

**12 June 2020**

## **CONSULTATION ON THE TEMPORARY AMENDMENT TO PACE CODES OF PRACTICE C AND E IN RESPONSE TO THE COVID-19 OUTBREAK**

1. Attached are draft revised versions of Codes of Practice C and E issued under the Police and Criminal Evidence Act 1984 (PACE). Code C concerns the detention, treatment and questioning of persons detained under PACE and Code E deals with the audio recording of suspect interviews.

2. The Minister of State for Crime and Policing has agreed that this will be a three-week consultation beginning on 12 June 2020 and ending on 3 July 2020. Full details, including copies of the draft revised Codes, will also be published on the Home Office website at: <https://www.gov.uk/guidance/police-and-criminal-evidence-act-1984-pace-codes-of-practice>

3. Each draft has a covering note and table which outline the changes and their purpose, with links to the paragraphs concerned.

### ***Duration and purpose of the changes***

4. The changes have the effect of modifying certain existing provisions of Codes C and E, which will apply *only* for the duration of the COVID-19 outbreak. They support continued operation of the Interview Protocol between the National Police Chiefs Council, Crown Prosecution Service, Law Society, the Criminal Law Solicitors' Association and the London Criminal Courts Solicitors' Association first published on 2 April 2020 and updated on 24 April 2020 ([Click here](#) to view latest version) with the overall purpose of limiting the number of cases that have to be abandoned because solicitors are unable to attend in person. They apply when suspects who have not been arrested are interviewed as well as to detained suspects.

### ***Changes to Code C (Detention)***

5. The temporary changes to Code C are set out in a new Annex AA. They modify the existing provisions which allow a suspect to have their solicitor present during their interview. They specifically allow for legal advice during interview to be provided by a live link or a telephone conference link and for the latter, the interview must be visually recorded.

6. These modifications are subject to a number of safeguards which take account of the circumstances of the suspect, nature and circumstances of the offence and the investigation and the impact on the suspect. They include requirements that:

- the custody officer for a detained suspect, or interviewer for a suspect who has not been arrested, in consultation with the appropriate adult (if applicable) is satisfied that using a live link or telephone conference link would *not* adversely affect or otherwise undermine or limit the suspect's ability to communicate confidently and effectively with the solicitor for the purpose of the interview and must so inform the suspect, appropriate adult and solicitor;
- the suspect, solicitor and (if applicable) appropriate adult, consent to the live link or telephone conference link being used.
- the Notice of Rights and Entitlements and other information given to suspects (whether or not detained) and appropriate adults (if required) includes information about the modifications;
- The operation of the live link or telephone conference arrangements is demonstrated/explained to the suspect, appropriate adult (if applicable) and solicitor before the interview;

### ***Changes to Code E (Audio recording of suspect interview)***

7. The temporary changes to Code E are set out in a new Annex A. They modify the existing provisions by introducing additional requirements for the interviewer when the solicitor uses a live link or telephone conference link to advise the suspect during the interview. These relate to confirmation that consent to the link being used has been given and to visual recording and remote monitoring of an interview when a telephone conference link is used and to matters to be recorded in the interview record.

### ***Next steps***

8. These drafts are circulated for statutory consultation in accordance with section 67(4) of PACE. All responses should be sent to [pacereview@homeoffice.gov.uk](mailto:pacereview@homeoffice.gov.uk) to arrive no later than Friday 3 July 2020.

**Police Powers Unit  
Crime Policing and Fire Group  
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