

## **REVISED EXTRADITION POLICE CODES OF PRACTICE – FORMAL CONSULTATION RESPONSE**

### **Consultation summary**

This consultation sought views on the revised draft Codes of Practice which govern the exercise of police powers in UK extradition cases. The published draft reflected changes made to the relevant Police and Criminal Evidence Act (PACE) Codes since the extradition codes were published in 2011 and the recent changes arising from the new power of arrest introduced by the Extradition (Provisional Arrest) Act 2020.

The consultation ran from 17 November until 14 December 2020. Two formal responses were received. Prior to the public consultation, operational stakeholders had already been given opportunities to provide direct input.

The responses included proposals on search and seizure powers and comments and concerns on what the new extradition arrangements might look like with the EU from 1 January 2021, particularly in relation to the procedural rights of those subject to an extradition request. Some informal points on the summary given of the new arrest power, under the Extradition (Provisional Arrest) Act 2020, were also received from operational partners.

### **Consultation Response**

The opportunity to comment on the consultation was welcomed by those agencies and organisations who responded. Where relevant these have been considered in consultation with relevant operational stakeholders.

Suggestions were put forward relating to the adequacy of search and seizure provisions and Legal Professional Privilege material. It is already the case that, whether or not there is an extradition element, gathering evidence in foreign languages is common practice for the police. Police practice ensures sensitive information is managed appropriately, including the handling of material which may be subject to Legal Professional Privilege or other material which is not in scope of a mutual legal assistance request. It is therefore considered that search and seizure procedures are already adequately reflected in the Codes.

Comments were received noting the, then unknown, position on the provisions which would be in place to facilitate extradition with EU Member States after the end of the transition period and the importance of any extradition processes protecting the rights of requested persons. The new arrangements have since been confirmed and are set out in Title VII (Surrender) of Part Three of the UK-EU Trade and Co-operation Agreement. That Title includes provisions on procedural rights such as increased protections for people at the point of their arrest and within the ensuing proceedings. These are familiar to the law and practice of the UK. They reflect existing practice in the UK for example, they provide for access to a lawyer and to consular assistance. The Codes have been amended to include greater clarity on these procedures.

Observations were also received concerning the amendments made to the Codes relating to the new power of provisional arrest introduced by the Extradition (Provisional Arrest) Act 2020 for specified category two territories under section 74A of the Extradition Act 2003. There have been some minor clarificatory amendments to the Codes to reflect these comments as appropriate.

## **Conclusion**

As above, following this consultation further amendments have been made to the revised Codes of Practice as required.

The revised Codes will now be subject to the relevant parliamentary procedure in order to be published and brought into operation.

These updated Codes of Practice will provide operational clarity for police in relation to current PACE Codes, how arrests are to be carried out in relation to the new arrest power and on the procedural rights for individuals subject to extradition.