



Northern  
Ireland  
Office

# Consultation

Terrorism Act 2000  
Paragraph 3(4) of Schedule 8  
Video recording with sound Code of Practice

22 July 2019

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# About this consultation

## Who can respond to this consultation?

1. The Government is seeking views from all interested parties, individuals and groups from across the United Kingdom on the matters covered by this consultation.

## Purpose of this consultation

2. Updating the current Code of Practice for the video recording with sound of interviews of persons detained at a police station in Northern Ireland under section 41 of, or Schedule 7 to, the Terrorism Act 2000 (TACT)<sup>1</sup> requires secondary legislation which must be approved by both Houses of Parliament. The Government recognises the need to keep the public informed and to allow people the opportunity to comment on policy proposals.
3. This consultation, therefore, invites views on the proposed draft Code of Practice for the video recording with sound of interviews of persons detained at a police station in Northern Ireland under section 41 of, or Schedule 7 to, the Terrorism Act 2000 (TACT).

## Scope of the consultation

4. This consultation applies to all of the United Kingdom.
5. The Code of Practice applies to Northern Ireland only.

## Duration of the consultation

6. The consultation closes to responses on 14 October 2019.

## How to respond to this consultation

7. You can send your consultation responses:
  - **By email:** [videoconsultation@nio.gov.uk](mailto:videoconsultation@nio.gov.uk)

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<sup>1</sup> The Terrorism Act 2000 can be found at <https://www.legislation.gov.uk/ukpga/2000/11/contents>

- **In writing:**

Public consultation:

Video Recording with Sound Consultation

Northern Ireland Office (SPG)

Stormont House

Stormont Estate Belfast

BT4 3SH

8. When responding, please state whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled. We will acknowledge your response.
9. The consultation document will be available in other formats upon request. You can email any queries to: [videoconsultation@nio.gov.uk](mailto:videoconsultation@nio.gov.uk)

### **Government response**

10. A summary of responses to this consultation and details of the action that the Government will take, or has taken, will be published on the Government website at [www.gov.uk/nio](http://www.gov.uk/nio).
11. The Northern Ireland Office will aim to publish this information within 12 weeks of the consultation closing date.

# How we consult

## Consultation principles

1. This consultation is being conducted in line with the Cabinet Office consultation principles last updated in March 2018. A copy of the principles can be found at:  
<https://www.gov.uk/government/publications/consultation-principles-guidance>

## Equality

2. It is also being conducted in line with the Northern Ireland Office (NIO) Equality Scheme which can be found at:  
<https://www.gov.uk/government/publications/nio-equality-scheme>
3. In accordance with Section 75 of the Northern Ireland Act 1998, the NIO has undertaken an Equality Screening exercise<sup>2</sup> prior to the launch of this consultation to indicate whether or not there are equality of opportunity and/or good relations impacts associated with updating the Code of Practice.
4. The outcome of the screening exercise is that the likely impact of updating the Code of Practice is “none” in respect of all of the Section 75 categories. This is because the policy is purely technical in nature and will have no bearing in terms of its likely impact on equality of opportunity or good relations for people within the equality and good relations categories.
5. The Equality Screening of the impact of the proposals in this consultation is available upon request. Following the conclusion of this consultation, we will review the screening exercise to assess in light of

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<sup>2</sup> Please click [here](http://www.equalityni.org/S75duties) for more information on the Equality Commission's Section 75 guidance or go to <http://www.equalityni.org/S75duties>

consultation responses to make sure that the NIO's initial assessment about the likely impact of the proposals remains accurate.

### **Confidentiality**

6. The information you send us may need to be shared with colleagues within the NIO, other relevant Government departments and relevant Northern Ireland departments. The information might also be published in a summary of responses received and referred to in the published consultation report. The Government summary of responses to this consultation and published consultation report will include a list of organisations that responded but not personal names without receiving permission from the individual. Other contact details will not be published.
  
7. All information contained in your response, including personal information, may be subject to publication or disclosure if requested under the Freedom of Information Act 2000. By providing personal information for the purposes of this public consultation exercise, it is understood that you consent to its possible disclosure and publication. If this is not the case, you should limit any personal information provided, or omit it entirely. If you want the information in your response to the consultation to be kept confidential, you should state so clearly in your response, although this cannot be guaranteed.
  
8. To find out more about the general principles of Freedom of Information and how it is applied in the NIO, please contact: [foi@nio.gov.uk](mailto:foi@nio.gov.uk)
  
9. In some consultations, external analysts may be contracted for the purpose of response analysis. If external analysts are used with this consultation, the NIO may share information you provided in response to the consultation, including personal data, with a third party of contracted external analysts.

10. The NIO is the data controller in respect of any personal data that you provide and NIO's Privacy Notice, which sets out the standards you can expect in respect of the handling of your personal data, can be found at: <https://www.gov.uk/government/news/privacy-notice>.

# Consultation

## Legislation

1. This Code of Practice is issued by the Secretary of State in accordance with paragraph 3(4) of Schedule 8 to the Terrorism Act 2000<sup>3</sup>.
2. Under paragraph 3(5) of Schedule 8 of the Terrorism Act 2000, the Secretary of State may revise the Code of Practice.
3. This code applies to any interview by a constable of a person detained under Schedule 7, or section 41, of the Terrorism Act 2000 which takes place in a police station in Northern Ireland.
4. This Code of Practice applies only to Northern Ireland. The Code of Practice for video recording with sound for police in England, Scotland & Wales was updated in 2012. The current Code of Practice for Northern Ireland was published in 2003.
5. The proposed updated Code of Practice shadows the England, Scotland & Wales Code but does not exactly replicate it due to differences between the jurisdictions.

## Purpose of Amendments

6. The updated Code of Practice can be found on page 9.
7. The amendments relate to technical matters and are intended to allow the Police Service of Northern Ireland (PSNI) to start using digital recording technology. This will bring Northern Ireland into line with the technology used in England, Scotland and Wales.

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<sup>3</sup> For more information on the Terrorism Act 2000, please visit <https://www.legislation.gov.uk/ukpga/2000/11/contents>

### Consultation Question

8. The NIO welcomes your opinion on the following question:

**Do you have any views on the draft amended Code of Practice for the video recording with sound of any person detained under Schedule 7, or section 41, of the Terrorism Act 2000 in a police station in Northern Ireland?**

9. Please give reasons for your answer, providing evidence where possible. The deadline for responses is 14 October 2019.
10. Please send your responses to the Northern Ireland Office:

**By email:** [videoconsultation@nio.gov.uk](mailto:videoconsultation@nio.gov.uk)

**In writing:**

Public consultation:

Video Recording with Sound Consultation

Northern Ireland Office (SPG)

Stormont House

Stormont Estate Belfast

BT4 3SH

# Draft Code of Practice for Consideration

## Draft for consultation on the issue of a new Code of Practice for the video recording with sound of:

- any interview by a constable of a person detained under section 41 of the Terrorism Act 2000 which takes place in a police station in Northern Ireland;
  - any questioning by a constable of a person detained for examination under Schedule 7 to the Terrorism Act 2000 which takes place in a police station in Northern Ireland.
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When in force, this new Code will supersede the existing Code of Practice for the *audio recording* of interviews at police stations of persons detained under section 41 of the Terrorism Act 2000 (TACT) or under Schedule 7 to that Act for examination issued under Paragraph 3(1) of Schedule 8 to that Act.

### Other documents:

This draft refers to one or more provisions of the following:

- PACE Codes D and H.
- The Code of Practice for Examining Officers and Review Officers which is applicable to persons detained for examination under Schedule 7 to TACT. A copy of this Code, which includes at Annex A a copy of the Notice of Detention under Schedule 7 to TACT, is available at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/417105/48256\\_Code\\_of\\_Practise\\_Schedule\\_7\\_accessible.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/417105/48256_Code_of_Practise_Schedule_7_accessible.pdf)

### **Responses to the Consultation:**

All responses should be sent:

**By email:** [videoconsultation@nio.gov.uk](mailto:videoconsultation@nio.gov.uk)

**In writing:**

Public consultation:

Video Recording with Sound Consultation

Northern Ireland Office (SPG)

Stormont House

Stormont Estate Belfast

BT4 3SH

The closing date for responses is 14 October 2019.

# **DRAFT**

## **TERRORISM ACT 2000**

CODE OF PRACTICE FOR  
VIDEO RECORDING WITH SOUND OF INTERVIEWS OF PERSONS DETAINED  
UNDER SECTION 41 OF, OR SCHEDULE 7 TO, THE TERRORISM ACT 2000  
WHICH TAKE PLACE IN A POLICE STATION IN NORTHERN IRELAND.

Laid before Parliament under paragraph 4(3) of Schedule 8 to the Terrorism Act  
2000

**Code of Practice for the video recording with sound of interviews of persons detained under section 41 of, or Schedule 7 to, the Terrorism Act 2000 which take place in a police station in Northern Ireland.**

**Commencement - Transitional Arrangements**

This Code applies to:

- interviews of persons detained under section 41 of the Terrorism Act 2000 which take place in a police station in Northern Ireland, and
- questioning of persons detained for examination under Schedule 7 to that Act which takes place in a police station in Northern Ireland,

carried out after midnight on [insert date] even though the interview or questioning may have commenced before that time.

## Foreword

This code of practice is issued by the Secretary of State in accordance with paragraph 3(4)(a) of Schedule 8 to the Terrorism Act 2000 and applies to Northern Ireland only.

The following must be video recorded with sound in accordance with this Code:

- any interview by a constable of a person detained under section 41 of the Terrorism Act 2000 which takes place in a police station in Northern Ireland;
- any questioning by a constable of a person detained for examination under Schedule 7 to the Terrorism Act 2000 which takes place in a police station in Northern Ireland.

Under paragraph 4(7) of Schedule 8 to the 2000 Act, this Code is admissible in evidence in criminal and civil proceedings and must be taken into account by any court or tribunal in any case in which it appears to the court or tribunal to be relevant.

## 1 General

- 1.1 This Code of practice applies to the video recording with sound of:
- (a) any interview of a person detained under section 41 of the Terrorism Act 2000 (TACT) which takes place at a police station in Northern Ireland;
  - (b) any questioning of a person detained for examination under Schedule 7 to TACT which takes place at a police station in Northern Ireland.
- 1.2 The notes for guidance included are not provisions of this Code. They are guidance to police officers and others about its application and interpretation.
- 1.3 This Code of practice must be readily available at the place where any interview to which this Code applies takes place for consultation by police officers and other police staff, the persons mentioned in paragraph 1.1 above, prosecutors, members of the public, appropriate adults and solicitors.
- 1.4 In this Code, references to ‘police station’ include any place which has been designated by the Secretary of State under paragraph 1(1) of Schedule 8 to TACT as a place at which persons may be detained under section 41 of that Act.
- 1.5 The video recording of interviews must be carried out openly to instil confidence in its reliability as an impartial and accurate record of the interview.
- 1.6 Nothing in this Code is to detract from:
- the requirements of the Code of Practice H issued under Article 65 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (PACE) (“PACE Code H”) as it applies in Northern Ireland to the detention, treatment and questioning of persons detained under section 41 of TACT;
  - the requirements of the Code of Practice for Examining Officers and Review Officers under Schedule 7 to TACT, issued under paragraph 6(1) of Schedule 14 to TACT (“the Schedule 7 Code”), as it applies to the detention, questioning and treatment of persons detained for examination under Schedule 7.
- 1.7 In this Code:
- (a) if an interview mentioned in paragraph 1.1(a) takes place:  
the term ‘appropriate adult’ has the same meaning as in PACE Code H, *paragraph 1.13*; and the term ‘solicitor’ has the same meaning as in PACE Code H, *paragraph 6.13*;
  - (b) in the case of a person mentioned in paragraph 1.1(b), the term ‘appropriate adult’ means an adult whose status and role are as described in paragraphs 51 to 54 of the Schedule 7 Code.

- 1.8 Any reference in this Code to video recording is to be taken to mean video recording with sound and in this Code:
- (a) 'recording media' means any removable, physical video recording media (such as magnetic tape, optical disc or solid state memory) which can be played and copied; and
  - (b) 'secure digital network' is a computer network system which enables an original interview video recording to be stored as a digital multi media file or a series of such files, on a secure file server which is accredited by the National Accrator for Police Information Systems in accordance with the UK Government Security Classification Policy. See section 7 of this Code.
- 1.9 Sections 2 to 6 of this Code set out the procedures and requirements which apply to all interviews together with the provisions which apply only to interviews recorded using recording media. Section 7 sets out the provisions which apply to interviews recorded using a secure digital network and specifies the provisions in sections 2 to 6 which do not apply to secure digital network recording.
- 2 Interviews to be video recorded with sound**
- 2.1 All interviews described in paragraph 1.1 to which this Code applies must be video recorded with sound in accordance with this Code.
- 2.2 The whole of each interview must be video-recorded, including the taking and reading back of any statement.
- 2.3 It may be necessary to delay an interview to make arrangements to overcome any difficulties or problems that might otherwise prevent the record being made, for example, unavailability of suitable recording equipment and interview facilities. If there is a failure of recording equipment, see paragraphs 4.16 and 7.10. If a person refuses to go into or remain in a suitable interview room, see PACE Code H *paragraph 12.5*, and the custody officer considers, on reasonable grounds, that the interview should not be delayed, the interview may, at the custody officer's discretion, be conducted in a cell and recorded using portable recording equipment. The reasons for this must be recorded.
- 2.4 Before any interview to which this Code applies starts, the person concerned and any appropriate adult and interpreter must be given a written notice which explains the requirement that under this Code the interview must be video recorded with sound. At the same time, the person, the appropriate adult and interpreter must be informed verbally of the content of the notice.

- 2.5 If the person to be interviewed or the appropriate adult raises objections to the interview being video recorded, either at the outset or during the interview or during the break in the interview, the interviewing officer must explain that the interview is being recorded in order to protect both the person being interviewed and the interviewing officer and that there is no opt out facility.
- 2.6 A sign or indicator which is visible to the suspect must show when the recording equipment is recording.

**Notes for guidance**

- 2A *Guidance on assessing a juvenile or individuals' fitness and mental wellbeing prior to interviewing is provided at paragraphs 11.9 - 11.13 of PACE Code H or for Schedule 7 interviews at paragraphs 51 - 54 of the Schedule 7 Code.*
- 2B *If the person to be interviewed has a hearing or speech impediment or does not understand English and is detained under section 41 of TACT, the provisions in section 13 of PACE Code H (Interpreters) should be applied. If the person is detained under Schedule 7, then paragraph 27 of the Schedule 7 Code should be observed.*
- 2C *The person must be reminded of their right to free legal advice in accordance with:*
- *section 6 and paragraph 11.3 of PACE Code H if detained under section 41 for interview;*
  - *'Notice of Detention under Schedule 7 to the Terrorism Act 2000' in Annex A of the Schedule 7 Code if detained under Schedule 7.*
- 2D *Delaying or denying a person access to legal advice before interview is subject to the following provisions:*
- *Annex B or paragraphs 6.7 - 6.9 of PACE Code H if the person is detained for interview under section 41;*
  - *'Notice of Detention under Schedule 7 to the Terrorism Act 2000' in Annex A of the Schedule 7 Code if the person is detained under Schedule 7.*
- 2E *Qualified access to legal advice when interviewing a person detained under section 41 is subject to paragraph 6.5 of PACE Code H.*

**3 Recording and sealing of master recordings**

- 3.1 The camera(s) must be placed in the interview room so as to ensure coverage of as much of the room as is practicably possible whilst the interviews are taking place. See Note 3A.

- 3.2 One recording, the master recording, must be sealed in the suspect's presence. A second recording will be used as a working copy. The master recording is either of the two recordings used in a twin deck/drive machine or the only recording in a single deck/drive machine. The working copy is either the second/third recording used in a twin/triple deck/drive machine or a copy of the master recording made by a single deck/drive machine. See *Notes 3B and 3C*.

*[This paragraph does not apply to interviews recorded using a secure digital network, see paragraph 7.3]*

- 3.3 For the purpose of any interview to which this Code applies, no interviewing officer or other officer is required to record or disclose their identity. To protect the identity of officers, officers may keep their backs to the camera and may use their warrant or other identification number and the name of the police station to which they are attached.

#### **Notes for Guidance**

- 3A *Interviewing officers will wish to arrange that, as far as possible, video recording arrangements are unobtrusive. It must be clear to the person being interviewed, however, that there is no opportunity to interfere with the recording equipment or the recording media.*
- 3B *The purpose of sealing the master copy before it leaves the presence of the person being interviewed is to establish their confidence that the integrity of the recording is preserved. If a single deck/drive machine is used the working copy of the master recording must be made in the presence of the person being interviewed without the master recording leaving their sight. The working copy is to be used for making further copies if required.*
- 3C *The recording of the interview may be used for identification procedures in accordance with paragraph 3.21 or Annex E of PACE Code D.*

#### **4. The Interview**

##### **(a) General**

- 4.1 In respect of interviews of persons detained under section 41 of TACT, attention is drawn to section 10 (cautions) and Annex C of PACE Code H which describe the restrictions on drawing adverse inferences from a person's failure or refusal to say anything about their involvement in an offence when interviewed before or after being charged or informed they may be prosecuted and how those restrictions affect the terms of the caution and determine whether a special warning under Article 5 and 6 of the Criminal Evidence (Northern Ireland) Order 1988 can be given.

Note: The requirement to caution does not apply to interviews of persons detained for examination under Schedule 7.

**(b) Commencement of Interviews**

- 4.2 When the person to be interviewed is brought into the interview room the interviewing officer must without delay, but in sight of the person, load the recording equipment and set it to record. The recording media must be unwrapped or otherwise opened in the presence of the suspect. See *Note 4A*. [This paragraph does not apply to interviews recorded using a secure digital network, see paragraphs 7.3 and 7.4].
- 4.3 The interviewing officer must then tell the person formally about the video recording with sound and point out the sign or indicator which shows that the recording equipment is activated and recording. See *paragraph 2.6*. The interviewing officer must:
- (a) say the interview is being video recorded with sound (see *paragraph 2.4*);
  - (b) give their warrant or other identification number and state the police station they are attached to, and provide these details in relation to any other police officer present (see *paragraph 12.7 of PACE Code H*);
  - (c) ask the person to be interviewed and any other party present (e.g. a solicitor) to identify themselves;
  - (d) state the date, time of commencement and place of the interview; and
  - (e) state that the person to be interviewed will be given a notice about what will happen to the copies of the recording. [This sub-paragraph does not apply to interviews recorded using a secure digital network, see paragraphs 7.3 and 7.5 to 7.6]
- See *Note 4A*
- 4.4 The interviewing officer must then caution the person and remind the person of their entitlement to free and independent legal advice and their right to consult a solicitor. See *Note 2C*.
- Note: The requirement to caution does not apply to interviews of persons detained for examination under Schedule 7.
- 4.5 If the interview takes place in accordance with paragraph 11.4 of Code H, the interviewing officer must then put to the person being interviewed any significant statement or silence (i.e. failure or refusal to answer a question or to answer it satisfactorily) which occurred in the presence and hearing of a police officer or other police staff before the start of the interview and which have not been put to the person in the course of a previous interview. The interviewer must then ask the suspect whether they wish to confirm or deny that earlier statement or silence and if they want to add anything. The terms 'significant statement' and 'significant silence' have the same meaning as in paragraph 11.5 of PACE Code H.
- 4.6 Any person entering the interview room after the interview has commenced must be invited by the interviewing officer to identify themselves for the purpose of the video recording and state the reason why they have entered the interview room.

**(c) Interviews with persons with a hearing or speech impediment or with those who do not understand English**

- 4.7 If the person appears to have a hearing or speech impediment, or there is doubt about their hearing or speaking ability, they must be interviewed in the presence of an interpreter unless a relevant exemption applies. See *Note 2B*.

**(d) Objections and complaints by the person**

- 4.8 If the detained person or an appropriate adult raises objections to the interview being video recorded, either at the outset or during the interview or during a break in the interview the provisions outlined in paragraph 2.5 should be followed.
- 4.9 If in the course of an interview at a police station a complaint is made by the person being questioned, or on their behalf, about their detention, treatment or questioning, or if the complaint is that the provisions of this Code have not been observed, or it comes to notice or comes to the interviewer's notice that a detainee may have been treated improperly, then the interviewing officer must record it in the interview record (see *Note 4G*) and inform the custody officer, who is responsible for dealing with the complaint in accordance with paragraph 9.3 of Code H.
- 4.10 If the person being interviewed indicates that they wish to tell the interviewer about matters not directly connected with the matter about which they are being interviewed and that they are unwilling for these matters to be recorded, the suspect must be given the opportunity to tell the interviewer about these matters after the conclusion of the formal interview.

**(e) Changing the recording media**

- 4.11 When the recording equipment indicates that the recording media has only a short time left to run, the interviewer must so inform the person being interviewed and bring that part of the interview to a close. If the interviewer leaves the room to obtain a second set of recording media, the suspect must not be left unattended. The interviewer will remove the recording media from the recording equipment and insert the new recording media which must be unwrapped or opened in the person's presence. The recording equipment must then be set to record on the new media. To avoid confusion between the recording media, the interviewer must mark the media with an identification number immediately after they are removed from the recorder.

*[This paragraph does not apply to interviews recorded using a secure digital network as this does not use removable media, see paragraphs 1.8 and 7.3.]*

**(f) Taking a break during the interview**

- 4.12 When a break is taken, the fact that a break is to be taken, the reason for it and the time must be recorded on the video record.

- 4.13 When the break is taken and the interview room vacated by the suspect, the recording media must be removed from the recorder and the procedures for the conclusion of an interview followed. *See paragraph 4.19.*
- 4.14 When a break is to be a short one, and both the person being interviewed and a police officer remain in the interview room, the recording may be stopped. There is no need to remove the recording media and when the interview recommences the recording should continue on the same recording media. The time the interview recommences must be recorded on the video record.
- 4.15 After any break in an interview under caution, the interviewing officer must, before resuming the interview remind the person of their right to legal advice if they have not exercised it (*see Note 2C*) and must remind the person that they remain under caution (*see paragraph 4.1*) or if there is any doubt, give the caution in full again (*see Notes 4D and 4E*).

*[Paragraphs 4.12 to 4.15 do not apply to interviews recorded using a secure digital network, see paragraphs 7.3 and 7.7 to 7.9]*

**(g) Failure of recording equipment**

- 4.16 If there is a failure of equipment which can be rectified quickly, e.g. by inserting new recording media, the appropriate procedures set out in paragraph 4.11 must be followed. When the recording is resumed the interviewer must explain what has happened and video record the time the interview recommences. If, however, it is not possible to continue video recording on that particular recorder and no alternative equipment is readily available, the interview must cease until suitable equipment is available. *See Note 4F*

*[This paragraph does not apply to interviews recorded using a secure digital network, see paragraphs 7.3 and 7.10]*

**(h) Removing used recording media from recording equipment**

- 4.17 Recording media which is removed from the recording equipment during the course of an interview must be retained and the procedures set out in *paragraph 4.19* followed.

*[This paragraph does not apply to interviews recorded using a secure digital network as this does not use removable media, see paragraphs 1.8 and 7.3.]*

**(i) Conclusion of interview**

- 4.18 At the conclusion of the interview, the person being interviewed must be offered the opportunity to clarify anything he or she has said and asked if there is anything that they wish to add.
- 4.19 At the conclusion of the interview, including the taking and reading back of any written statement, the time must be recorded in the video record and the recording must be stopped. The interviewer must seal the master recording with a master recording label and treat it as an exhibit in accordance with Service standing orders. The interviewer must (*subject to*

*paragraph 3.3)* sign the label and also ask the person, their solicitor and any appropriate adult or other third party present during the interview to sign it. If the person or third party refuses to sign the label, an officer of at least the rank of inspector, or if one is not available, the custody officer, must be called into the interview room and asked (subject to *paragraph 3.3)* to sign it.

4.20 The person being interviewed must be handed a notice which explains:

- how the video recording will be used;
- the arrangements for access to it; and
- that if they are charged or informed that they will be prosecuted, a copy of the video recording will be supplied as soon as practicable or as otherwise agreed between the suspect and police or on the order of a court.

*[Paragraphs 4.18 to 4.20 do not apply to interviews recorded using a secure digital network, see paragraphs 7.3 and 7.11 to 7.12]*

### **Notes for Guidance**

- 4A *For the purposes of voice identification, the interviewer should ask the person being interviewed and any other people present to identify themselves.*
- 4B *Where the custody officer is called immediately to deal with the complaint, the recorder should, if possible, be left to run until the custody officer has entered the room and spoken to the person being interviewed. Continuation or termination of the interview should be at the interviewer's discretion pending action by an inspector under paragraph 9.3 of PACE Code H.*
- 4C *If the complaint is about a matter not connected with this Code or the person's detention, treatment or questioning, the decision to continue is at the interviewer's discretion. When the interviewer decides to continue the interview, they should tell the person the complaint will be brought to the custody officer's attention at the conclusion of the interview. When the interview is concluded the interviewer must, as soon as practicable, inform the custody officer about the existence and nature of the complaint made.*
- 4D *When considering whether to caution again after a break, the officer should bear in mind that he or she may have to satisfy a court that the person understood that they were still under caution when the interview resumed.*
- 4E *The interviewer should bear in mind that it may be necessary to satisfy the court that nothing occurred during a break in an interview or between interviews which influenced the person's recorded evidence. On the re-commencement of an interview, the officer should consider summarising on the recording the reason for the break and confirming this with the person.*
- 4F *If any part of the recording media breaks or is otherwise damaged during the interview, the recording should be sealed as a master copy in the presence of the suspect. The undamaged part, if any, should be copied in the person's*

*presence before the master copy is sealed. If the recording is irretrievable the interview should be started again with new recording media.*

*4G Where reference is made to the 'interview record' this means the actual video recording of the interview.*

## **5 After the interview**

5.1 The interviewing officer must make a note in their pocket book that the interview has taken place and that it has been video recorded. They must also make a note of the date of the interview, the time it commenced, its duration, any breaks that were taken and the identification number of the master recording.

5.2 Where no proceedings follow in respect of the person whose interview was recorded, the recording media must be kept securely in accordance with *paragraph 6.1 and Note 6A.*

*[This section (paragraphs 5.1, 5.2 and Note 5A) does not apply to interviews recorded using a secure digital network, see paragraphs 7.3 and 7.13 to 7.15]*

5.3 Where criminal proceedings do follow or are under consideration the interviewing officer must prepare or have prepared on his or her behalf a summary of the interview which must be signed by the interviewing officer.

5.4 Any written statement of evidence prepared by the interviewing officer in relation to what took place at the interview must refer to the fact that the interview was recorded and refer to the master recording as an exhibit to the statement.

5.5 The summary of the interview must be exhibited to any written statement of evidence prepared by the interviewing officer at paragraph 5.4.

5.6. If the summary of interview is prepared by a person other than an interviewing officer, the interviewing officer must check that the summary is correct before he or she signs it and his or her written statement must contain a reference to the fact that he or she has been shown the summary, checked it, found it to be correct and signed it.

5.7 The Chief Constable or, where applicable, the Public Prosecution Service may direct that, in circumstances which they specify, a summary of interview will not be required to be included in files submitted for the decision of the District Commander or, where applicable, the Public Prosecution Service. Accordingly, where the specified circumstances arise, paragraphs 5.3 and 5.5 do not apply unless the District Commander or, where applicable, the Public Prosecution Service after receipt of the file directs that a summary of interview be prepared in that individual case.

5.8 The court must be made aware of any transcription of the recorded interview which has been made.

- 5.9 Reference to the Public Prosecution Service in this part of the Code is to be taken to include any other body or person, other than police, with a statutory responsibility for prosecution to whom the police report the investigation of any criminal offence.

**Note for guidance**

- 5A *Prior to preparing the summary of the interview or to checking a summary of interview which has been prepared on his or her behalf by another person, the interviewing officer may refresh his or her memory by viewing the working copy of the recording.*
- 5B *A person preparing a summary of interview on behalf of the interviewing officer must be a police officer, or other person who has received appropriate training in the preparation of summaries of interview. He or she should prepare the summary after viewing the recording and if necessary after consultation with the interviewing officer.*
- 5C *The summary of interview must be prepared on the basis that it must be exhibited to the interviewing officer's statement of evidence and that it will be used for the following purposes:*
- (i) to enable the District Commander or the Public Prosecution Service to make informed decisions about the case on the basis of what was said at the interview;*
  - (ii) for use pursuant to any rule of law permitting the admission of written statements as evidence in court (for example Article 33 of the Magistrates' Courts (Northern Ireland) Order 1981);*
  - (iii) where applicable, for use as a basis for the conduct of the case by the prosecution, the defence and the court without the necessity for the master recording to be played in court.*
- The summary must, therefore, comprise a balanced account of the interview, including points in mitigation and/or defence made by the suspect. Where an admission is made the question as well as the answer containing the admission must be recorded verbatim in the summary. Care should be taken to bring to the attention of the District Commander and/or Public Prosecution Service, by means of a covering report, any material on the recording which might be regarded by a court as prejudicial or inadmissible.*

**6. Security of Recording Media**

**(a) General**

6.1 The officer in charge of the police station at which interviews are video recorded in accordance with this Code must make arrangements for the master recordings to be kept securely and their movements accounted for on the same basis as other material which may be used for evidential purposes, in accordance with force standing orders. *See Note 6A.*

**(b) Breaking master recording seal for criminal proceedings**

6.2 A police officer may only break the seal on a master copy which is required for criminal trial or appeal proceedings with the authority of the Public Prosecution Service. If it is necessary to gain access to the master copy, the police officer must arrange for its seal to be broken in the presence of a representative of the Public Prosecution Service. The defendant or their legal adviser must be informed and given a reasonable opportunity to be present. If the defendant or their legal representative is present they must be invited to reseal and sign the master copy. If neither accepts or neither is present, this must be done by the representative of the Public Prosecution Service. *See Notes 6B and 6C.*

**(c) Breaking master recording seal: other cases**

6.3 The Chief Constable is responsible for establishing arrangements for breaking the seal of the master copy where no criminal proceedings result; or the criminal proceedings to which the interview relates have been concluded and it becomes necessary to break the seal. These arrangements should be those which the Chief Constable considers are reasonably necessary to demonstrate to the person interviewed and any other party who may wish to use or refer to the video recording that the master copy has not been tampered with and that the video recording remains accurate. *See Note 6D.*

6.4 Subject to paragraph 6.6, a representative of each party must be given a reasonable opportunity to be present when the seal is broken and the master copy is copied and re-sealed.

6.5 If one or more of the parties is not present when the master recording seal is broken because they cannot be contacted or refuse to attend or paragraph 6.6 applies, arrangements should be made for an independent person such as a custody visitor, to be present. Alternatively, or as an additional safeguard, arrangements should be made for a film or photographs to be taken of the procedure.

6.6 Paragraph 6.4 and paragraph 6.5 do not require a person to be given an opportunity to be present when:

(a) it is necessary to break the master copy seal for the proper and effective further investigation of the original offence or the investigation of some other offence; and

(b) the officer in charge of the investigation has reasonable grounds to suspect that allowing such an opportunity might prejudice any such an

investigation or criminal proceedings which may be brought as a result or endanger any person. See Note 6E

**(d) Documentation**

- 6.7 When a master copy seal is broken, copied and re-sealed, a record must be made of the procedure followed, including the date; time; place and persons present.

*[This section (paragraphs 6.1 to 6.7 and Notes 6A to 6C) does not apply to interviews recorded using a secure digital network, see paragraphs 7.3 and 7.15 to 7.16]*

**Notes for Guidance**

6A *This section is concerned with the security of the master copies sealed at the conclusion of the interview. Care must be taken of working copies of recordings since their loss or destruction may lead unnecessarily to the need to have access to master copies.*

6B *If the master copy has been delivered to the court for their keeping the Public Prosecutor will apply to the official appointee of the appropriate court for its release for unsealing by the Public Prosecutor.*

6C *Reference to the Public Prosecution Service or to the Public Prosecutor in this part of the Code is to be taken to include any other body or person with a statutory responsibility for prosecution for whom the police conduct any recorded interviews.*

6D *The most common reasons for needing access to master copies that are not required for criminal proceedings arise from civil actions and complaints against police and civil actions between individuals arising out of allegations of crime investigated by police.*

6E *Paragraph 6.6 could apply, for example, when one or more of the outcomes or likely outcomes of the investigation might be:*

- (i) the prosecution of one or more of the original suspects;*
- (ii) the prosecution of someone previously not suspected, including someone who was originally a witness; and*
- (iii) any original suspect being treated as a prosecution witness and when premature disclosure of any police action, particularly through contact with any parties involved, could lead to a real risk of compromising the investigation and endangering witnesses.*

**7. Recording of Interviews by Secure Digital Network**

- 7.1 A secure digital network does not use removable media and this section specifies the provisions which apply when a secure digital network is used.
- 7.2 The following requirements are solely applicable to the use of a secure digital network for the recording of interviews.

***(a) Application of sections 1 to 6***

- 7.3 Sections 1 to 6 of this Code apply to recordings made on a secure digital network except for the following paragraphs:
- Paragraph 3.2 under “Recording and sealing of master recordings”
  - Paragraph 4.2 under “(b) Commencement of interviews”
  - Paragraph 4.3 (e) under “(b) Commencement of interviews”
  - Paragraphs 4.11 - 4.20 under “(e) Changing recording media”, “(f) Taking a break during interview”, “(g) Failure of recording equipment”, “(h) Removing used recording media from the recording equipment” and “(i) Conclusion of interview”
  - Paragraphs 5.1-5.2 under “After the interview”
  - Paragraphs 6.1 - 6.7 under “Security of recording media”.

***(b) Commencement of Interview***

- 7.4 When the person to be interviewed is brought into the interview room, the interviewer must without delay, and in the sight of the person, switch on the recording equipment and enter the information necessary to log on to the secure network and start recording.
- 7.5 The interviewer must then inform the person that the interview is being recorded using a secure digital network and that recording has commenced.
- 7.6 In addition to the requirements of paragraph 4.3 (a) to (d) above, the interviewer must inform the person that:
- they will be given access to the recording of the interview in the event that they are charged or informed that they will be prosecuted but if they are not charged or informed that they will be prosecuted they will only be given access as agreed with the police or on the order of a court; and
  - they will be given a written notice at the end of the interview setting out their rights to access the recording and what will happen to the recording.

***(c) Taking a break during interview***

- 7.7 When a break is taken, the fact that a break is to be taken, the reason for it and the time must be recorded on the recording. The recording must be stopped and the procedures in paragraphs 7.11 and 7.12 for the conclusion of an interview followed.
- 7.8 When the interview recommences the procedures in paragraphs 7.4 to 7.6 for commencing an interview must be followed to create a new file to record the continuation of the interview. The time the interview recommences must be recorded on the recording.
- 7.9 After any break in the interview the interviewer must, before resuming the interview, remind the person being questioned that they remain under caution or, if there is any doubt, give the caution in full again. See *Note 4D*.

**(d) Failure of recording equipment**

- 7.10 If there is an equipment failure which can be rectified quickly, e.g. by commencing a new secure digital network recording, the interviewer must follow the appropriate procedures as in *paragraphs 7.7 to 7.9*. When the recording is resumed the interviewer must explain what happened and record the time the interview recommences. If, however, it is not possible to continue recording on the secure digital network the interview should be recorded on removable media as in *paragraph 4.2*. See *Note 4F*.

**(e) Conclusion of interview**

- 7.11 At the conclusion of the interview, the suspect must be offered the opportunity to clarify anything he or she has said and asked if there is anything they want to add.
- 7.12 At the conclusion of the interview, including the taking and reading back of any written statement:
- (a) the time must be recorded;
  - (b) the suspect must be handed a notice which explains:
    - how the video recording will be used;
    - the arrangements for access to it; and
    - that if they are charged or informed that they will be prosecuted, they will be given access to the recording of the interview either electronically or by being given a copy on removable recording media, but if they are not charged or informed that they will be prosecuted, they will only be given access as agreed with the police or on the order of a court;

See *Note 7A*.

- (c) the suspect must be asked to confirm that they have received a copy of the notice at paragraph 7.12(b) above. If the suspect fails to accept or to acknowledge receipt of the notice, the interviewer will state for the recording that a copy of the notice has been provided to the suspect and that they have refused to take a copy of the notice or have refused to acknowledge receipt;
- (d) the time must be recorded and the interviewer must notify the suspect that the recording is being saved to the secure network. The interviewer must save the recording in the presence of the suspect. The suspect should then be informed that the interview is terminated.

**(f) After the interview**

- 7.13 The interviewer must make a note in their pocket book that the interview has taken place, was audibly recorded, its time, duration and date and the original recording's identification number.
- 7.14 If no proceedings follow in respect of the person whose interview was recorded, the recordings must be kept securely as in *paragraphs 7.15 and 7.16*.

***(g) Security of secure digital network interview records***

- 7.15 Interview record files must be stored in read only format on non-removable storage devices, for example, hard disk drives, to ensure their integrity. The recordings must be first saved locally to a secure non-removable device before being transferred to the remote network device. If for any reason the network connection fails, the recording must remain on the local device and must be transferred when the network connections are restored.
- 7.16 Access to interview recordings, including copying to removable media, must be strictly controlled and monitored to ensure that access is restricted to those who have been given specific permission to access for specified purposes when this is necessary. For example, police officers and lawyers involved in the preparation of any prosecution case, persons interviewed if they have been charged or informed they may be prosecuted and their legal representatives.

***Note for Guidance***

- 7A *The notice at paragraph 7.12 above should provide a brief explanation of the secure digital network and how access to the recording is strictly limited. The notice should also explain the access rights of the suspect, his or her legal representative, the police and the prosecutor to the recording of the interview. Space should be provided on the form to insert the date and the file reference number for the interview.*