

Response to the Home Office's review of investigatory arrangements which follow police use of force and police driving incidents

Response of Hickman & Rose

17 November 2023

About Hickman & Rose Solicitors

Hickman & Rose fights for individuals caught up in the criminal justice system no matter what the client's background.

The firm's civil team specialises in representing victims of the most serious abuses of power by police and other detaining authorities. Hickman & Rose lawyers are regularly instructed in the most important and high profile matters relating to police use of force and abuses of power, and have developed particular expertise in inquests and public inquiries into state-related deaths and wrong-doing.

Recent cases include representing: Andrew Malkinson in his civil claims arising out of his wrongful conviction; the family of Chris Kaba; the family of Dalian Atkinson, where a historic conviction of manslaughter was secured of a serving police officer (PC Benjamin Monk); interventions by INQUEST and StopWatch in the Supreme Court case of *W80*¹ and for INQUEST in the Supreme Court case *Maughan*²; the so-called 'Oval Four' ", whose wrongful criminal convictions were overturned at the Court of Appeal and who have brought successful civil claims for malicious prosecution; and the ongoing cases of Sean Fitzgerald and Thomas Orchard who died following contact with police.

Hickman & Rose lawyers also represented the family of Jack Merritt in the Fishmongers Hall tragedy; continue to represent several bereaved survivors and residents in the Grenfell Tower Inquiry and associated civil litigation; and act for several core participants in the Undercover Policing Inquiry.

The department is also in the forefront of challenges to unmerited DBS disclosure decisions.

¹ *R (Officer W80) v Director General of the Independent Office for Police Conduct & Ors* [2023] UKSC 24

² *R (on the application of Maughan) v HM Senior Coroner for Oxfordshire* [2020] UKSC 46.

Department head Daniel Machover is a leading figure in developing the legal concept of universal jurisdiction and has been instrumental in various attempts to bring war criminals to justice in the UK for crimes committed abroad.

More information can be found on our website (<https://www.hickmanandrose.co.uk/>).

Review Response

We have had the benefit of considering the responses to this Review submitted by the Police Action Lawyers Group ('PALG') and INQUEST and the Inquest Lawyers' Group, with which we wholeheartedly agree and adopt in their entirety. Accordingly, we do not propose to recite in detail the contents of those responses. However, a number of important points bear repeating.

First, this Review appears to amount to a wholesale Review of the framework for regulating, investigating and prosecuting cases arising out of police use of force, police driving and other cases where contact with police officers has resulted in death or serious injury. The current framework governing these matters is extensive, and has developed over a number of decades, via Primary Legislation, Secondary Legislation, statutory and non-statutory guidance and case law. It is unreasonable and unrealistic to expect meaningful responses with submissions and evidence to be prepared in just over three weeks, especially on wide ranging issues without any specific proposals for legislative and policy change.

Second, the origins of this Review are of significant concern. For the reasons set out in the PALG response, it is remarkable that this wide-ranging nationwide Review comes about as a result of pressure from MPS firearms officers. Those in the MPS firearms unit are the very officers identified as representing "*some of the worst cultures, behaviours and practices*" and being in need of "*higher...behaviour standards...to identify any conduct issues*". It should perhaps not be surprising that those officers reacted so strongly to a rare instance of one of their own facing accountability. But it is truly shocking that these officers' refusal to be held to account has been indulged to the extent that it has led to a review of the entire framework for police accountability for use of force.

Third, although the framework for police accountability in the UK is by no means perfect, the vast majority of the questions posed by the Review are entirely redundant, the legal frameworks governing

use of force by police, the standard of proof for unlawful killing in inquests and inquiries, and the disciplinary and criminal investigations into police officers' conduct requiring no clarification – having in many cases been recently confirmed by the Courts. Any changes to this framework, as implied by the origins and formulation of this Review, could only work to undermine public confidence in policing and fundamental constitutional protections.

The MPS Commissioner has himself recognised “*the scale of the damage to public trust [in the MPS/policing] that has taken place and the significant work we still have to do in order to restore it*”.³ In light of the findings of the Casey review, a full scale review of this nature which does not provide specificity or allow time to respond, arising out of the circumstances it has, will not do anything to assist with rebuilding public confidence. If the Home Office formulates any specific proposals, it should properly consult with PALG, INQUEST, ILG and other groups representing victims of police use of force and abuses of power (and others) about those proposals before they are finalised. The absence of specific proposals at this point means that the current process does not amount to sufficient consultation.

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³ Vikram Dodd, [‘Mark Rowley aims to reform the Met on the scale of Robert Mark in the 1970s’](#) *The Guardian* (6 April 2023)