

Chief Constables' Council

Investigation Management – Criminal Justice

7 October 2020

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1. INTRODUCTION

- 1.1 This paper seeks NPCC support for the introduction of the Investigation Management Document (IMD). It explains the legal and operational case for the IMD, how it has been developed and how it is to be introduced.
- 1.2 The IMD has been developed under the auspices of the National Disclosure Improvement Plan (NDIP) Board, which is co-chaired by the Director of Public Prosecutions and the NPCC Lead for Criminal Justice.
- 1.3 NPCC support for the IMD will expedite its introduction and encourage the College of Policing to invest in and prioritise its development of the necessary training.

2. THE CASE FOR THE IMD

- 2.1 It is said that disclosure – enshrined in the Criminal Procedure & Investigations Act 1996 (CPIA) - is not the end of the investigation. Rather it *is* the investigation.
- 2.2 Central to the National Disclosure Improvement Plan therefore is the intention to encourage a “thinking” approach to disclosure.
- 2.3 This means that CPIA considerations are not merely an administrative adjunct to an investigation. Instead they are essential to the enquiries undertaken and ruled out.



- 2.4 CPIA must be integral to investigators' identification and execution of reasonable lines of enquiry (RLE) and demonstrably uppermost in their minds - from report to court.
- 2.5 It will enhance judicial, CPS, defence and public confidence in police investigations if investigators are able routinely to explain, with reference to all matters in issue, what they did and why.....and what they did not do and why not. This is the purpose of the IMD.
- 2.6 The Attorney General has recognised this in her revised guidance on disclosure, proposing a mandatory written record of the reasonable lines of enquiry undertaken.
- 2.7 This is reflected in NDIP Phase 2, which recognises the need for investigators to document what has been considered as a reasonable line of enquiry in the circumstances of the case. This should then form part of the pre-charge file presented to prosecutors.
- 2.8 The NPCC response to the consultation on the proposed new Attorney General Guidance on Disclosure makes strong reference to the proposed introduction of the IMD as a means of reassuring the Attorney General that the introduction of more stringent requirements on police investigators will not be necessary.
- 2.9 The IMD will see that reasonable lines of enquiry are documented and explained. Moreover, its accompanying explanatory notes at the point of completion will, it is intended, serve to educate the police workforce in investigation and prosecution.
- 2.10The Crown Prosecution Service will use the IMD to inform their Disclosure Management Document (DMD). Properly completed, these will enable the prosecution to reject speculative or fanciful requests for disclosure from the defence.
- 2.11The document provides for an elementary level of CPIA knowledge and experience. Its glossary and commentary explain the provisions of CPIA at the point of need - as investigators progress through the form.
- 2.12The working group which developed the form comprised senior Crime and Criminal Justice figures from a range of forces and regions including Thames Valley, Durham, the Metropolitan Police, Surrey and the East Midlands.
- 2.13The document was piloted over a four month period in the Metropolitan Police, Thames Valley Police, Leicestershire Police and Durham Constabulary.
- 2.14The pilot showed that where the document was properly completed in an appropriate case, throughout the investigation, the officer's reasons for pursuing or ruling out particular lines of enquiry were well evidenced. Thus the objective of demonstrating a "thinking" approach to disclosure was achieved.
- 2.15Where the document was completed only at the end of an investigation, little value was added and the form risked simply duplicating that which had been recorded in the investigation log.
- 2.16Therefore the pilot demonstrated both the value of the document and the need for training in respect of why, when and how it is to be completed. This will be addressed in the College of Policing training package.

3. THE IMD AND DIGITAL CASE FILE (DCF)

- 3.1 The expectation is for this document to be integrated into the DCF in due course. Preliminary discussions with the DCF team have indicated that this can be done.

4. WHEN WOULD THE DOCUMENT BE USED?

- 4.1 The recommendation is that the document is used in all RaSSO investigations and in investigations where the crime is indictable only. It should also be used in complex investigations involving significant digital or third party enquiries.
- 4.2 The IMD will replace the MG3 insert currently used in RaSSO offences.

5. TRAINING PACKAGE AND ROLL OUT

- 5.1 On confirmation of NPCC support, the College will work with the Disclosure Portfolio to develop an online training package for officers to complete on roll out. This will include sample case studies detailing when and how the document should be completed.
- 5.2 The College advises that approval from the Chief Constable's Council is necessary to make the case for the required College investment in training.
- 5.3 It is expected that the roll out will begin in January 2021.

6. CONCLUSION & RECOMMENDATIONS

- 6.1 The IMD addresses a pressing legal need. It has been developed by the NDIP Board which the NPCC, CPS and College of Policing constituted to address serious concerns about disclosure practice in the wake of certain collapsed criminal cases.
- 6.2 Its introduction is expected by the Attorney General and by other senior stakeholders in the Criminal Justice System. The IMD should reassure chief officers that investigators are considering their disclosure obligations throughout a case, thereby improving investigation standards and reducing the likelihood of a miscarriage of justice.
- 6.3 It is an important step towards restoring stakeholder and public confidence in this area of police practice.
- 6.4 The NPCC Criminal Justice Coordination Committee agreed this paper on the 7 September 2020.

7. DECISIONS REQUIRED

- 7.1 The NPCC is therefore invited to:-
- i) Endorse the introduction of the IMD
 - ii) Formally request the College of Policing supports the NPCC in the development of a training package
 - iii) Co-operate with the NPCC Disclosure Portfolio to roll out the IMD and endeavour to ensure its widespread adoption as soon as possible.
 - iv) Chief Officers are asked to endorse the introduction of this form as proposed.

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