



HOME OFFICE

# **Police and Criminal Evidence Act 1984**

(s.60(1)(a) and s.66(1)(a) to (d))

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## **CODES OF PRACTICE A-E**

Addendum to Codes A-E

Commencement - after midnight on 31st January 2008

**2008  
CHANGES**



This addendum sets out the changes that come into effect on 1 February 2008 to the following Police and Criminal Evidence Act 1984 (PACE) Codes of Practice:

- Code A ..... page 4
- Code B ..... page 5
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- Code E ..... page 13

Information on the changes and copies of the most up to date PACE Codes of Practice that include the changes in this addendum can be accessed freely on the Home Office PACE Codes web page at:

<http://police.homeoffice.gov.uk/operational-policing/powers-pace-codes/pace-code-intro/>

**The following changes are made to the version of PACE Code A that came into effect from 31 August 2006 (under SI 2006/2165)**



**Code Change**

Code A	Commencement - Transitional Arrangements, change to: “...after midnight on 31 January 2008,…”
A 2.27(b)	Delete “s.” from “s.23(3)”
A 2.28	Delete “s” from “s23(3)”
A GN 22	Insert new paragraph: “Definition of Offensive Weapon 22 ‘Offensive weapon’ is defined as any article made or adapted for use for causing injury to the person, or intended by the person having it with him for such use or by someone else. There are three categories of offensive weapons: those made for causing injury to the person; those adapted for such a purpose; and those not so made or adapted, but carried with the intention of causing injury to the person. A firearm, as defined by section 57 of the Firearms Act 1968, would fall within the definition of offensive weapon if any of the criteria above.”
A Annex A 15	Change “...14...” to “...41...”

**The following changes are made to the version of PACE Code B that came into effect from 31 December 2005 (under SI 2005/3503)**

**Code Change**

Code B	Commencement - Transitional Arrangements, change to: “...after midnight on 31 January 2008,…”
B GN 2A(b)	Delete “judge of the High Court, a” and “, a Recorder or a District judge
B3.4(a)	Delete “...a judge of the High Court,…” and”..., a Recorder or a District judge..”
B3.6(e)(i)	Delete “...a judge of the High Court,…” and “..., a Recorder or a District judge,…”



**The following changes are made to the version of PACE Code C that came into effect from 24 July 2006 (under SI 2006/1938)**

**Code Change**

Code C	Commencement - Transitional Arrangements, change to: “...after midnight on 31 January 2008,...”
C1.7(a)(ii)	Delete “...social services department...”
C6.1	After “...and that free independent legal advice is available” delete “from the duty solicitor”. After “Note 6B” insert “, 6B1, 6B2”.
C GN 6B	After “..any particular firm of solicitors.” add “See Notes for Guidance 6B1 and 6B2 below.”
C GN 6B1	<p>Insert new paragraph  <b>“With effect from 1 February 2008, Note for Guidance 6B above will cease to apply in the following forces areas:</b>                  Greater Manchester Police                  West Midlands Police                  West Yorkshire Police                  and the following provisions will apply to those force areas: a detainee who asks for legal advice to be paid for by himself should be given an opportunity to consult a specific solicitor or another solicitor from that solicitor’s firm. If this solicitor is unavailable by these means, they may choose up to two alternatives. If these attempts are unsuccessful, the custody officer has discretion to allow further attempts until a solicitor has been contacted and agrees to provide legal advice. Otherwise, publicly funded legal advice shall in the first instance be accessed by telephoning a call centre authorised by the Legal Services Commission (LSC) to deal with calls from the police station. The Defence Solicitor Call Centre will determine whether legal advice should be limited to telephone advice or whether a solicitor should attend. Legal advice will be by telephone if a detainee is:</p> <ul style="list-style-type: none"> <li>• detained for a non-imprisonable offence,</li> <li>• arrested on a bench warrant for failing to appear and being held for production before the court (except where the solicitor has clear documentary evidence available that would result in the client being released from custody),</li> <li>• arrested on suspicion of driving with excess alcohol (failure to provide a specimen, driving whilst unfit/drunk in charge of a motor vehicle), or</li> <li>• detained in relation to breach of police or court bail conditions.</li> </ul>

**C**



Code	Change
C GN 6B1 (cont.)	<p>An attendance by a solicitor for an offence suitable for telephone advice will depend on whether limited exceptions apply, such as:</p> <ul style="list-style-type: none"> <li>• whether the police are going to carry out an interview or an identification parade,</li> <li>• whether the detainee is eligible for assistance from an appropriate adult,</li> <li>• whether the detainee is unable to communicate over the telephone,</li> <li>• whether the detainee alleges serious maltreatment by the police.</li> </ul> <p>Apart from carrying out these duties, an officer must not advise the suspect about any particular firm of solicitors. See Note for Guidance 6B2 below.”</p>
C GN 6B2	<p>Insert new paragraph “<b>With effect from 21 April 2008</b>, the contents of Notes for Guidance 6B and 6B1 above will be superseded by this paragraph in all police forces areas in England and Wales by the following. A detainee who asks for legal advice to be paid for by himself should be given an opportunity to consult a specific solicitor or another solicitor from that solicitor’s firm. If this solicitor is unavailable by these means, they may choose up to two alternatives. If these attempts are unsuccessful, the custody officer has discretion to allow further attempts until a solicitor has been contacted and agrees to provide legal advice. Otherwise, publicly funded legal advice shall in the first instance be accessed by telephoning a call centre authorised by the Legal Services Commission (LSC) to deal with calls from the police station. The Defence Solicitor Call Centre will determine whether legal advice should be limited to telephone advice or whether a solicitor should attend. Legal advice will be by telephone if a detainee is:</p> <ul style="list-style-type: none"> <li>• detained for a non-imprisonable offence,</li> <li>• arrested on a bench warrant for failing to appear and being held for production before the court (except where the solicitor has clear documentary evidence available that would result in the client being released from custody),</li> <li>• arrested on suspicion of driving with excess alcohol (failure to provide a specimen, driving whilst unfit/drunk in charge of a motor vehicle), or</li> <li>• detained in relation to breach of police or court bail conditions.</li> </ul>



**Code            Change**

<p>C GN 6B2 (cont.)</p>	<p>An attendance by a solicitor for an offence suitable for telephone advice will depend on whether limited exceptions apply, such as:</p> <ul style="list-style-type: none"> <li>• whether the police are going to carry out an interview or an identification parade,</li> <li>• whether the detainee is eligible for assistance from an appropriate adult,</li> <li>• whether the detainee is unable to communicate over the telephone,</li> <li>• whether the detainee alleges serious maltreatment by the police.</li> </ul> <p>Apart from carrying out these duties, an officer must not advise the suspect about any particular firm of solicitors.”</p>
<p>C GN 6D</p>	<p>After “...solicitor.” insert “, Legal advice by telephone advice may be provided in respect of those offences listed in Note for Guidance 6B1 and 6B2 above. The Defence Solicitor Call Centre will determine whether attendance is required by a solicitor.”</p>
<p>C10.5</p>	<p>After the caution in English insert:          “Where the use of the Welsh Language is appropriate, a constable may provide the caution directly in Welsh in the following terms:          ‘Does dim rhaid i chi ddweud dim byd. Ond gall niweidio eich amddiffyniad os na fyddwch chi’n sôn, wrth gael eich holi, am rywbeth y byddwch chi’n dibynnu arno nes ymlaen yn y Llys. Gall unrhyw beth yr ydych yn ei ddweud gael ei roi fel tystiolaeth.’”</p>
<p>C13.1</p>	<p>Delete “...CADCP..” and insert “...CACDP..”</p>
<p>C16.2</p>	<p>After the caution in English insert:          “Where the use of the Welsh Language is appropriate, a constable may provide the caution directly in Welsh in the following terms:          ‘Does dim rhaid i chi ddweud dim byd. Ond gall niweidio eich amddiffyniad os na fyddwch chi’n sôn, yn awr, am rywbeth y byddwch chi’n dibynnu arno nes ymlaen yn y llys. Gall unrhyw beth yr ydych yn ei ddweud gael ei roi fel tystiolaeth.’”</p>
<p>C16.4(a)</p>	<p>After the caution in English insert:          “Where the use of the Welsh Language is appropriate, caution the detainee in the following terms:          ‘Does dim rhaid i chi ddweud dim byd, ond gall unrhyw beth yr ydych yn ei ddweud gael ei roi fel tystiolaeth.’”</p>
<p>C16.5(a)</p>	<p>After the caution in English insert:          “Where the use of the Welsh Language is appropriate, the interviewer shall caution the detainee, ‘Does dim rhaid i chi ddweud dim byd, ond gall unrhyw beth yr ydych yn ei ddweud gael ei roi fel tystiolaeth.’”</p>





Code	Change
17.16(b)	<p>Delete: “(b) must be retained until the person concerned has made their first appearance before the court.”</p> <p>And replace with: “(b) can be disposed of as clinical waste unless it is to be sent for further analysis in cases where the test result is disputed at the point when the result is known, or where medication has been taken, or for quality assurance purposes.”</p>
C 17.17	<p>After “...impose a requirement...” add “on the detainee”</p> <p>After “..for its duration.” insert “Where such a requirement is imposed, the officer must, at the same time, impose a second requirement on the detainee to attend and remain for a follow-up assessment. The officer must inform the detainee that the second requirement will cease to have effect if, at the initial assessment they are informed that a follow-up assessment is not necessary.”</p> <p>Change final sentence to “These requirements may only be imposed...”</p>
C 17.17 (b)	After “...conducting initial...” insert “and follow-up”
C 17.18	After “...to attend an initial assessment...” insert “and a follow-up assessment”
C 17.18 (c)	Amend to “warn the person that they may be liable to prosecution if they fail...” and at the end insert “...and if they fail to attend the follow-up assessment and remain for its duration (if so required).”
C17.19	After “...to attend an initial assessment...” insert “and a follow-up assessment”
C17.19(a)	Amend to “confirms their requirement to attend and remain for the duration of the assessments: and”
C17.20(a)	After “...to attend an initial assessment...” insert “and a follow-up assessment”



**Code Change**

<p>C GN 17A</p>	<p>After the warning in English insert:</p> <p>“Where the Welsh language is appropriate, the following form of words may be used:</p> <p>‘Does dim rhaid i chi roi sampl, ond mae’n rhaid i mi eich rhybuddio y byddwch chi’n cyflawni trosedd os byddwch chi’n methu neu yn gwrthod gwneud hynny heb reswm da, ac y gellir, oherwydd hynny, eich carcharu, eich dirwyo, neu’r ddau.’”</p>
<p>C GN 17D</p>	<p>Delete:</p> <p>“The retention of the sample in paragraph 17.16(b) allows for the sample to be sent for confirmatory testing and analysis if the detainee disputes the test. But such samples, and the information derived from them, may not be subsequently used in the investigation of any offence or in evidence against the persons from whom they were taken.”</p> <p>And replace with:</p> <p>“Samples, and the information derived from them, may not be subsequently used in the investigation of any offence or in evidence against the persons from whom they were taken.”</p>
<p>C GN 17E</p>	<p>Under 1. Theft Act 1968 delete “section 15 (obtaining property by deception)”</p> <p>Delete:</p> <p>“3. An offence under section 1(1) of the Criminal Attempts Act 1981 if committed in respect of an offence under any of the following provisions of the Theft Act 1968:</p> <p>section 1 (theft)</p> <p>section 8 (robbery)</p> <p>section 9 (burglary)</p> <p>section 15 (obtaining property by deception)</p> <p>section 22 (handling stolen goods)”</p> <p>and insert:</p> <p>“3. Offences under the following provisions of the Fraud Act 2006:</p> <p>section 1 (fraud)</p> <p>section 6 (possession etc. of articles for use in frauds)</p> <p>section 7 (making or supplying articles for use in frauds)</p>



**Code**            **Change**

C GN 17E (cont.)	3A.An offence under section 1(1) of the Criminal Attempts Act 1981 if committed in respect of an offence under (a) any of the following provisions of the Theft Act 1968: section 1 (theft) section 8 (robbery) section 9 (burglary) section 22 (handling stolen goods) (b) section 1 of the Fraud Act 2006 (fraud)”
C GN 17G	Delete “..., in England, a local authority or, in Wales,...” and “...social services department...”
C Annex A GN A6	After the warning in English insert: “Where the use of the Welsh Language is appropriate, the following form of words may be used: ‘Nid oes rhaid i chi roi caniatâd i gael eich archwilio, ond mae’n rhaid i mi eich rhybuddio os gwrthodwch heb reswm da, y gallai eich penderfyniad i wrthod wneud niwed i’ch achos pe bai’n dod gerbron llys.’”
C Annex C 2	After the caution in English insert: “Where the use of the Welsh Language is appropriate, the caution may be used directly in Welsh in the following terms: ‘Does dim rhaid i chi ddweud dim byd, ond gall unrhyw beth yr ydych chi’n ei ddweud gael ei roi fel tystiolaeth.’”
C Annex K GN K2	After the caution in English insert: “Where the use of the Welsh Language is appropriate, the following form of words may be provided in Welsh: ‘Does dim rhaid i chi ganiatáu cymryd sgan uwchsain neu belydr-x (neu’r ddau) arnoch, ond mae’n rhaid i mi eich rhybuddio os byddwch chi’n gwrthod gwneud hynny heb reswm da, fe allai hynny niweidio eich achos pe bai’n dod gerbron llys.’”

**The following changes are made to the version of PACE Code D that came into effect from 31 December 2005 (under SI 2005/3503)**

**Code            Change**

Code D	Commencement - Transitional Arrangements, change to: “...after midnight on 31 January 2008,...”
D 3.5	Delete “Change to: ‘...’”
D 5.12(b)	Delete “or” at the end of (v), replace “.” at the end of (vi) with “; or” and insert “(vii) given a direction to leave and not return to a specified location for up to 48 hours by a police constable (under section 27 of the Violent Crime Reduction Act 2006).”

**D**

**The following changes are made to the version of PACE Code E that came into effect from 31 December 2005 (under SI 2005/3503)**

Code	Change
Code E	Commencement - Transitional Arrangements, change to: "...after midnight on 31 January 2008,..."
E 1.6	Insert "(c) 'digital network solution' means the use of platform architecture that secures a network by providing each user with a digital identity and is managed by a central digital certificate authority (see section 7 of this Code)."
E 3.3 (a)	Change from "...or recorder..." to "...or recording equipment..."
E 7	<p>Insert new section 7:  <b>"7 Recording of Interviews by Secure Digital Network</b></p> <p>7.1 This section of the Code applies only in the following area:</p> <ul style="list-style-type: none"> <li>• Lancashire Constabulary, Eastern Division as defined at 1 September 2007</li> </ul> <p>7.2 This section of the Code does not extend to the audio recording of interviews with suspects by secure digital network (SDN) to any other Division of the Lancashire Constabulary nor to any other police force area in England and Wales. Any interviews with suspects subject to recording by secure digital network in an area other than that listed in paragraph 7.1 above must be simultaneously recorded, and any recordings used, in accordance with sections 1 to 6 above.</p> <p>7.3 The following requirements are solely applicable to the use of a secure digital network for the recording of interviews.</p> <p><b>Application of section 1 to 6 of Code E</b></p> <p>7.4 Sections 1 to 6 of Code E above apply except for the following paragraphs:</p> <ul style="list-style-type: none"> <li>• Paragraph 2.2</li> <li>• Paragraph 4.3</li> <li>• Paragraph 4.4 (e)</li> <li>• Paragraphs 4.11 – 4.19</li> <li>• Paragraphs 6.1 – 6.4</li> </ul>

**E**

**Code                      Change**

E 7  
(cont.)

**Commencement of Interview**

7.5 When the suspect is brought into the interview room, the interviewer shall without delay and in the sight of the suspect, switch on the recording equipment and enter his or her digital identifier.

7.6 The interviewer must then provide the appropriate case reference for the interview and inform the suspect that the interview is being recorded via a secure digital network and that recording commenced when the interviewer inserted the digital identifier.

7.7 In addition to the requirements of paragraph 4.4 (a –d) above, the interviewer must inform the person that the recording of the interview can only be accessed on the order of a court; that copies of the recording will be made available in the event that he or she is charged or informed that they will be prosecuted; and that a written notice will be provided to them at the end of the interview setting out their access rights and what will happen to the recording.

**Taking a break during interview**

7.8 When a break is taken and the interview room vacated by the suspect, the recording shall be stopped and the procedures for the conclusion of an interview followed.

7.9 When a break is a short one and either the suspect or the interviewer or both remain in the interview room, the recording must be stopped. There is no need to create a new secure digital network file. When the interview recommences the recording should continue on the same secure network file. The time the interview recommences shall be recorded on the audio recording.

7.10 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 for Guidance 4G*.



Code	Change
E 7 (cont.)	<p data-bbox="268 269 624 298"><b>Failure of recording equipment</b></p> <p data-bbox="268 329 1020 646">7.11 If there is an equipment failure which can be rectified quickly, e.g. by commencing a new secure digital network recording, the interviewer shall follow the appropriate procedures as in <i>paragraph 7.8</i>. When the recording is resumed the interviewer shall 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 <i>paragraph 4.3</i> unless the necessary equipment is not available. If this happens the interview may continue without being audibly recorded and the interviewer shall seek the custody officer's authority as in <i>paragraph 3.3</i>. See <i>Note for Guidance 4H</i>.</p> <p data-bbox="268 678 539 704"><b>Conclusion of interview</b></p> <p data-bbox="268 737 994 821">7.12 At the conclusion of the interview, the suspect shall be offered the opportunity to clarify anything he or she has said and asked if there is anything they want to add.</p> <p data-bbox="268 854 953 911">7.13 At the conclusion of the interview, including the taking and reading back of any written statement:</p> <p data-bbox="268 943 1020 1490">           (a) the time shall be orally recorded            (b) the suspect shall be handed a notice which explains:           <ul style="list-style-type: none"> <li>- how the audio recording will be used</li> <li>- the arrangements for access to it</li> <li>- that if the person is charged or informed they will be prosecuted, a copy of the audio recording will be supplied as soon as practicable or as otherwise agreed between the suspect and the police.</li> </ul>           See <i>Note for Guidance 7A</i>.            (c) the suspect must be asked to confirm that he or she has received a copy of the notice at <i>paragraph 7.13(b)</i> 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 he or she has refused to take a copy of the notice or has refused to acknowledge receipt.            (d) the time shall be recorded and the interviewer shall 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.         </p>

**Code**            **Change**

E 7 (cont.)	<p><b>Note for Guidance</b></p> <p><i>7A The notice at paragraph 7.13 above should provide a brief explanation on the secure digital network and how access is strictly limited to the recording. The notice should also explain the access rights of the suspect, his or her legal representative, the police and the prosecutor to copies of the recording of the interview. Space should be provided on the form to insert the date and the file reference number for the interview.”</i></p>
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