

WORK - RELATED DEATHS

INVESTIGATORS GUIDE



Foreword

This "Investigators Guide" has been produced to assist those tasked with investigating deaths in the workplace. It is intended to be read in conjunction with the revised "Work-Related Deaths: A Protocol for Liaison" document from which the core of the "Investigators Guide" has been drawn. This "Investigators Guide" is by no means mandatory but takes into account best practice and is intended as helpful practical guidance on following the principles of liaison from the Protocol.

The "Investigators Guide" is not intended to be a training document. It has been prepared on the assumption that those so tasked with investigating such serious and tragic matters, from whatever organisation, are qualified to do so.

The "Investigators Guide" sets out to provide a straightforward step-by-step approach to investigating deaths within the workplace and includes guidance in respect of domestic gas incidents and road deaths.

In preparing the "Investigators Guide", attention has been paid to the legislation that impact upon all criminal investigations. This includes the Police and Criminal Evidence Act 1984, Criminal Procedures and Investigations Act 1996 and the Youth Justice and Criminal Evidence Act 1999. In addition, it also takes account of the specific guidance provided to Police from ACPO manuals including those dealing with homicide, road death and the Human Rights Act 1998. Equal account has also been taken of the Health and Safety Executive's own operating policies, which are mirrored in guidance, issued to other Local Authority Agencies. The "Investigators Guide" applies to all work related deaths including deaths within the signatory organisations.

Police Officers should be aware that in addition to conducting a criminal investigation for the purpose of ascertaining whether a person (or company/organisation) should be charged with an offence, the Health and Safety Executive and Local Authorities have a responsibility to ensure duty holders (who maybe also suspects) take action to deal immediately with serious risks, and to promote and achieve sustained compliance with the law.

The construction of the "Investigators Guide" very much takes into account the underlying principles of the Protocol. It places an emphasis on a sound investigation and, in particular, the philosophy of Joint Investigation. The theme throughout the "Investigators Guide" is the need to liaise with colleagues from partner agencies. This is not left to chance or to the discretion of the individuals involved. A specific requirement is placed on the first person at the scene, the Police Supervisor and Investigating Officer to have appropriate liaison. The "Investigators Guide" provides not only the requirement to liaise; it provides an event driven timetable and presents the issues pertinent to the liaison when it takes place.

Introduction

The “Investigators Guide” commences with a flow chart, which seeks to encapsulate the Protocol on one page. This allows the Investigator to consider their action within the context of the Protocol. Following the flow chart is the “Investigators Guide”.

The “Investigators Guide” has been laid out in a sequential and numbered ‘tick-box’ order. It commences with the initial actions at the scene through to the management stage of the investigation. Each numbered action has up to three ‘tick-boxes’. Each of these ‘tick boxes’ sits within a column. The first column’s title is **Done**. The second column’s title is **Review** and the third column’s title is **Police Only**.

The system is designed to be simple but effective. At each stage the user is expected to consider each action in turn. When that action has been done the appropriate **Done** ‘tick-box’ will be endorsed with a tick. The user will then move onto the next action.

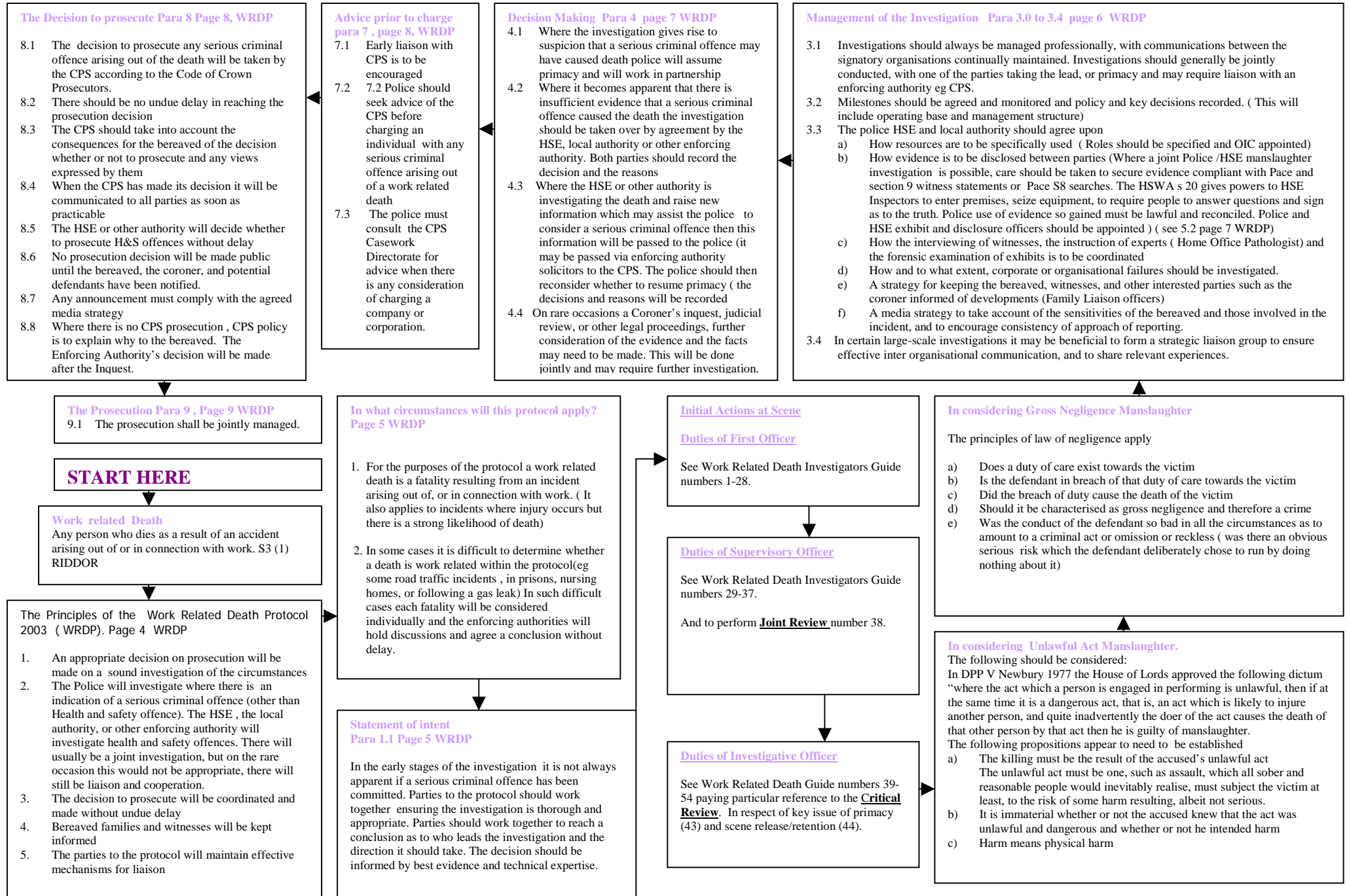
The **Review** ‘tick-box’ allows the user to note when an action has been considered but not done, leaving the action subject to later review. The **Done** and **Review** ‘tick-boxes’ are always present and each user – irrespective of their parent organisation, is expected to endorse one of these two ‘tick-boxes’.

The third ‘tick-box’ reflects the fact that some actions can only be undertaken by the Police. In the **Police Only** cases all three ‘tick-boxes’ will be present. The same process applies in terms of whether the action has been **Done** or **Reviewed**. The third **Police Only** ‘tick-box’ is intended to make it clear to the user that that particular action is for the Police to address, albeit in most instances, after consultation with the other parties. The **Police Only** boxes have been shaded and do not need to be ticked.

The only variation from the above is within the mandatory fields of the Joint Review and the Critical Review. In these areas only the **Done** ‘tick-box’ will be found. This allows for the decision making process to be conducted and for a clear indication to be made within the **Done** ‘tick-box’ as to which option has been adopted.

Within the “Investigators Guide” explanation has been provided as to certain issues. This can be identified by that part of the text being shown in ***bold italics***.

FLOW CHART – THE WORK RELATED DEATHS PROTOCOL 2003 Summary by Supt. D Kilbride, DC Yates Hampshire Constabulary



WORK RELATED DEATH INVESTIGATORS GUIDE

DUTIES OF FIRST OFFICER

DONE	REVIEW	POLICE ONLY	
			<i>In most instances this will be a Police Officer. However, this may not always be the case. Consequently, HSE, Local Authority or other Investigating or Enforcing Authority who arrive in advance of the Police will also be expected to take appropriate action, unless the act in question is indicated as being within the Police Only category.</i>
1.	<input type="checkbox"/>	<input type="checkbox"/>	Identify scene(s).
2.	<input type="checkbox"/>	<input type="checkbox"/>	Perform initial risk assessment. (Ensure area is safe).
3.	<input type="checkbox"/>	<input type="checkbox"/>	Ascertain location of fatality, Police will need to treat body as separate scene if removed.
4.	<input type="checkbox"/>	<input type="checkbox"/>	Set and secure parameters of scene(s).
5.	<input type="checkbox"/>	<input type="checkbox"/>	Commence written record.
6.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> Request attendance of Scenes of Crime.
7.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> Request attendance of Photographic.
8.	<input type="checkbox"/>	<input type="checkbox"/>	Establish who pronounced death.
9.	<input type="checkbox"/>	<input type="checkbox"/>	Identify witnesses.
10.	<input type="checkbox"/>	<input type="checkbox"/>	Enquire whether employer (or other responsible person) has contacted Police, HSE, Local Authority or other Local Enforcing Inspector.
11.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> Inform Supervisory Police Officer.
12.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> Inform Coroner.

DUTIES OF FIRST OFFICER - IN CASE OF DOMESTIC GAS INCIDENT

- | | DONE | REVIEW | POLICE ONLY |
|-----|--------------------------|--------------------------|--|
| 13. | <input type="checkbox"/> | <input type="checkbox"/> | Which gas appliances were on when the victim(s) were found? |
| 14. | <input type="checkbox"/> | <input type="checkbox"/> | If seen, were the gas flames yellow (a correctly adjusted gas burner produces a blue flame, sometimes with a yellow core)? |
| 15. | <input type="checkbox"/> | <input type="checkbox"/> | Was there any ventilation (open windows, doors etc) to the room where the victim(s) were found? |
| 16. | <input type="checkbox"/> | <input type="checkbox"/> | Are there any substantial sooty stains above or around any gas appliance in the property? |
| 17. | <input type="checkbox"/> | <input type="checkbox"/> | Did any of the emergency service personnel suffer illness (typically headaches, nausea) while attending the property? |
| 18. | <input type="checkbox"/> | <input type="checkbox"/> | Are there other people still in the property (who might be at risk if the gas appliances are used again)? |
| 19. | <input type="checkbox"/> | <input type="checkbox"/> | Is the property rented? |
| 20. | <input type="checkbox"/> | <input type="checkbox"/> | When and by whom were appliances certified? |
| 21. | <input type="checkbox"/> | <input type="checkbox"/> | Inform TRANSCO – (0800 111 999). |

DUTIES OF FIRST OFFICER – IN CASE OF ROAD DEATH INCIDENTS

DONE
REVIEW
POLICE ONLY

Road traffic law is enforced by the Police and others including Highways Authorities and Traffic Commissioners. The Police will in most cases take the lead in the investigation of Road Traffic Incidents (RTI) on public highways. The immediate “on-road” investigation will remain the responsibility of the Police and HSE Inspectors should not normally have an “on-road” presence at RTI’s.

22. Attend and deal with the incident in accordance with Force Policy and procedures.

23. In accordance with the Road Death Investigation Manual a Supervisory Traffic Officer **MUST** be informed and attend.

HSE will need to be contacted and may wish to attend the scene if the Road Death involves: -

24. Exposure to a dangerous substance being conveyed by road.

25. Loading and unloading of an article or substance (not passengers) onto or off a vehicle.

26. Where works vehicles and where workers (not in vehicles) are engaged in specific work activity (other than travelling) e.g. hedge cutting, construction, demolition, alteration, repair or maintenance activities on or alongside public roads and vehicles connected with work premises manoeuvring out but in proximity of those work premises.

27. An accident involving a train. (Also request attendance of BTP).

DUTIES OF FIRST OFFICER – RAILWAY INCIDENTS

- | | DONE | REVIEW | POLICE ONLY | |
|-----|--------------------------|--------------------------|-------------------------------------|---|
| 28. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Ensure safety of responding Agencies by close liaison with Infrastructure Controller (normally Network Rail) in accordance with Rail Incidents Code of Practice (Network Rail/ACPO) |
| 29. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Liaise with Rail Incident Officer (RIO) from Infrastructure Controller (normally Network Rail) |
| 30. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Advise and request attendance of British Transport Police (BTP) |
| 31. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Preserve all equipment involved in the incident including rolling stock |
| 32. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Consider screening breath test of relevant workers – (Consult with BTP by telephone as necessary) |
| 33. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Consult with BTP/HSE regarding preservation of off site evidence (Signal boxes etc.) |
| 34. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Consider securing all paperwork on site including safety briefings etc. |

DUTIES OF SUPERVISORY POLICE OFFICER

DONE
REVIEW
POLICE ONLY

In respect of Road Traffic Incidents involving death (other than those contained within boxes 23-28), the Supervisory Traffic Officers will attend the scene and deal with the incident in accordance with Force Policies and Procedures and in accordance with the Road Death Investigation Manual. In such cases there is not a need for Supervisory Traffic Officers to continue with this guide beyond this point, but ensure continued liaison and co-operation between all concerned parties.

In cases where boxes 23-28 apply the Supervisory Traffic Officer is expected to fulfil the Joint Review process. (Box 47 below).

- 35. Review Risk Assessment. (Ensure area is safe).
- 36. Review Scene Parameters.
- 37. Ensure all duties of First Officer are completed.
- 38. Identify and inform Investigating Officer if not already in attendance.
- 39. Brief scene Officers/Guards.
- 40. Force Control Vehicle to scene if necessary.
- 41. Identify all Closed Circuit TV/Video cameras in premises or vicinity of scene and secure any relevant recordings.
- 42. Ensure host Basic Command Unit (BCU) are aware of incident.

AND IN THE CASE OF RAILWAY INCIDENTS

- | | DONE | REVIEW | POLICE ONLY | |
|-----|--------------------------|--------------------------|-------------------------------------|--|
| 43. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Liaise with Rail Incident Officer and review safety arrangements. |
| 44. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Liaise with BTP and agree Police handover as necessary. |
| 45. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Ensure HSE (Her Majesty's Railway Inspectorate) have been advised. |

JOINT REVIEW (Mandatory)

46. Contact HSE, Local Authority or other Investigating or Enforcing Authority and ensure that they are fully informed of the incident and what action has been taken to date, then agree what actions should now be taken and by whom. Acknowledging the HSE, Local Authority or other Investigating or Enforcing Authority are not emergency services. In some instances it will not be possible for them to attend the scene to discuss the case. In the event of non-attendance a Joint Review should be conducted by telephone.
47. Consider impact of railway closures on National Infrastructure.

DUTIES OF INVESTIGATING OFFICER (SIO).

The principal decision maker in a major investigation is referred to as the Senior Investigating Officer (SIO). This will normally be a Detective Inspector or above. In cases of RTI involving death it will be an appropriately trained Traffic Officer.

48. Attend the scene.
49. Review Risk Assessment.
50. Commence Policy Record.
51. Review Scene(s).

DONE

REVIEW

POLICE ONLY

CRITICAL REVIEW (Mandatory)

The purpose of the Critical Review is to establish the issue of primacy. HSE, Local Authority or other Investigating or Enforcing Authority should be present. There may well need to be more than one Critical Review as the investigation progresses.

ESTABLISH ISSUE OF PRIMACY

52. In accordance with the underlying principles of the Work Related Death Protocol there will usually be a Joint Investigation.

Options:-

Ongoing joint investigation with:-

- Police primacy.
- HSE/local Authority or other Investigating or Enforcing Authority primacy.

OR

- Police withdraw – HSE/Local Authority or other Investigating or Enforcing Authority take primacy.

53. **SCENE RELEASE/RETENTION**

It is acknowledged that the HSE, Local Authority or other Investigating or Enforcing Authority are not Emergency Services. In some instances it will not be possible for them to attend the scene to discuss the case. However, the Investigating Officer will need to address the issue of scene retention. If not present the discussion could take place by telephone.

Options:-

- Retain the scene with appropriate Police Guard.

DONE

REVIEW

POLICE ONLY

Retain the scene under seal without Police Guard.

Release the scene

And

In the event of HSE/Local Authority or other Investigating or Enforcing Authority being in attendance - hand the scene to them.

In the event of the investigation and scene being passed to the HSE/Local Authority or other Investigating or Enforcing Authority and the Police withdrawing from the matter, arrangements should be put in place to ensure continued liaison and co-operation between the parties.

Should this be the case the HSE/Local Authority or other Investigating or Enforcing Authority will conduct their investigation in accordance with the relevant authorities existing policies and procedures. There would not be a need to continue with this guide beyond this point, but continued liaison and co-operation between all concerned parties should be ensured.

In the event of a Joint Investigation in which the Police have primacy, the SIO will be expected to conduct the investigation within the guidance provided by the Murder Investigation Manual (MIM), in accordance with the Best Practice set out in the Major Incident Room Standard Administrative Procedures (MIRSAP) and where appropriate the Road Death Investigation Manual (RDIM).

SPECIAL CONSIDERATIONS

In order to achieve an effective Joint Investigation the following should be considered with due consultation between the parties and be the subject of the SIO's policy record.

54.

Investigation Management Structure – To include Police, HSE/Local Authority or other Investigating or Enforcing Authority to ensure all interests are represented.

- | | DONE | REVIEW | POLICE ONLY | |
|-----|--------------------------|--------------------------|--------------------------|---|
| 55. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Joint Media Policy – To ensure effective media management via an agreed strategy in accordance with the policy record. |
| 56. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Forensic Strategy – To take account of the wider range of scientific services and technical expertise available to Police, HSE, Local Authority or other Investigating or Enforcing Authority acting in co-operation. |
| 57. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Evidence Management – To agree arrangements for sharing evidence between investigating parties and for the retention and disclosure of all material. |
| 58. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Determine Lines of Enquiry – To ensure investigation takes account of the evidential needs of all agencies subject to the Joint Investigation. |
| 59. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Financial Management – To ensure that adequate budgetary provision is made by the parties to the investigation. |
| 60. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Powers – Various investigative powers are available to party agencies. A decision needs to be made as to the use of such powers and recorded within the policy record. |
| 61. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Interview Strategy – The interview strategy will need to address two specific areas, namely that of witnesses and that of suspects. Only appropriately trained interviewers should conduct interviews with those individuals defined as being Significant and Vulnerable witnesses and suspects. The appointment of a Tactical Interview Manager is recommended. In arriving at an interview strategy it is expected to include all the relevant parties in its preparation and, where appropriate, execution, in a way that meets the needs of all the investigating organisations. |
| 62. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Family Liaison – It is important for the parties to liaise and agree arrangements for keeping the bereaved informed regarding the progress of the investigation and other health and safety matters that may be relevant, e.g. action taken to prevent recurrence of a similar incident. |

DONE

REVIEW

POLICE ONLY

Where Police have primacy.

63. **Crown Prosecution Service (CPS)** – At an early stage and thereafter at regular intervals the CPS should be consulted. The key issue for Police will relate to sufficiency of evidence in respect of offences of the investigation of serious offences. The HSE, Local Authority or other Investigating or Enforcing Authority should be involved within that process to ensure full consideration is given to all the relevant related legislation.
64. **CPS Advice** – On the basis of CPS advice the investigation may advance toward a prosecution for Manslaughter and or Corporate Manslaughter. In this case Joint Co-operation should continue to the extent it is considered necessary.

In deciding whether a prosecution is appropriate the CPS will consider the case in the context of 'The Code for Crown Prosecutors'. Should the decision be to not take proceedings for Serious Criminal Offences (other than Health and Safety offences) then normally the Police would relinquish primacy and withdraw from the investigation or remain as part of the ongoing joint investigation for which the HSE, Local Authority or other Investigating or Enforcing Authority has primacy.

Arrangements would need to be put in hand to ensure the case transferral to HSE, Local Authority or other Investigating or Enforcing Authority is conducted expeditiously whilst maintaining continuity and integrity of the exhibits, evidence and unused material.

Irrespective of which agency has primacy of the Investigation or Prosecution continued liaison is advocated up to the point of any resulting trial and or inquest.