



London Ambulance Service **NHS**
NHS Trust

Procedure for Responding to Enquiries, Giving Evidence at Coroners Inquests and other Court Hearings, and Statements at Police Interviews.

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DOCUMENT PROFILE and CONTROL.

Purpose of the document: To establish how enquiries from Coroner's Officers should be managed.

Sponsor Department: Legal Services

Author/Reviewer: Head of Legal Services. To be reviewed by August 2013

Document Status: Final

Amendment History			
Date	*Version	Author/Contributor	Amendment Details
12/08/10	3.2	Head of Legal Services	Added scope, responsibilities, sections 13.1, 14.1, Appendix 2, and other changes.
6/06/08	3.1	Head of Records Management and Business Continuity	Minor changes to Appendix 1 requested by CGC 2/6/08
28/05/08	2.2	Head of Legal Services	Minor additions/amendments
15/04/08	2.1	Head of Legal Services	Review: New sections 2,5 & 7

***Version Control Note:** All documents in development are indicated by minor versions i.e. 0.1; 0.2 etc. The first version of a document to be approved for release is given major version 1.0. Upon review the first version of a revised document is given the designation 1.1, the second 1.2 etc. until the revised version is approved, whereupon it becomes version 2.0. The system continues in numerical order each time a document is reviewed and approved.

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EqIA completed on	By
30/07/10	Head of Legal Services
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Links to Related documents or references providing additional information		
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<u>TP/009</u>	Policy for Access to Health Records	1.0

Document Status: This is a controlled record as are the document(s) to which it relates. Whilst all or any part of it may be printed, the electronic version maintained in P&P-File remains the controlled master copy. Any printed copies are not controlled nor substantive.

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1. Introduction

A Coroner's Inquest is a court hearing to establish the details surrounding an individual's death. The Coroner hears evidence to assist him/ her in their enquiry into the means and circumstances of the death, including who died, where, when and how they died. If an individual dies in an accident, or suspicious/unknown circumstances, an inquest is usually held. An Inquest must be held if the cause of death is violent, unnatural, or remains unknown following a post mortem examination.

The ambulance staff's role in these proceedings is primarily to provide independent evidence of the circumstances surrounding the death, as witnessed by them. As ambulance staff are usually among the first people to attend the scene, they may be called on as witnesses to provide evidence of their recollections.

The statements requested by the Coroners are concerned with the condition of the patient, any interventions carried out and any pertinent information regarding the scene of death. Statements need to be produced as quickly as possible to ensure that staff can still recall detailed information about the incident in question, to enable the Coroner to set a date for the Inquest. Most enquiries will be made by the Coroner's Officers but some will be conducted by the Police, e.g. RTA Investigation Units and Serious Crime Units.

If statements are provided, this may be sufficient evidence for the Coroner and the individuals may not be called to give evidence at the Inquest, i.e. they will not have to be stood down from their normal duties.

In the majority of cases, there is no criticism of the London Ambulance Service NHS Trust (LAS) or the treatment provided by the crews. Occasionally, if the Coroner (or the family of the deceased) feels that the response time was too long, or there are questions about the treatment provided, the Coroner will ask for the crew and/or other representatives from LAS to attend the inquest. Staff may also be called if the statement they give does not corroborate evidence, or contains key evidence related to the death.

The Police request interviews with, and statements from, LAS staff in order to gain further evidence/insight into a particular incident the LAS was called to / attended. This may lead to LAS staff attending court to give evidence.

2. Scope

This procedure sets out the arrangements for responding to enquiries by solicitors and others, giving evidence at Coroner's inquests, for police to interview staff and supporting staff who are called as a witness to a criminal or other civil Hearing as a witness.

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3. Objectives

1. To ensure, effective communication takes place with the Coroners/ Police and all relevant information is obtained.
2. To establish time scales for producing requested information are established.
3. To obtain clarity at the outset as to whether there is any criticism of the LAS.
4. To put in place clear mechanisms after receiving a call or written enquiry from the Coroner/ Police to ensure that appropriate action is taken.
5. To ensure that if statements are required, staff are notified as soon as possible.
6. To ensure that if staff are required to attend a Coroners Inquest/ Police interview they feel fully supported by the LAS NHS Trust.

4. Responsibilities

The Medical Directorate will advise on the standard of care provided and causation in a particular case

The Education Governance Manager will advise on compliance with training and protocols.

The **Head of Legal Services** will decide whether the Trust requires legal representation at the inquest and guide the Trust on its appointment of legal representative for staff

Legal Services are responsible for liaising with the Coroners' Offices; co-ordinating the Trust's response and ensuring that appropriate legal support is provided when necessary for staff attending an Inquest.

The **Patient Experiences Department (PED)** will co-ordinate requests for solicitors to obtain records and interview staff where proceedings against the Trust are not contemplated.

The **Emergency Operations Centre (EOC)** will arrange for operational staff to be stood down from duty to complete witness statements, as requested by the Complex Management Team or arranged by the Resource Centre.

Area Management Teams are required to arrange for a suitable officer or manager to accompany staff called to give evidence at an inquest or other Court hearing.

Complex / Watch Management Team are required to check witness statements written by staff from that complex/ watch prior to the statement being sent to Legal Services or the police. When permitted by the police a copy of the witness statement should be held securely on the personal file.

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Operational Information Department co-ordinate requests from police officers to obtain health / call records and interview staff.

Station Administrators will ensure that statements completed by staff are passed to Legal Services and notify staff if they are required to attend an inquest.

One or more of the following **managers and departments** will be responsible for providing support to staff required to attend an inquest or other civil or criminal Hearing:

- AOM/ Duty Station Officer (DSO)/Team Leader/ Training Officer
- AOM EOC/ Operations Centre Manager/ Sector Controller
- Department of Education & Development / EOC Training Department
- Legal Services
- Communications Department
- PTS Operations Manager

Senior Managers (AOM / DSO / PTS Operations Manager / Support Services line manager), when notified that a member of staff is to be interviewed under caution, will manage this process.

5. Coroner's Inquests

5.1 Any enquiries that come in from Coroner's Officers should be directed to Legal Services. Legal Services will then ascertain the nature of the information required by the Coroner's Officer, including when it is required and whether there is any criticism of the LAS.

6. If there is no criticism of the LAS.

6.1 All records relating to this case will be obtained from the "search calls" data base and then sent to the Coroner's Officer.

6.2 If statements are required from staff this will be put in writing and faxed to the appropriate Station Administrator. It will be clarified whether one or both crew members are required to make statements and guidance on how to write a witness statement will be enclosed with the request (see [Appendix 1](#)). Legal Services will advise the Coroner's Officer if there are any difficulties in obtaining statements or with staff availability. When the statements have been received these are sent to the Coroner's Officer.

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6.3 If LAS staff are required to attend the Inquest Legal Services will, with the details given by the Coroner's Officer notify the Station Administrator giving details of the date, time and place. It is the responsibility of the Complex Management Team to arrange for a suitable officer or manager to accompany staff at an Inquest.

7. If there is any criticism of the LAS

7.1 Legal Services will find out from the Coroner's Officer what the line of questioning is likely to be in relation to LAS witnesses. The appropriate Ambulance Operations Manager (AOM) or Patient Transport Service (PTS) Operations Manager will be informed of the criticism.

7.2 Legal Services will then refer the case to the Medical Directorate, for a view on the standard of care provided and causation; and to the Education Governance Manager for a view on compliance with training and protocols. The Medical Directorate and Education Governance Manager will provide their views to Legal Services, subject to legal privilege.

7.3 Legal Services will establish whether the family are legally represented and ascertain that LAS have all relevant documents prior to the inquest, for example call records, statements and transcript. The Head of Legal Services will decide whether the Trust requires legal representation at the Inquest.

7.4 When crews or EOC staff are required to attend an Inquest, support will be provided by one or more of the following:

- AOM/ Duty Station Officer (DSO)/Team Leader/ Training Officer
- AOM EOC/ Operations Centre Manager/ Sector Controller
- Department of Education & Development / EOC Training Department
- Legal Services
- Communications Department
- PTS Operations Manager

7.5 The AOM /DSO /Team leader /Training Officer /PTS Operations Manager, and where necessary, Legal Services will attend the Inquest with the staff. Managers attending the Inquest to provide support should be aware that they may be asked questions by the Coroner. The AOM Control Services will provide support and advice in respect of questions about EOC. The Department of Education & Development will provide support when issues around patient care are highlighted. Legal Services will provide support in explaining the court rules and order of

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proceedings, and ascertaining the line of questioning and possible concerns – in relation to the LAS - of the Inquest. Communications' role will be to support the LAS in case of any media presence at the inquest.

- 7.6 Legal representation will be obtained in accordance with best practice and advice from the NHS Litigation Authority (NHSLA). The criteria for obtaining legal advice will include:
- when it is advised that the Inquest is being held before a jury, in which the other parties are legally represented and criticism against the LAS may be expressed,
 - where there is a possibility that the Inquest will be followed by a claim against the LAS
 - where necessary so that the parties are on an equal footing.
- 7.7 Where staff are required to attend, the AOM / PTS Operations Manager will maintain on-going liaison with Legal Services, who will in turn keep the Coroner's Officer informed.
- 7.8 A meeting between all relevant staff and support services will take place prior to the inquest to ensure continuity and avoid deviance from the agreed approach.

8. Providing Witness Statements

- 8.1 Where staff are required to prepare a written statement, either for a Coroner's Inquest or in response to a Police enquiry where an interview is not being held, staff will be stood down to prepare the statement at a time designated by their Management Team.
- 8.2 EOC will comply with the request and ensure that the operational staff are stood down from duty at the appropriate time and venue. EOC shall not interrupt the crew member unless a major incident is declared or an immediately life threatening call (RED 1) is being held in the local area.
- 8.3 Before the statement is forwarded to Legal Services or the police, it should be checked by a member of the Complex / Watch Management Team.
- 8.4 A copy of any written statement should be securely retained at the main station or on the PTS staff member's file at Sector.

9. Police Enquiries – Responding to Enquiries

- 9.1 Any information recorded about a patient may not be disclosed to the police without the patient's consent or a Declaration Form for Data User (Police) LA 414 being completed. Copies of the declaration form can be obtained

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from the LAS' intranet, and when completed, faxed to the Operational Information and Archives Department at Bow.

- 9.2 The police must contact Operational Information Dept. (Mon-Fri 09.00 to 17.00) in order to identify the ambulance staff involved and when requesting information such as incident related call records and /or audio tapes of calls (see section.5.2 'Disclosing Patient Information to the Police' in TP/009 Policy for Access to Health Records).
- 9.3 Operational Information Dept. will raise an Enquiry Form LA411 and provide police with a Declaration Form for Data User (Police) which must be completed and returned to the department by fax on 020 3069 0308, along with a 172 which is the police form for Patient/Next of Kin Consent.
- 9.4 On receipt of the completed Declaration Form for Data User (Police), Operational Information Dept. will retrieve the necessary records from archives and, pass the relevant documents and staff details to the police.

10. Arranging Police Interviews with Staff

10.1 For EOC staff, Operational Information will:

- contact EOC Resource Centre to ascertain the availability of the identified control staff,
- inform and submit the relevant documentation to the AOM,
- notify the police when the staff are next on duty and agree a mutually convenient date and time with the police at LAS headquarters.

10.2 The appropriate AOM, Control Services, will be responsible for:

- arranging stand down of the member of staff at the appointment time with the police
- ensuring that the member of staff is accompanied and supported by an appropriate manager if not the AOM.

10.3 For operational staff, Operational Information Dept. will:

- notify the police of the ambulance station and telephone number at which the operational staff may be contacted via the AOM / PTS Operations Manager.
- Provide a copy of the relevant patient report form for the AOM to pass to the member of staff being interviewed.

10.4 The AOM / PTS Operations Manager has responsibility for ensuring the following actions as appropriate:

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- arranging through the Resource Centre an appointment time and the venue for the interview,
 - notifying the operational staff of the time, date and venue of the interview,
 - notifying the police and confirming the arrangements,
 - ensuring ambulance staff are accompanied and supported by an appropriate member of the Complex Management Team at the interview,
 - obtaining relevant call records from Operational Information Dept. using 'Operational Information & Archives Enquiry Declaration Form' (LA413 for all users) and faxing to: 020 3069 0308.
- 10.5 The Resource Centre will notify the EOC Loggists of the arrangements made with the police for the staff interviews.
- 10.6 For all staff, EOC will comply with the request and ensure that the staff are stood down from duty at the appropriate time and venue. EOC shall not interrupt the interview unless a major incident is declared. Should a crew be interrupted, EOC must arrange for the crew to complete their interview at the earliest opportunity.
- 10.7 At the conclusion of the interview it is the responsibility of the operational staff to report their availability directly to EOC / PTS site control.
- 10.8 Should the police enquire directly to an ambulance station or EOC out of hours and at weekends, an LA 414 -'Declaration Form for Data Users (Police)' – may be given to the police for completion and faxed to Operational Information (see 3.3). This form can be located on the Pulse.
- 10.9 At no time should Patient Report Forms (PRFs) be released to the police without a signed LA414 as this could not only jeopardise the court case but also leave the LAS member of staff open to criticism.

11. Interviews under caution

- 11.1 Where staff are interviewed under caution, they have a right to be accompanied by a legal representative. In the event that a legal representative cannot be obtained through membership of a trade union, a legal representative will either be obtained by the authority interviewing under caution or by the LAS. If the LAS is arranging a legal representative to be appointed on behalf of the member of staff, this will be done under the instruction of the Head of Legal Services.
- 11.2 When notification is received that a member of staff is to be interviewed under caution the AOM / DSO / PTS Operations Manager / Support Services line manager will:

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- 11.2.1 Inform the Deputy Director of Operations / other Director as required and the Assistant Chief Ambulance Officer and recommend whether the Serious Untoward Incident Policy / Procedure should be invoked.
- 11.2.2 Ascertain whether the member of staff can arrange to be accompanied and supported at the interview by a legal representative.
- 11.2.3 Arrange for the member of staff to be stood down at the interview.
- 11.2.4 Request a copy of the signed witness statement from the interviewer.
- 11.2.5 Arrange for immediate and ongoing support to the member of staff interviewed under caution.

12. Court attendance: criminal and civil Hearings

- 12.1 Staff may be called to attend a Court Hearing in connection with criminal or civil proceedings and must be supported throughout by their line management.
- 12.2 When called to attend a criminal trial as a witness on behalf of the Crown it is customary for the local Criminal Justice Unit to write directly to the member of staff being called as a witness several months before the trial. On receiving such a letter operational staff must inform their AOM / PTS manager so that arrangements can be made to provide appropriate and necessary management support. It is strongly recommended that the offer of witness liaison support is carefully explored. Such support may include visiting the Court before the Hearing and providing an explanation of the relevant Court procedures pertinent to the witness. Nearer to the Hearing when the arrangements to call witnesses have been finalised a further communication informing the witness of the date and time they are required to attend Court may be received, and staff must inform their AOM / PTS manager about this information.
- 12.3 Queries about legal support for staff called to attend a Court Hearing in connection with criminal or civil proceedings should be raised with Legal Services at the earliest opportunity.

13. Miscellaneous enquiries – Independent Police Complaints Commission, Solicitors, Insurance Companies and members of the public

- 13.1 When the Independent Police Complaints Commission wish to interview LAS staff the Investigator will contact the Head of Legal Services or Head of Patient Experiences Department who will ensure that the arrangements to conduct the interviews are made in accordance with the Joint Protocol between the London Ambulance Service and the Independent Police Complaints Commission, in Appendix 2.

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13.2 On occasions enquiries are made direct to ambulance stations / EOC requesting ambulance staff making a statement or seeking information and records. All such enquiries must be referred to Patient Experiences Department (PED), Bow. PED will refer solicitors to ambulance stations to make the arrangements for staff to be interviewed.

14. Review and Monitoring

14.1 Staff who are called to give witness evidence at a Coroner's Inquest or when interviewed by the police or Independent Police Complaints Commission, whether or not under caution, will be asked to comment on how well they felt supported, and whether and how this could be improved in the future. Staff comments will inform the updating of this Procedure.

14.2 The effectiveness of the arrangements in this Procedure will be reviewed by the Head of Legal Services two years after issue or following any legislative changes that govern the conduct of Coroners Inquests, whichever is the sooner. In addition the relevance and effectiveness of the Procedure will be considered by the Area Governance Groups and Learning from Experience Group.

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IMPLEMENTATION PLAN	
Intended Audience	For all LAS staff who are responsible for creating or managing Health Records
Dissemination	Available to all staff on the Pulse
Communications	Revised Procedure to be announced in the RIB and a link provided to the document
Training	
Monitoring	The relevance and effectiveness of the Procedure will be considered by the Area Governance Groups and Learning from Experience Group annually.

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Information to be provided in witness statement:

The following details should be included in a witness statement and are intended to guide staff who have been asked to produce a witness statement for a Coroner, the Police or following an untoward clinical incident. All statements should be typed.

- Name and Job Title
- Length of Service with the LAS and period of time in current role
- Times recorded on the Call Assignment Form, Patient Report Form e.g. time of dispatch, arrival etc.
- Any difficulty encountered in locating the patient/location
- Brief details (where known) of other people present on scene with the patient
- Details obtained about the patient's condition from the patient, relatives, friends or bystanders
- Conversations recalled with other people who were present
- Details of the treatment provided to the patient, measurements taken, and drugs, oxygen etc administered from arrival on scene until the patient was handed over to hospital staff
- Evidence of drug or alcohol abuse - comments which cannot be substantiated, e.g. he was drunk, or are speculative in nature, should not be included
- Comment on any criticisms made about personal involvement

Do's and Don'ts

- Do write the statement in chronological order.
- Do give as much detail as possible about the patient's condition, the advice and treatment given.
- Do write own statement and do not do this jointly with another witness such as a crewmember. If asked to give evidence in Court at a later stage, the evidence required will be about personal actions and observations.
- Do sign and date each page of the witness statement.
- Do not make up anything that cannot be remembered and was not recorded.

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- Do not include opinions about the patient or others, keep to the facts.
- Do not include abbreviations unless these are explained in full.

Example of Draft Outline for a written statement:

On (..date..) at (..time..) I was a member of a LAS crew with (..name..). A call was passed to me / us at (..time..).

I / we attended (..address..). This was a (house/flat/street/other public place) in a part of London where traffic and parking conditions were (...give details if there was a delay in arriving). I / we had been told that (brief initial message). I / we arrived at (..time..).

I / we were faced with (..describe situation..). I / we did (..this..) and we did (..that..). Also present were (..names of people..).

We placed the injured person in our ambulance (... describe how the patient was conveyed. We arrived at (..hospital..) at (..time..) and handed over the patient to (..hospital staff..).

This statement is true to the best of my knowledge and belief.

Name (print):.....

Signature:.....

Date:

Page number: of (total number)

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**JOINT PROTOCOL BETWEEN THE LONDON AMBULANCE SERVICE
AND THE INDEPENDENT POLICE COMPLAINTS COMMISSION.**

1. Background

- 1.1 The Independent Police Complaints Commission, (IPCC), was established by the introduction of the Police Reform Act 2002 and became operational on the 1st April 2004. The purpose of the IPCC is to ensure that suitable arrangements are in place for dealing with complaints or allegations of misconduct against any person serving with the police in England and Wales. It carries, in doing so, the additional remit of increasing public confidence by demonstrating the independence, accountability and integrity of the complaints system and so contributing to the effectiveness of the police service as a whole.
- 1.2 The Police Reform Act 2002 sets out the way in which the IPCC deals with complaints and allegations of misconduct in relation to any person serving with the police, as referred to it by the police service. There are different types of referral, some mandatory involving death or serious injury and some voluntary. Referrals involving death or serious injury are such that the IPCC must consider whether or not the principles of the European Convention on Human Rights legislation set out in Articles 2 and 3 may be engaged. This is an important consideration as such matters may result in the IPCC undertaking its own Independent investigation. When a decision is made to carry out an independent investigation this is undertaken by the IPCC's own investigators who, for the purposes of conducting that investigation, and where there is suspected criminal conduct on the part of any person serving with the police, have the powers of a Constable.
- 1.3 In the case of an Independent investigation, where a criminal offence may have been committed by a person serving with the police, the powers held by the IPCC Investigator to interview and gather evidence will extend to individuals other than police officers. This could, and often does, include interviewing and obtaining evidence from Ambulance Staff. Recent cases reveal a level of confusion between the Ambulance Service and the IPCC in terms of respective roles and responsibilities. It has been agreed that it would be sensible to have in place a protocol that aids mutual understanding and creates mechanisms that will enable best evidence to be secured whilst providing support for those involved.

2. Purpose

- 2.1 The purpose of this protocol, therefore, is:-
- To clarify the means by which the Ambulance Service can best assist the IPCC in furthering its investigations into complaints or

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allegations of misconduct against any person serving with the police.

- To clarify the process that the IPCC should follow in seeking to obtain the cooperation of Ambulance Service personnel in its investigations into complaints or allegations of misconduct against any person serving with the police.
- To aid understanding of the responsibilities of each organisation in the cooperation process.
- To set out a process that provides Ambulance Service personnel who are assisting with IPCC investigations into complaints or allegations of misconduct against any person serving with the police with the appropriate level of support and advice.

3. Working practice

3.1. **IPCC** – Where it is necessary for IPCC investigators to seek cooperation from London Ambulance Service personnel in relation to investigations into complaints or allegations of misconduct against any person serving with the police, the Investigator will: -

- Advise the Head of Legal Services or Head of Patient Experiences of their investigation and identify the names of those Ambulance Service personnel whose cooperation is requested.
- Where it is necessary to interview Ambulance Service personnel give notice, in advance, of their requirements for interviewing the staff concerned.
- Advise the nature of such interview(s) i.e. whether the relevant member of Ambulance Service personnel:
 - (i) is to be interviewed solely as a witness of an incident in relation to which a complaint or allegation of misconduct has been raised against a person serving with the police; or
 - (ii) is to be interviewed as a witness of an incident in relation to which a complaint or allegation of misconduct has been raised against a person serving with the police, but it is also suspected by the IPCC investigator that the relevant member of Ambulance Service personnel has committed an offence related to the incident in question which may be referred for investigation by the police through the usual channels¹.

¹ Where a police officer and a member of London Ambulance Service staff are suspected of involvement in the same offence, the IPCC will progress the investigation in relation to both parties. If it becomes clear that the police officer in question is not guilty of misconduct, but the member of LAS staff remains under suspicion, the matter will be passed by the IPCC to the police for continuing investigation.

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In such a case the interview will take place under caution, and the Ambulance Service employee will be advised of his/her right to take legal advice/have a solicitor present during that interview.

- Treat the individuals involved and the Ambulance Service senior manager(s) as interested parties and as such provide regular updates (at least monthly) on the progress of the investigation.
- Advise, as soon as practicable, whether criminal charges are likely to be brought against the person(s) serving with the police who is/are the subject of the complaint or allegation of misconduct, and where they are not, advise the Ambulance Service that it is free to conduct any internal investigation or identify any learning or discipline issues that it deems appropriate as a result of the involvement of Ambulance Service personnel in the incident to which the complaint or allegation relates.
- Determine, with the Ambulance Service's Head of Legal Services or Head of Patient Experiences, how the relationship between any internal investigation and the IPCC investigation is going to be effectively managed.
- At the conclusion of the investigation provide a redacted copy of the Investigating Officer's final report as soon as possible in order to aid the above process.

3.2. **Ambulance Service**– Where the IPCC seeks cooperation the Ambulance Service will: -

- Appoint a Senior Manager to liaise with the IPCC Lead Investigator.
- Facilitate the interviewing of any Ambulance Service staff, including removing staff from active duty for the duration of their interview. With the exception of any interview which is to take place under caution as described at 3.1(ii) above, staff will be removed from duty where, at the sole discretion of the Ambulance Service, it is considered appropriate to do so.
- Consult with the IPCC Lead Investigator prior to conducting any internal investigation or review so as to avoid compromising the wider investigation.
- Advise the IPCC of the details of any support or pastoral care it will provide to their staff member e.g. trade union; occupational health; legal.

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- Advise the IPCC should it decide that a staff member is to be suspended or placed on restricted duties during the duration of the investigation.

4. Managing External relations

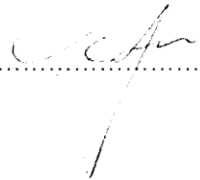
4.1 In an Independent investigation the IPCC is responsible for the management of all media communications. The appointed IPCC Communications officer will liaise with the Ambulance Service's Head of Legal Services, to ensure that such matters are appropriately managed, with the needs of each organisation considered.

4.2 For the avoidance of doubt, the relevant IPCC Communications officer shall obtain the approval of the Ambulance Service's Head of Legal Services prior to releasing, publishing or placing into the public domain any media communication which refers, directly or indirectly, to the Ambulance Service or any member of its personnel.

On behalf of the London Ambulance Service

Signed by  Date 7/7/19

On behalf of the Independent Police Complaints Commission

Signed by  Date 12/7/19

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