complete and a full file of evidence has been supplied by the police, the prosecutor will review all evidence and material in accordance with the Code for Crown Prosecutors. If the CPS decides not to bring criminal charges:

- The CPS will contact the bereaved family / next of kin to inform them that the CPS will not bring charges against the suspect(s)<sup>3</sup>.

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<sup>3</sup> Charges may still be brought by other prosecuting agencies (for example health and safety offences).

- The CPS will inform the coroner of the decision, providing an explanation outlining the legal basis upon which the decision was made. The CPS will not supply copies of charging decisions or legal advices whether internal or external.

### ***CPS decision to terminate or discontinue proceedings***

4.7 In some circumstances, proceedings will be stopped (discontinued) or terminated following any charge(s) that may have been brought.

- In those circumstances, the prosecutor will contact the bereaved family / next of kin.
- The prosecutor will inform the coroner of the decision to stop or terminate the charge(s), and outline the legal basis upon which the decision has been made.

## **5. Coroners' Investigations**

5.1 When a death is reported to the coroner, the coroner will decide whether he/she is under a duty to investigate the death and hold an inquest.

### ***Suspension of investigation by the coroner***

5.2 The coroner must suspend an investigation at the request of the CPS and / or other prosecuting authority on the ground that a person may be charged with a homicide offence or another related offence (as defined by paragraph 1(6) Schedule 1 to the Coroners and Justice Act 2009). Where the coroner is unable to agree to suspend the coroner investigation, they will write to the CPS / investigative body to explain their reasons.

5.3 Where the coroner investigation has been suspended:

- The investigative body and / or the CPS will, at key stages of the criminal proceedings, inform the coroner of the progress of the criminal proceedings.
- The investigative body and / or the CPS will provide prospective timescales to the coroner and will promptly inform the coroner of any changes to the timescales.

### ***Inquest***

5.4 Where the coroner requires the attendance of a prosecutor at the inquest, they will write to the relevant SPOC and outline why the prosecutor is required to attend the inquest.

### ***Adjournment by the coroner***

5.5 The coroner must adjourn the inquest and notify the CPS if, during the course of the inquest, it appears to the coroner that the death of the deceased is likely to have been due to a homicide offence and that a person may be charged in relation to the offence.

### ***Coroner referral following earlier CPS decision not to prosecute***

5.6 A coroner may make a referral to the CPS in circumstances where the police have carried out an investigation and the CPS has determined that proceedings should not be instituted.

5.7 The coroner should:

- Write to the police and appropriate CPS SPOC, explaining why a suspicion of criminality has arisen as a result of evidence heard at the inquest; and
- Supply the police and CPS with the relevant new evidence as soon as practicable. (It may be appropriate to discuss, with the police and prosecutor, the format of the material prior to it being sent).

5.8 Where the coroner obtains evidence in advance of an inquest hearing that is capable of altering the earlier CPS decision, they should bring this to the attention of the appropriate CPS prosecutor and investigating body at the earliest opportunity.

5.9 In the event the police advise no further investigation is required, they should notify the prosecutor and coroner with the reasons(s) clearly set out. The coroner is free to resume the investigation (and inquest) at this point.

5.10 In the event the police advise a further investigation is required, the CPS and coroner should be notified.

### ***Coroner referral following evidence heard during an inquest***

5.11 Where, during an inquest conducted in a non-suspicious death, the coroner hears evidence suggesting that a criminal act may have led to the cause of death, the coroner will adjourn the inquest and refer all material to the police and CPS.

5.12 The police will consider that material and determine whether an investigation is required.

5.13 In the event the police advise there is no merit in a criminal investigation, they will notify the prosecutor and coroner and clearly set out the reason(s).

## **6. Unlawful killing conclusion**

6.1 In the event an inquest concludes with an unlawful killing conclusion:

- The officer in the case or the coroner should notify the relevant CPS office as soon as possible after the conclusion is reached by the coroner (or jury).
- The CPS will, upon receiving notification of an unlawful killing conclusion, consider whether there is any new evidence or information within the coroner's proceedings which has the capability to change any previous CPS decision not to bring criminal charges against an individual(s) or organisation.
- Where the view is taken that a further investigation will need to be conducted by the police and a fresh decision made by the CPS, the police and CPS should ensure the coroner and bereaved family / next of kin are notified of the next steps to be taken, in line with the principles outlined within this document.

6.2 In the event that the CPS has not received any prior information relating to an inquest where there has been a conclusion that the deceased's death was caused by an unlawful killing:

- The police force involved will assess whether a criminal investigation should be instigated and contact the relevant CPS office as appropriate.

- The police and CPS should ensure that the usual policies of communication with the bereaved family / next of kin are applied as required by the outcome of the decision to proceed with an investigation.

## **7. Miscellaneous issues**

- 7.1 A number of issues have been identified for discussion and agreement at a local level, and on a case by case basis. The issues are set out at Annex B.

## 8. Signatories

8.1 The parties agree this document will be reviewed every two years.

**Date of agreement:** .....24.03.2016.....

**Crown Prosecution Service**  
Director of Public Prosecutions  
Alison Saunders



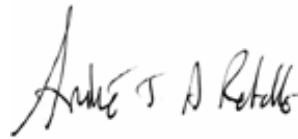
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**National Police Chiefs' Council**  
National Police Chiefs' Council Lead  
for Coronial matters Prosecutions  
Deputy Chief Constable Karen Manners



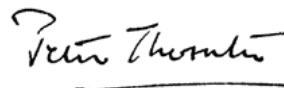
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**Coroners' Society for England and Wales**  
Hon Secretary to Society  
André Rebello



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**Chief Coroner**  
Chief Coroner of England and Wales  
His Honour Judge Peter Thornton QC



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## Roles and responsibilities

### ***The Crown Prosecution Service***

The Crown Prosecution Service (CPS) is a public prosecution service for England and Wales headed by the Director of Public Prosecutions.

CPS Direct is the national charging service for the CPS, and provides the majority of CPS charging decisions to the police. CPS Direct operates 24 hours a day, 365 days a year, and has a network of dedicated Duty Prosecutors based across England and Wales. To receive a charging decision, Police officers and other investigators call a single national number and are connected to the next available Duty Prosecutor. In some cases, officers can submit and receive charging decisions electronically.

The CPS has 13 Areas across England and Wales, each headed by a Chief Crown Prosecutor. Complex Casework Units (CCUs) located in each of the 13 CPS Areas will deal with some complex homicide cases; other homicide cases will be handled by prosecutors in the Areas, except for those cases which are handled by the Central Casework Division based within CPS Headquarters. The Special Crime Division (one of the teams within the Central Casework Division) deals, in particular, with a specialised range of homicide cases including deaths in custody, assisted suicides, corporate manslaughter (other than those involving unincorporated partnerships), 'medical' manslaughter, terrorist-related homicides and homicides arising from so-called 'disaster' cases. A Single Point of Contact (SPOC) for all coronial issues has been appointed at every CPS Area and SCD. The SPOC is a senior member of staff who provides a contact point for coroners.

The CPS is responsible for advising, reviewing and, where appropriate, prosecuting all cases referred to it. Although the CPS works closely with the police and other investigators, it is independent of them. The remit of an investigation lies entirely at the discretion of the investigating body, however, the CPS will offer advice where properly sought.

Each case considered by the CPS must pass the Full Code Test set out in the Code for Crown Prosecutors.

### ***The National Police Chiefs' Council***

The National Police Chiefs' Council (NPCC) help police cut crime and keep the public safe by joining up the operational response to the most serious and strategic threats. The NPCC brings together 43 operationally independent and locally accountable chief constables and their chief officer teams to coordinate national operational policing. The NPCC works closely with the College of Policing, which is responsible for developing professional standards, to develop national approaches on issues such as finance, technology and human resources.

The 43 police forces in England and Wales are responsible for the investigation of criminal offences and, where appropriate, referring those investigations to the CPS for advice and / or a charging decision. The police undertake effective early investigations to ensure that key evidence required to make informed decisions in cases is obtained as soon as possible.

Where the police assess that a death has resulted as a consequence of a criminal offence having been committed, they will conduct an investigation to assist the CPS in their consideration of whether criminal charge(s) should be brought against any individual or organisation. In doing so, given the common ground in the investigations they conduct, they will assist the coroner in determining how, by what means and in what circumstances the death occurred.

### ***The Chief Coroner***

The post of Chief Coroner was created by the Coroners and Justice Act 2009. The first post holder, HH Judge Peter Thornton QC, a senior circuit judge, was appointed in 2012 in order to lead the coroner service of England and Wales, to set new national standards in the coroner system, to develop a national framework in which coroners will operate, and to implement and develop statutory and other coroner reforms.

### ***The Coroners' Society for England and Wales***

The Coroners' Society whilst not a regulatory body, promotes solutions and policies which may assist the duties devolved upon coroners.

Coroners are independent judicial officers with statutory responsibility for investigating the causes and circumstances of any death reported to them which may be violent, unnatural or of unknown cause, or where the cause of death arose in state detention. A coroner's authority to inquire into a death flows from the report of a body being within the coroner's jurisdiction and not where the death occurred.

The coroner system comprises a local service and districts vary according to the size and nature of the area and population. Coroners are required to establish whether an 'investigation' (which must include an inquest) is needed when a death is reported to them. The coroner's inquest / investigation establishes the identity of the deceased and how, when and where the deceased came by his / her death. An inquest will be held within the coroner area unless it is in the interest of justice to move the inquest elsewhere having regard to those involved in the process, including the bereaved family, witnesses and the available accommodation.

The coroner has a duty to write to the appropriate authorities identifying matters that may prevent future deaths and provide public reassurance through the coroner investigation process. The inquest conclusion cannot apportion or appear to apportion blame or criminal liability on the part of a named individual.

This agreement refers specifically to the involvement of coroners in the event of a death where a criminal act is suspected of having led to the deceased's death. The coroner shall as soon as practicable, commence an investigation (and open an inquest) into the death of the deceased and when notified that criminal proceedings are being considered, will suspend the investigation (and adjourn any inquest) until it is known what the outcome of those proceedings are; there may be some instances where the coroner will be notified that it is not necessary to suspend the investigation (and adjourn the inquest) and may continue accordingly.

**Miscellaneous issues**

***Reporting restrictions – guidance for coroners on media handling***

- 1.1 The senior investigating officer, prosecutor and coroner on any case should ensure they are apprised of any reporting restrictions in place during criminal or other proceedings and the impacts thereafter. In most cases, reporting restrictions may be lifted following the finalisation of criminal proceedings, but there could be instances where restrictions are required for a longer period.
- 1.2 It is for the court to ensure the making of an order in court is known, and bring the order to the attention of members of the press / media not in court at the time the order is made. A copy of the order will be made available in the court office for inspection.
- 1.3 The coroner may impose reporting restrictions to ensure that substantial risks of prejudice to the administration of justice in inquest proceedings or in any other proceedings pending or imminent are avoided. The coroner may order that the publication of any report of the coroner's proceedings or any part of the proceedings, be postponed until the conclusion of an inquest. In these circumstances, the coroner will notify the police and CPS.

***Organ donation***

- 2.1 Organ or tissue donation can only proceed when the coroner does not object, and is satisfied that the donation will not interfere with his / her duty to investigate a death. Although the coroner is the key individual in agreeing to a donation of organs or tissue, the coroner cannot authorise the donation; donation can only be authorised by the deceased prior to their death, or by the deceased's next of kin. The coroner should make his / her decision on a case by case basis and in the interest of justice.
- 2.2 The final agreement of organ / tissue donation should be made by the coroner as soon as is practicable. Organs and tissue are only usable for a short time after retrieval from the body; this should be borne in mind when the coroner agrees to the donation to achieve the best chances of a successful donation outcome.

*Organ donation prior to charging of an individual(s) or organisation*

- 2.3 The coroner will make decisions regarding the donation of organs or tissue before an individual(s) or organisation is charged, and will do so before the second brain stem tests or within a short timeframe in the case of non-heart-beating donation. The coroner will ensure that during his / her investigation, any evidence relevant to the investigation is preserved, and for forensic examination or criminal proceedings to not be compromised by interference of the body.
- 2.4 It may in some circumstances be possible for the coroner to agree to donation of some organs / tissues, but not all.

*Organ donation following charging of an individual(s) or organisation*

- 2.5 The decision to donate organs or tissue may need to be taken once the CPS has charged an individual(s) or organisation. In these circumstances, the coroner should consult the prosecutor and senior investigating officer, who will advise at the earliest possible opportunity whether there is any objection to retrieval of organs and tissue at that stage. Prosecutors should explain if retrieval will affect evidential sufficiency or any other aspect of the criminal proceedings.