

# Striking the balance between operational and health and safety duties in the Police Service: An explanatory note



## Foreword

In October 2009 Judith Hackitt, Chair of the Health and Safety Executive (HSE), along with Peter Fahy, Chief Constable of Greater Manchester, and Sir Hugh Orde, President of the Association of Chief Police Officers (ACPO), launched the statement: *Striking the balance between operational and health and safety duties in the Police Service* ([www.hse.gov.uk/services/police/duties.pdf](http://www.hse.gov.uk/services/police/duties.pdf)).

The statement is one of high-level principles intended to clarify how health and safety law will be applied to operational policing. It recognises the particularly challenging nature of operational policing and the dangerous environments in which officers and staff have to work. It sets out what HSE expects of the police and what the police can expect of HSE.

The statement makes it clear that health and safety law does not prevent the police from delivering an effective emergency service.

This note supports the statement by providing an explanation of its principles. HSE will work with others producing operational policies and guidance to ensure that they incorporate the principles of the statement and that health and safety considerations are fully integrated into operational policies and guidance.

HSE would like to thank the following organisations for their help in developing and endorsing the *Striking the balance* statement and in helping to integrate its principles into police operations:

- Association of Chief Police Officers
- Association of Chief Police Officers Scotland
- Police Federation of England and Wales
- Scottish Police Federation
- Police Federation of Northern Ireland
- Superintendents Association of England and Wales
- Association of Scottish Police Superintendents
- Superintendents Association of Northern Ireland
- Association of Police Health and Safety Advisers
- Association of Police Authorities
- National Policing Improvement Agency
- The Home Office
- The Health and Safety Executive for Northern Ireland

## Introduction

1 This explanatory note supports the high-level statement *Striking the balance between operational and health and safety duties in the Police Service*. It fully implements the recommendation of *Common Sense, Common Safety*, October 2010: 'Police officers should not be at risk of investigation or prosecution under health and safety legislation when engaged in the course of their duties if they have to put themselves at risk as a result of committing a heroic act'. It also provides:

- clarification of the terminology used in the statement;
- case studies illustrating how effective and efficient policing can be delivered without compromising the health and safety of police officers, staff and the public;
- an example of HSE enforcement action.

2 This guidance is primarily intended for police services and HSE inspectors.

3 HSE fully recognises that, as part of their normal work, police officers and some other police staff inevitably face significant and serious dangers and sometimes unrealistic public expectations. The nature of policing is such that it is not always possible to completely control all risks. It is precisely because the police are expected to face significant dangers as part of their job that health and safety management in the Police Service needs to be integrated with operational management arrangements. Controlling health and safety risks requires consideration of what might happen in advance, so that sensible and speedy responses can be initiated that will not impede the job to be done. Effective and efficient management of health and safety to protect the police goes hand in hand with delivering an effective and efficient policing service.

4 The special nature of operational policing may require that certain risks are taken to secure appropriate benefits to the public and the wider society, such as saving life, preventing serious crime and apprehending those responsible for serious crime. However, there is still a requirement for those risks to be minimised as far as reasonably practicable in the context of operational policing (see paragraphs 11–18).

## **Case study: The need to take certain risks in order to carry out specific policing activities**

### **Scenario**

Armed gunmen in an enclosed building on a main street were holding a large number of members of the public hostage. The aim of the police operation was to safely rescue the hostages and arrest the hostage takers. Negotiation was unsuccessful and there was a stand-off between the hostage takers and the police. In view of the deadlock, the police decided to enter the building to rescue the hostages.

### **Risks**

Entering the building could have resulted in serious injury or death to hostages, police officers and hostage takers. The situation was very unpredictable; the hostage takers were frustrated, angry and tired as the situation had been going on for some time. The hostages were likely to act in an unpredictable manner because they were scared and tired. The information available to the police about the hostage takers, their physical and mental state and that of the hostages was limited and continually changing.

### **Risk-benefit**

In the light of the available information, ie the stalemate with negotiations and perceived immediate risk to life, the senior officer in command of the situation decided to carry out a rescue using specially trained officers to enter the building, using force if necessary. The senior officer in command was aware of the high risk but she believed that it was necessary to take this action despite the risks involved on the basis that, on balance, it was more likely to prevent death or serious injury arising from unlawful violence than would otherwise be the case. The surrounding community was also at risk from the unpredictable events that could arise, eg fire, explosion and gunshots, as well as the disruption to their lives. It was a policing imperative to resolve the situation, despite the risks to life.

### **Reasonably practicable actions**

Although it was an unpredictable situation, the following 'reasonably practicable' actions were implemented to minimise the safety risks of the operation:

- the surrounding area was cleared and roadblocks were set up;
- specially trained and fully briefed officers were brought in to carry out the rescue;
- communication within the chain of command was put in place and operational-specific terminology was used so that everyone could understand the instructions;
- other emergency services were co-ordinated.

### **Result**

The specially trained officers entered the building. Confusion and panic developed and, in the ensuing confrontation, the hostage takers opened fire on the police. Several hostages and a police officer were injured. The police officer later died in hospital from their injuries.

### **Key points**

- Serious risks were taken to carry out the rescue, but this was a policing imperative and the benefit of resolving the situation outweighed those risks.
- Controls were implemented to minimise the risks as far as reasonably practicable, and the relevant standard operating procedures were implemented to deal with known risks.
- The incident commander made a sound risk-benefit decision based on the information, intelligence and resulting threat assessment available to her at the time.

## Application of health and safety legislation to the Police Service

5 In Britain, the Police (Health and Safety) Act 1997 made police officers employees for the purposes of health and safety legislation. The Health and Safety at Work etc Act 1974 (HSWA) and the regulations made under it apply to all work activities. A breach of any of these duties is a criminal act. The Act imposes duties on employers and employees and is based on the philosophy that those who create the risks should manage them. There are specific regulations made under HSWA, for example the Management of Health and Safety at Work Regulations and the Control of Substances Hazardous to Health Regulations. Further information can be found on HSE's website ([www.hse.gov.uk/legislation](http://www.hse.gov.uk/legislation)).

6 Under HSWA, employers should:

- *ensure, so far as is reasonably practicable, the health, safety and welfare at work of all their employees; and*
- *conduct their undertakings in such a way as to ensure, so far as is reasonably practicable, that persons not in their employ who may be affected are not thereby exposed to risks to their health and safety;*

and employees should:

- *take reasonable care of their own health and safety and of others who may be affected by their acts or omissions at work; and*
- *co-operate by following any requirement imposed on them by their employer, for example to follow safe systems of work and to use personal protective equipment.*

## Who is the employer in the Police Service?

7 For health and safety law purposes, the employer of police officers is the 'office of chief constable/police commissioner' as a corporation sole. It is the duty of this 'office' to ensure, so far as is reasonably practicable, the health, safety and welfare of their officers as they are responsible for the operational decisions and the day-to-day running of their force. Other staff, although often managed by the chief constable/police commissioner, are employed by police authorities who therefore have legal duties to ensure their employees' health, safety and welfare at work.

8 This means that the individual chief constable/police commissioner and individual members of police authorities will not be held personally liable for any breaches of health and safety legislation by their force, except where it is proved that the offence has been committed with their consent or connivance, or has been attributable to their neglect.

9 Where none of the above is evident, liability for breaches of health and safety legislation will be the responsibility of the office of chief constable/commissioner or police authority.

10 As employees, individual police officers and other staff have a duty to co-operate with their employer, take reasonable care of themselves, and not endanger others. This means that police officers and other staff should act responsibly within their service's command and control arrangements. They should not put themselves or others unjustifiably at risk (see paragraphs 19–20 on heroism).

## The special nature of operational policing

11 *Striking the balance* looks for collaboration between HSE and police forces to 'set out expectations ... in relation to the management of those operations that are dangerous, fast moving and emotionally charged...'

12 Police operations, particularly emergency response, may be dangerous and even when all reasonably practicable controls have been taken there will often be a residual risk that may well be substantial. HSE expects police forces to:

- identify the types of risks police officers and other staff will encounter in operational policing activities;
- put in place all reasonably practicable steps to minimise those risks, including training, equipment and personal protective equipment;
- ensure police officers and other staff are aware of and follow their force's guidance and policies regarding these situations;
- provide appropriate training for police officers and other staff who need to take risk-benefit decisions in the course of operational policing.

13 Circumstances where there are foreseeable risks include:

- dealing with violent people;
- controlling large crowds and managing public disorder;
- intervening to protect members of the public in hazardous situations, for example armed robbery or hostage taking;
- managing incidents related to natural hazards like open water or sheer drops from cliffs or quarries;
- dealing with risks from criminal activities, eg illicit drugs, high-speed pursuits and terrorist threats;
- dealing with a fatal road traffic collision.

14 This list is not comprehensive but these and some other risks can be anticipated and prepared for. HSE recognises that not every officer can be trained for every scenario. However, they can be equipped with the skills, which will vary according to their rank, grade and position, to make appropriate risk-benefit decisions, dynamically assess the situation and make the best possible decision based on:

- the limits of the information to hand;
- the immediacy of the threat;
- the resources and equipment available;
- operational instructions and guidance;
- training.

15 Police forces, officers and supervisors with command responsibility must decide what operational activities police officers and other staff need to undertake. This will require consideration of the balance between the risk of the operation and the benefit to the public that may be achieved by undertaking it. Sometimes these activities may be dangerous. The police force must ensure that the risks associated with these activities are reduced so far as is reasonably practicable within the context of the activity and the changing circumstances of the operational environment.

16 Paragraph 5 of *Striking the balance* states 'most health and safety duties are not absolute and each is qualified by the test of what is reasonably practicable'. The phrase 'so far as is reasonably practicable' is at the heart of HSWA.

17 The Court of Appeal has set out an explanation of the term 'reasonably practicable' ([www.hse.gov.uk/risk/theory/alarpglance.htm](http://www.hse.gov.uk/risk/theory/alarpglance.htm)). Managing risks to the standard of 'so far as is reasonably practicable' means that risks must be balanced against the time, trouble and money needed to control them. So where the risks are great the precautions needed to control them may be onerous, but where the risks are smaller then less may need to be done to control them.

18 However, much police work is inherently dangerous and, even where all reasonably practicable steps have been taken to minimise the risks, there may still be a significant risk to those engaged in such work. Reasonably practicable control measures will vary depending on the developing situation and should reflect the circumstances at the time. In many of these situations, it is unlikely that it will be possible for all risks to be eliminated but police officers and other staff should not be exposed to unnecessary risks.

## Heroism

19 Police officers and other staff have a legal duty to take care of themselves and not to endanger others. However, HSE recognises the reality that individual police officers and/or other staff may decide to put themselves at significant risk by carrying out a heroic act in the course of their duty.

20 In the event of a serious incident/accident to an officer, another member of staff, or to a member of the public, HSE inspectors may make initial enquiries about the nature of the incident/accident. They may also conduct an investigation of the force's overall management of health and safety. Where it is clear that the incident/accident involved a heroic act by an individual officer or member of staff, HSE would not investigate the individual or take any enforcement action against them.

## Officers with command/supervisory responsibility

21 HSE recognises that senior officers take command decisions about operational policing activities based on their training, knowledge, experience and the information available to them at the time. HSE also recognises that every time any police officer makes a difficult decision about an operational policing activity, they have to balance the benefits that might be achieved with the risks that might arise from the activity. Accordingly, HSE acknowledges that chief officers and senior managers may have to make difficult operational decisions in challenging circumstances and that these decisions may sometimes put their officers and/or others at risk.

22 HSE will not judge properly informed decision making by competent senior or supervisory officers with the benefit of hindsight in the event of a serious incident/accident occurring to an officer, another member of staff, or a member of the public during an operational policing activity. Equally, HSE will not judge the advice that supervisors give to officers based on the information available to them at the time. It is recognised that individual officers may decide to disregard such advice in light of a changing situation and/or in the interests of the public.

## **Case study: Appropriate risk management by a police service and individual heroism in operational policing**

In the area covered by one police service, there are large areas of open water, coastline and rivers. The police are frequently required to respond to emergency calls about people in danger in the water. Risks from water rescue operations are foreseeable and need to be actively managed.

### **Circumstances**

On a cold December day in fading light, the police received an emergency call that a woman was caught in a deep and fast-flowing tidal river. Two police officers attended the incident. One officer (A) was a confident, strong and regular swimmer but the other officer (B) was not. On arrival at the scene, the officers found that the woman was clinging to the chain of a boat, with only her head and hands visible above the water. A lifebelt had been thrown to her but she could not reach it. The aim of the police activity was to successfully carry out a rescue.

The force policy was to carry out water rescue by the use of a weighted line (a throwing buoy).

### **Risks**

The woman and any police officer entering the water were at risk from drowning, hypothermia and exhaustion. These risks were escalating rapidly due to rising wind strength and an ebbing tide increasing the speed of the current and water choppiness. Visibility was decreasing in the fading light.

### **How rescue was achieved**

Officer B threw a weighted line to the woman, continued to reassure her and updated Regional Control by radio to ensure deployment of further assistance. The woman, overcome with fear, could not grab the float and line and would not release her grip on the boat chain. The woman became increasingly distressed and exhausted and the situation became critical.

The officers had to make a decision about entering the water to carry out a rescue. Officer A, as a confident swimmer, agreed that he should go into the water and swim to her. He encouraged the woman to allow him to wrap the weighted line around her so that he could use it to pull her to the edge of the water where Officer B, who had remained on land, was able to hold onto the woman's arms. Officer A stayed in the water, supporting her weight until further police resources arrived to assist in getting her safely out of the water.

### **Key points**

- A clear policy on water rescue properly communicated and understood.
- The force policy included effective training of officers in water rescue skills using the weighted line and dynamic risk assessment including assessment of changing conditions and fast-moving water.
- Appropriate rescue equipment issued as standard, ie weighted line.
- Central point of contact for effective communications.
- The police officer chose, of his own volition, to take individual action. He was not required to enter the water to save the woman.
- Both officers acted knowing their own limitations and strengths and were aware of the dangers, enabling an informed decision to be taken.



## Case study: Heroism by an individual police officer

### Circumstances

A police officer on foot patrol was the first member of the emergency services to arrive at a domestic house fire. The fire, which had begun in the kitchen, was beginning to spread through the ground floor of the two-storey detached property. The fire and rescue service had been called but were not expected to arrive for another five minutes.

According to neighbours, the occupant was an elderly woman who had been seen minutes earlier at the open front door of the property but had since gone upstairs to search for her cat. Some further minutes passed and the fire was spreading into the rear of the downstairs hallway. The woman then appeared at a first-floor window and said she was too scared to come down the stairs because of the increasing heat and flames. A number of her neighbours indicated their intention to enter the building to rescue her.

### Risks

The householder was at risk of becoming trapped on the first floor and could suffer death or injury from extreme heat, fire or smoke inhalation. The police officer or any other unprotected person entering the building would have been similarly at risk.

### How rescue was achieved

The police officer first checked on the progress of the attending fire and rescue service and discovered that they were likely to be further delayed because of heavy traffic. Having evaluated the progress of the fire through the open door, he told the elderly woman to stay where she was, noting her position in a room to the left at the front of the house.

He informed his control room of her location and indicated to them his intention to enter and attempt to rescue the woman. He entered the building and went straight up the stairs to the room where he knew the woman to be. Placing his body between the woman and the fire, he helped her down the stairs and out of the front door into the street. It was a further ten minutes before the fire and rescue service arrived, by which time the staircase in the house was fully ablaze.

### Key points

- Effective assessment of the changing situation.
- Effective communications with the police control room.
- The officer chose, of his own volition, to take individual action to save a life.

## Management of health and safety

23 Integration of sensible and sound health and safety arrangements into operational policing is necessary to achieve and maintain control of the risks police officers and staff face. Incorporating the principles of *Striking the balance* into operational guidance developed by ACPO(S), the National Policing Improvement Agency (NPIA) and/or the Home Office/Scottish Government will help to ensure that effective health and safety risk management is integral to the culture of the Police Service so that the right balance between operational and health and safety duties can be achieved. Further guidance on managing health and safety



in large and/or complex organisations is available on HSE's website ([www.hse.gov.uk/managing/furthersteps.htm](http://www.hse.gov.uk/managing/furthersteps.htm)) and in the ACPO document *Benchmarking Standard for Health and Safety Management* ([www.acpo.police.uk/documents/workforce/2009/200912WDPHS01.pdf](http://www.acpo.police.uk/documents/workforce/2009/200912WDPHS01.pdf)).

24 HSE will work with ACPO(S) and others who produce operational guidance for the Police Service to ensure it is consistent with the principles in the high-level statement.

25 Every force is legally required to have an overall health and safety policy clearly setting out the objectives and standards they will achieve. This will be supported by service operating procedures. Every force must:

- identify, assess and control, so far as is reasonably practicable, known and foreseeable risks for all planned operational activities;
- ensure competence in those who make command decisions so that they can make appropriate risk-benefit decisions in delivering policing imperatives as illustrated in the ACPO National Decision Model for the Police Service;
- ensure provision of competent advice on occupational health, safety and welfare;
- ensure clarity of roles and responsibilities within the chain of command;
- plan, equip and train officers and other staff to competently assess threats and risks in operational situations and react appropriately to changing situations and demands (often referred to as 'dynamic risk assessment').

### **Case study: The effective implementation of good operational procedures that incorporate effective risk management**

Following and stopping vehicles on the road is an everyday policing activity. This activity can escalate into a full-scale and potentially high-speed 'on road' pursuit. The risks to officers and the public associated with this type of activity can be effectively reduced through careful planning and execution of risk reduction arrangements, while allowing the police officers to do their job, ie apprehending the vehicle and its occupants.

#### **Background**

While on routine patrol during the rush hour around the outskirts of a sizeable country town, a two-person standard response crew of a police patrol car noted a high-performance car being driven in an erratic manner. They decided to stop the vehicle and question the driver, drawing up behind the vehicle shortly after it began to progress along a dual carriageway which linked across country to a neighbouring town. As they manoeuvred directly behind the vehicle and indicated to the driver to pull in, the car rapidly increased speed and started to pull away.

#### **Risks**

Travelling at high speed, and under the stress of pursuit, the drivers of both vehicles risked losing control of their vehicles and causing injury or death to themselves or other road users.

#### **What the officers did**

When the driver of the subject vehicle refused to stop, the police vehicle crew informed the control room of the circumstances. They requested authority to commence initial pursuit. They relayed information about the vehicle, its speed and direction to the control room staff. They identified the driver and passenger as two young males. The control room operator informed the control room supervisor of the pursuit.

The subject vehicle was identified as stolen and its description fitted that of a vehicle seen leaving the vicinity of a robbery in the town centre a short while earlier. Two young males had threatened a member of the public and a shopkeeper with a knife during the robbery. No firearms had been involved. This information was relayed to the police vehicle crew who were undertaking the initial pursuit.

The control room operator identified a nearby tactical response vehicle with an advanced driver on board and deployed that vehicle and driver to commence the tactical phase of the pursuit with the driver acting as the pursuit commander. This vehicle was able to enter the dual carriageway immediately behind the two vehicles and took over as the initial pursuit vehicle dropped back.

A suitably trained and experienced officer in the control room was nominated as the pursuit tactical adviser. Acting on their advice, the control room operator deployed other vehicles to the exits of the dual carriageway and to close and clear the road of other traffic as far as possible.

The pursuit commander obtained authorisation from the control room supervisor to use a tyre deflation system, which was deployed at the discretion of the pursuit commander as soon as the road was clear of other traffic. The subject vehicle was brought to a halt and, with the assistance of other officers arriving at the scene, the two occupants were arrested and removed from the vehicle. Following the incident, all staff and officers involved were debriefed and actions reviewed.

### **Key points**

- Implementation of the ACPO guidance on the management of on-road pursuits was successful. This illustrates good planning for foreseeable risks.
- Appropriate channels of communication were initiated and maintained.
- Specific roles and responsibilities were allocated, eg pursuit commander and pursuit tactical adviser, to ensure common understanding within the chain of command.
- Appropriate support was provided to ensure a safe resolution.
- Appropriately trained officers were competent to assess the threats and risks and react appropriately using a range of tactics.
- Recordings of strategic and tactical decisions were used to audit the handling of the incident.

## The role and work of HSE

26 HSE is an independent regulator and acts in the public interest to reduce work-related death, serious injury and ill health across Britain's workplaces. HSE delivers this for the Police Service in the following ways:

- A dedicated policy team works collaboratively with police stakeholders to establish, promote and embed sensible and proportionate risk management into police activities. Our aim is to produce a substantial gearing effect – using a minimum of resource to deliver major improvements in health and safety outcomes. The team can be contacted at [publicsector@hse.gsi.gov.uk](mailto:publicsector@hse.gsi.gov.uk).
- HSE inspectors may from time to time inspect selected work activities in a sample of police forces. They also investigate serious incidents and/or complaints. Enforcement decisions are guided by the principles set out in HSE's Enforcement Policy Statement ([www.hse.gov.uk/pubns/hse41.pdf](http://www.hse.gov.uk/pubns/hse41.pdf)).

27 Enforcement ensures that employers deal immediately with serious risks, comply with the law, and are held to account if they fail in their responsibilities. HSE inspectors have a number of enforcement options ([www.hse.gov.uk/enforce/enforce.htm](http://www.hse.gov.uk/enforce/enforce.htm)) available to them.

- Improvement Notice – this specifies remedial action and gives the dutyholder a date by which they must complete the action.
- Prohibition Notice – this tells the dutyholder to stop an activity immediately.
- Prosecution – this is punitive action taken against a dutyholder following a decision-making process that is impartial, justified and procedurally correct.

28 The majority of HSE inspection, investigation and enforcement activities in relation to the police are about common health and safety issues, such as the control of exposure to asbestos in police premises and the provision of suitable protective clothing. In these cases, HSE works with the police force to ensure their understanding of the issues and agree a solution. Enforcement action in relation to operational policing or training for operational policing, has only been taken against the police on a few occasions, where there was clear evidence of a breach of health and safety legislation in relation to foreseeable risks (see the prosecution example below).

29 The Police Service can expect HSE to:

- understand that there are policing imperatives and hence the context in which the police make risk-benefit decisions in relation to operational activities to benefit the public;
- ensure that operational inspectors consult with HSE's Public Services Policy Team when dealing with matters relating to operational policing activities;
- plan any proactive inspection of police forces in consultation with ACPO(S).

## Work-related death arising from police activity

30 The Work-Related Deaths Protocols (WRDP), signed by ACPO(S), British Transport Police, HSE, the Crown Prosecution Service (CPS) and the Crown Office and Procurator Fiscal Service (COPFS), provides a framework for working together to investigate and, where appropriate, prosecute or report cases of work-related death. In the context of a work-related death arising out of police activity, the Independent Police Complaints Commission (IPCC) or another police force investigating on behalf of the IPCC will have primacy in England and Wales. HSE will work alongside them in a joint investigation where appropriate. Additionally, HSE and IPCC have a separate agreement for liaison and sharing information. In Scotland, the responsibility to investigate rests with the Procurator Fiscal.

31 The full texts of the WRDP for England and Wales ([www.hse.gov.uk/pubns/misc491.pdf](http://www.hse.gov.uk/pubns/misc491.pdf)) and the WRDP for Scotland ([www.hse.gov.uk/scotland/workreldeaths.pdf](http://www.hse.gov.uk/scotland/workreldeaths.pdf)) are available on HSE's website, as are the arrangements for liaison between HSE and IPCC ([www.hse.gov.uk/services/police/investigations.pdf](http://www.hse.gov.uk/services/police/investigations.pdf)).

32 An HSE prosecution example is given below. Further information about the range of HSE enforcement across all organisations can be found on HSE's website ([www.hse.gov.uk/enforce/examples.htm](http://www.hse.gov.uk/enforce/examples.htm)).

## Case study: Prosecution – firearms awareness training

### Circumstances

A police firearms instructor was tasked with running a firearms awareness course for civilian control room staff. As civilians, the students were employed by the police authority. The instructor had obtained weapons and an old sweet tin, containing assorted ammunition, from the police armoury. The tin had been used to store ammunition for about ten years. It had not been subject to any auditing and there was no indication on the tin that it contained live ammunition.

As part of the training demonstration, the instructor loaded a revolver with a single round of ammunition and repeatedly pulled the trigger to show how the cylinder of the gun revolved. The instructor was inadvertently pointing the gun at one of the students while pulling the trigger. The ammunition was live and the gun fired. The student was hit in the abdomen and very seriously injured.

### Instructor's background

The instructor had been a firearms officer for seven years and had attended a firearms instructor course two years before the accident. After two safety-related incidents during the training course, a failure report was issued. However, it was deemed that he could still become a firearms instructor if subjected to a documented development plan. After a review by a senior officer without a documented record, he was appointed as an instructor. A development plan was never produced.

### Issues

#### *Individual:*

- The unacceptable action of a trained firearms officer who pulled the trigger of a loaded weapon while it was pointing in the direction of a person.

#### *Employer:*

- Allowing a mixture of live and non-live ammunition to be stored in the same container with no indication of the ammunition's status.
- Failure to audit the contents of the container in line with auditing requirements for ammunition.
- Failure to undertake a risk assessment for this activity.
- Appointing an officer as a firearms instructor where there was evidence of serious concerns without adequately addressing those concerns.
- The use of fully functioning weapons in a classroom for demonstration purposes.

### Prosecution

The initial investigation was undertaken by IPCC in consultation with HSE. Their report was passed to CPS, who decided that they would not pursue criminal proceedings against the officer and primacy was passed to HSE.

HSE prosecuted the chief constable of the force, as a corporation sole and employer of the police officer, for a breach of section 3(1) of HSWA. The office of chief constable pleaded guilty and was fined £40 000 and ordered to pay costs of £25 000. HSE also prosecuted the individual firearms instructor for a breach of section 7 of HSWA. He pleaded guilty and was fined £8000 and ordered to pay costs of £5000.

### Key points

- This is a rare case where HSE has prosecuted a police force or a police officer.
- There was no risk assessment for this situation.
- Unwarranted use of a high-risk teaching strategy showing reckless disregard for others.
- Failure of management to produce and implement a development plan for the instructor.

## Further information

For information about health and safety, or to report inconsistencies or inaccuracies in this guidance, visit [www.hse.gov.uk/](http://www.hse.gov.uk/). You can view HSE guidance online and order priced publications from the website. HSE priced publications are also available from bookshops.

This document is available at: [www.hse.gov.uk/services/police/explanatory-note.pdf](http://www.hse.gov.uk/services/police/explanatory-note.pdf).

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**Thanks to Merseyside Police for use of the image on page one and to a number of police forces who contributed to the development of the case study scenarios, which were informed by operational experiences.**