



PACE CODE C – 1. General


- ◆ All persons must be dealt with expeditiously and released as soon as the need for detention has ceased to apply
- ◆ A custody officer is required to perform the functions specified in this code as soon as is practicable. A custody officer shall not be in breach of this code in the event of delay, provided that the delay is justified and every step has been taken to prevent it.



- ◆ Where a child or young person is in police detention, such steps as are practicable shall be taken to ascertain the identity of a person responsible for his welfare
- ◆ If it is practicable that person shall be informed
 - (a) that the child or young person has been arrested;
 - (b) why he has been arrested; and
 - (c) where he is being detained




- ◆ The persons who may be responsible for the welfare of the child or young person are –
 - (a) his parent or guardian; or
 - (b) any other person who has for the time being assumed responsibility for their welfare



The 'Appropriate Adult', in the case of a juvenile, is outlined in the Codes of Practice as: -

- ◆ the parent or guardian, or, if they are in local authority or voluntary organisation care, or is otherwise being looked after under the Children Act 1989, a person representing that organisation;
- ◆ a social worker of a local authority social services department;
- ◆ failing these, some other responsible adult aged 18 or over who is not a police officer or employed by the police




A person, including a parent or guardian, should not be the appropriate adult if:

- ◆ they are suspected of involvement in the offence in question,
- ◆ is the victim or witness,
- ◆ is involved in the investigation, or
- ◆ has received admissions prior to attending to act as the appropriate adult.


In such circumstances it will be desirable for the appropriate adult to be some other person.

- ◆ If the parent of a juvenile is estranged from the juvenile, they should not be asked to act if the juvenile expressly and specifically objects to their presence.




The role of the Appropriate Adult as defined in the Codes of Practice is:


- ◆ - to advise the interviewee
- ◆ - to observe whether or not the interview is being conducted properly and fairly
- ◆ - to facilitate communication with the interviewee



- ◆ If a juvenile admits an offence to, or in the presence of, a social worker or member of a YOT other than during the time that person is acting as the juvenile's appropriate adult, another appropriate adult should be appointed in the interest of fairness
- ◆ A detainee should always be given an opportunity, when an appropriate adult is called to the police station, to consult privately with a solicitor in the absence of the appropriate adult. An appropriate adult is not subject to legal privilege.




- ◆ A solicitor or independent custody visitor (formerly a lay visitor) present at the police station in that capacity may not be the appropriate adult
- ◆ The custody officer must remind the appropriate adult and detainee about the right to legal advice and record any reasons for waiving it.




Custody Records

- ◆ A separate custody record must be opened as soon as practicable for each person brought to a police station under arrest or arrested at the station have gone there voluntarily.
- ◆ A solicitor or appropriate adult must be permitted to consult a detainee's custody record as soon as practicable after their arrival at the station and at any other time whilst the person is detained.




Initial Action

- ◆ When a person is brought to a police station under arrest or arrested at a police station having gone there voluntarily, the custody officer must make sure the person is told clearly about the following continuing rights which may be exercised at any stage during the period in custody.....



Rights


- ◆ The right to have someone informed of their arrest
- ◆ The right to consult privately with a solicitor and that free independent legal advice is available
- ◆ The right to consult the PACE codes of practice



The custody officer shall ask the detainee whether, at this time;


- ◆ They would like legal advice,
- ◆ Want someone informed of their detention

The detainee will be asked to sign the custody record to confirm their decisions



The custody officer will determine whether the detainee requires:


- ◆ Medical treatment or attention
- ◆ An appropriate adult
- ◆ Help to check documentation
- ◆ An interpreter



The custody officer is responsible for implementing the response to any specific risk assessment, e.g:


- ◆ Reducing opportunities for self harm;
- ◆ Calling a health care professional;
- ◆ Increasing levels of monitoring or observation.

Risk assessment is an ongoing process and assessments must always be subject to review if circumstances change.



If the detainee is a juvenile, the custody officer must, if it is practicable, ascertain the identity of a person responsible for their welfare. That person may be:

- ◆ the parent or guardian
- ◆ if they are in local authority or voluntary organisation care, or is otherwise being looked after under the Children Act 1989, a person appointed by that authority or organisation to have responsibility for the juvenile's welfare;
- ◆ any other person who has, for the time being, assumed responsibility for the juvenile's welfare.




The custody officer must, as soon as practicable, inform the appropriate adult, who, in the case of a juvenile, may or may not be a person responsible for their welfare of:

- ◆ The grounds for their detention;
- ◆ Their whereabouts


And also:

- ◆ Ask the appropriate adult to come to the police station to see the detainee.



If the appropriate adult is:

- ◆ already at the police station, the juvenile must be told of their rights in the presence of the appropriate adult
- ◆ Not at the police station when the juvenile is informed of their rights, then this procedure must be repeated in the presence of the appropriate adult when they arrive.



The detainee shall be advised that:

- ◆ The duties of the appropriate adult include giving rights and assistance;
- ◆ They can consult privately with the appropriate adult at any time.



If the detainee, or appropriate adult on the detainee's behalf, asks for a solicitor to be called to give legal advice, the provisions of section 6 of these codes applies.....



Right To Legal Advice

Unless Annex B applies, all detainees must be informed that they may at any time consult and communicate privately with a solicitor, whether in person, in writing, or by telephone, and that free independent legal advice is available from the duty solicitor.



- ◆ In the case of a juvenile, an appropriate adult should consider whether legal advice from a solicitor is required. If the juvenile indicates that they do not want legal advice, the appropriate adult has the right to ask for a solicitor to attend if this would be in the best interests of the person. However, the detained person cannot be forced to see the solicitor if he is adamant that he does not wish to do so.



Conditions Of Detention

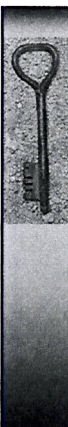
- ◆ Cells in use must be adequately heated, cleaned and ventilated. They must be adequately lit, subject to such dimming as is compatible with safety and security to allow people detained overnight to sleep. No additional restraints shall be used within a locked cell unless absolutely necessary and then only restraint equipment approved for use by the Chief Officer, which is reasonable and necessary in the circumstances having regard for the detainee's demeanour and with a view to ensuring their safety and the safety of others.



- ◆ Blankets, pillows, mattresses and other bedding supplied shall be of a reasonable standard and in a clean and sanitary condition.
- ◆ Access to toilet and washing facilities must be provided.
- ◆ If it is necessary to remove a detainee's clothes for the purpose of investigation, for hygiene, health reasons or cleaning, replacement clothing of a reasonable standard of comfort and cleanliness shall be provided. A detainee may not be interviewed unless adequate clothing has been offered.




- ◆ At least two light meals and one main meal should be offered in any 24 hour period. Drinks should be provided at meal times and upon reasonable request between meals. Whenever necessary, advice shall be sought from the appropriate health care professional on medical and dietary matters. As far as practicable, meals provided shall offer a varied diet and meet any meet any specific dietary needs or religious beliefs the detainee may have.




Care & Treatment Of Detained Persons

- ◆ Detainees should be visited at least every hour. If no reasonably foreseeable risk identified in a risk assessment, there is no need to wake a sleeping detainee.
- ◆ Whenever possible, juveniles and mentally vulnerable detainees should be visited more frequently.




Cautions

- ◆ A person who is arrested, or further arrested, must be informed at the time, or as soon as practicable thereafter, that they are under arrest and the grounds for their arrest.
- ◆ The caution must be given on arrest and all other occasions before a person is charged or informed they may be prosecuted.




- ◆ The caution should be in the following terms:
“You do not have to say anything. But it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence.”
- ◆ When a suspect who is interviewed after arrest fails or refuses to answer certain questions, or to answer satisfactorily, after due warning, a court or jury may draw such inferences as appear proper under sections 36 & 37 of the Criminal Justice and Public Order Act 1994.




Interviews - General

- ◆ An interview is the questioning of a person regarding their involvement or suspected involvement in a criminal offence or offences which must be carried out under caution.
- ◆ No interviewer may try to obtain answers or elicit a statement by the use of oppression.



The interview or further interview of a person about an offence with which that person has not been charged or for which they have not been informed they may be prosecuted, must cease when the officer in charge of the investigation:

- ◆ Is satisfied all the questions they consider relevant to obtaining accurate and reliable information about the offence have been put to the suspect; this includes allowing the suspect an opportunity to give an innocent explanation and asking questions to test the explanation is accurate and reliable, e.g. to clear up ambiguities or clarify what the suspect said;
- ◆ Has taken account of any other available evidence;
- ◆ The officer in charge of the investigation, or in the case of a detained suspect, the custody officer, reasonably believes there is sufficient evidence to provide a realistic prospect of conviction for that offence if the person was prosecuted for it.



A juvenile... must not be interviewed regarding their involvement or suspected involvement in an offence or offences, or asked to provide or sign a written statement under caution or record of interview, in the absence of the appropriate adult. If an appropriate adult is present at interview, they shall be informed:

- ◆ They are not expected to act simply as an observer; and
- ◆ The purpose of their presence is to:
 - advise the person being interviewed;
 - observe whether the interview is being conducted properly and fairly;
 - facilitate communication with the person being interviewed.



- ◆ Although juveniles or are often capable of providing reliable evidence, they may, without knowing or wishing to do so, be particularly prone in certain circumstances to provide information that may be unreliable, misleading or self-incriminating. Special care should always, be taken when questioning such a person, and the appropriate adult should be involved if there is any doubt about a person's age, mental state or capacity. Because of the risk of unreliable evidence it is also important to obtain corroboration of any facts admitted wherever possible.



Interviews In Police Stations

- ◆ In any period of 24 hours, a detainee must be allowed a continuous period of at least 8 hours for rest, free from questioning, travel or any interruption in connection with the investigation concerned. This period should normally be at night, or other appropriate time which takes account of when the detainee last slept or rested.



The period of rest may not be interrupted or delayed, except at the request of the detainee, their appropriate adult or legal representative, unless there are grounds for believing it would:

- ◆ Involve a risk of harm to people or serious loss of, or damage to, property; or
- ◆ Delay unnecessarily the detainee's release from custody; or
- ◆ Otherwise prejudice the outcome of the investigation.



Interpreters

A person must not be interviewed in the absence of a person capable of interpreting if:

- ◆ They have difficulty in understanding English;
- ◆ The interviewer cannot speak the person's own language;
- ◆ The person wants an interpreter present.



- ◆ An interpreter should also be called if a juvenile is interviewed and the parent or guardian present as the appropriate adult appears to be deaf or there is doubt about their hearing or speaking ability, unless they agree in writing to the interview proceeding without one.




Reviews & Extensions Of Detention


The review officer is responsible, under PACE section 40, for periodically determining if a person's detention, before or after charge, continues to be necessary.

Before deciding whether to authorise continued detention, the officer responsible shall give an opportunity to make representations about the detention to:


- ◆ The detainee, unless, in the case of review, they are asleep;
- ◆ The detainee's solicitor, if available; and
- ◆ The appropriate adult, if available.



- ◆ Under PACE section 42, an officer of superintendent rank or above who is responsible for the station holding the detainee may give authority any time after the second review to extend the maximum period the person may be detained without charge by up to 12 hours. Further detention without charge may be authorised only by a magistrates' court.




- ◆ 6 hours – 1st review – at least rank of Inspector and not directly involved
- ◆ 9 hours – 2nd review – as above
Between 2nd & 3rd review Superintendent in charge of station can extend 24 hours to 36
- ◆ 24 hours – If the person is being held for any offence other than 'serious arrestable offence' e.g. murder, they must be either charged or released
- ◆ 36 hours - Magistrates Court may issue warrant of further detention for further 36 hours.
- ◆ 72 hours – Person must again be taken before court if the police wish to continue detention.
- ◆ 96 hours – Person must be either released or charged with the offence

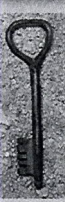


Charging Of Detained Persons


- ◆ When the officer in charge of the investigation reasonably believes there is sufficient evidence to provide a realistic prospect of the detainee's conviction, they shall without delay, and subject to the following qualification, inform the custody officer who will be responsible for considering whether the detainee should be charged. If the detainee is a juvenile..... any resulting action shall be taken in the presence of the appropriate adult if they are present at the time.




- ◆ Where in compliance with the DPP's guidance the custody officer decides that the case should be immediately referred to the CPS to make the charging decision, consultation should take place as soon as is reasonably practicable. Where the CPS is unable to make the charging decision on the information available at that time, the detainee may be released on charge and on bail (with conditions if necessary).



- ◆ When a detainee is charged they shall be given a written notice showing particulars of the offence, the officer's name and the case reference number. As far as possible the particulars of the charge shall be stated in simple terms, but they should also show the precise offence in law with which the detainee is charged. The notice shall begin: "You are charged with the offence(s) shown below." Followed by the caution. If the detainee is a juvenile.... The notice should be given to the appropriate adult.



- ◆ Except as in.... neither a juvenile's behaviour nor the nature of the offence provides grounds for the custody officer to decide it is impracticable to arrange the juvenile's transfer into local authority care. Similarly, the lack of secure local authority accommodation does not make it impracticable to transfer the juvenile. The availability of secure accommodation is only a factor in relation to a juvenile aged 12 or over when the local authority accommodation would not be adequate to protect the public from serious harm from them. The obligation to transfer a juvenile to local authority accommodation applies as much to a juvenile charged during the daytime as to a juvenile to be held overnight, subject to a requirement to bring the juvenile before a court under PACE, sec. 46.




In the case of a person who has not attained the age of 17 –

- ◆ the making of a request for a sample;
- ◆ the giving of the warning and information;
- ◆ the taking of the sample,

may not take place except in the presence of an appropriate adult.


Custody officers may authorise continued detention for up to six hours from the time of charge to enable a sample to be taken.




Bail

Section 38(1) of PACE states:


Where a person arrested for an offence otherwise than under a warrant endorsed for a bail is charged with a offence, the custody officer shall order his release from police detention, either on bail or without bail, unless;



- ◆ The custody officer has reasonable grounds for believing that they ought to be detained in their own interests;
- ◆ Their name or address cannot be ascertained or the custody officer has reasonable grounds for doubting whether a name or address supplied is their real name or address;
- ◆ The custody officer has reasonable grounds for believing that the detention of the person arrested is necessary for their own protection or to prevent them from causing physical injury to any other person or from causing loss of or damage to property;




- ◆ The custody officer has reasonable grounds for believing that the person arrested will fail to appear in court to answer bail or that his detention is necessary to prevent him from interfering with the administration of justice or with the investigation of offences or of a particular offence.



Intimate Searches

An intimate search consists of the physical examination of a person's body orifices other than the mouth. The intrusive nature of such searches means the actual and potential risks associated with intimate searches must never be underestimated.




When

Body orifices other than the mouth may be searched only if authorised by an officer of inspector rank or above who has reasonable grounds for believing that the person may have concealed on themselves


1. anything which they could and might use to cause physical injury to themselves or others at the station; or
2. A class A drug which they intended to supply to another or export;

And the officer has reasonable grounds for believing that an intimate search is the only means of removing these items; and




(b) If the search is under paragraph 2(a)(ii) (a drug offence search), the detainee's appropriate consent must be given in writing

2B Before a detainee is asked to give appropriate consent to a drugs offence search they must be warned that if they refuse without good cause their refusal may harm their case if it comes to trial




Who

- ♦ An intimate search may only be carried out by a registered medical practitioner or registered nurse, unless an officer of at least inspector rank considers this is not practicable and the search is to take place under 1., in which case a police officer may carry out the search.
- ♦ When carried out by a police officer, must be the same sex as detainee. Minimum of two people present in addition to detainee. No person of opposite sex present, unless medical practitioner or nurse.




Appropriate Adult's Role

- ♦ An intimate search at a police station of a juvenile..... may take place only in the presence of an appropriate adult of the same sex, unless the detainee specifically requests a particular adult of the opposite sex who is readily available. In the case of a juvenile the search may take place in the absence of the appropriate adult only if the juvenile signifies in the presence of the appropriate adult that they do not want the adult present and the adult agrees. The decision will be recorded and signed by the appropriate adult.




Strip Searches

- ♦ A strip search is a search involving the removal of more than outer clothing. In this Code, outer clothing includes shoes and socks.



When

- ♦ A strip search may take place only if it is considered necessary to remove an article which a detainee would not be allowed to keep, and the officer reasonably considers the detainee may have concealed such an article. Strip searches shall not be routinely carried out if there is no reason to consider that articles are concealed.



Who

- ♦ A police officer carrying out a strip search must be the same sex as the detainee.
- ♦ It shall take place in area where the detainee cannot be seen by anyone who does not need to be present, nor by a member of the opposite sex except a specifically requested appropriate adult.
- ♦ At least two people present other than the detainee, except in cases of extreme urgency, and if a juvenile one of these must be the appropriate adult.



Appropriate Adult's Role

- ◆ Except in urgent cases, a search of a juvenile may take place in the absence of the appropriate adult only if the juvenile signifies in the presence of the appropriate adult that they do not want the adult to be present during the search and the adult agrees. A record of the decision will be made and signed by the appropriate adult.



Code D - Fingerprints

These can be taken with or without the persons written consent:

- ◆ From a person detained at a police station in consequence of being arrested for a recordable offence if an officer of the rank of inspector or above has reasonable grounds for suspecting that the fingerprints will tend to confirm or disprove their involvement in a criminal offence or assist in establishing their identity, including showing that they are not a particular person.



- ◆ Reasonable force may be used, if necessary, to take a person's fingerprints without their consent.
- ◆ A person whose fingerprints are to be taken with or without consent shall be informed beforehand that his prints may be the subject of a speculative search.



Code D - Photographs

- ◆ An officer may photograph a detainee at a police station with their consent, or without if it is withheld or not practicable to obtain it; e.g. in the case of a juvenile, if the parent or guardian cannot be contacted in sufficient time to allow the photograph to be taken.
- ◆ The officer proposing to take the photograph may, for this purpose, require the person to remove any item or substance worn on, or over, all, or any part of, their head or face.

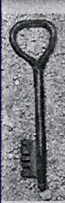


- ◆ If it is established the detainee is unwilling to cooperate sufficiently to enable a suitable photograph to be taken and it is not reasonably practicable to take one covertly, an officer may use reasonable force:
 - To take the photograph without their consent;
 - For the purpose of taking the photograph, remove any item or substance worn on, or over, all, or any part of, the person's head or face which they have failed to remove when asked.
- ◆ A photograph may be obtained without the person's consent by making a copy of an image of them taken at any time on a camera system installed anywhere in the police station




Code D – Intimate Samples

- ◆ An intimate sample means a dental impression or sample of blood, semen or any other tissue fluid, urine, or pubic hair, or a swab taken from a person's body orifice other than the mouth.
- ◆ These may be taken from a person in police detention only:
 - If an officer of inspector rank or above has reasonable grounds to believe the sample will tend to confirm or disprove the suspect's involvement in a recordable offence;
 - With the suspect's written consent.




Code D – Non-intimate Samples

- ◆ A non-intimate sample means:
 - A sample of hair, other than pubic hair, which includes hair plucked with the root;
 - A sample taken from a nail or from under a nail
 - A swab taken from any part of a person's body including the mouth but not any other body orifice;
 - Saliva;
 - A skin impression which means any record, other than a fingerprint, which is a record, in any form and produced by any method, of the skin pattern and characteristics or features of the whole, or any part of, a person's foot or any other part of their body.




- ◆ A non-intimate sample may be taken from a detainee with or without their written consent:
 - If a police officer of at least rank of inspector has reasonable grounds to believe the sample will tend to confirm or disprove the suspect's involvement in a recordable offence;
 - If they are in police detention as a consequence of arrest for a recordable offence or informed they will be reported for such an offence and has not had a non-intimate sample taken from them in the course of the investigation.
- ◆ Reasonable force may be used, if necessary.




Consent

- ◆ In the case of any procedure requiring a person's consent, the consent of a person who is mentally disordered or mentally handicapped is only valid if given in the presence of the appropriate adult, and in the case of a juvenile, the consent of a parent or guardian is required as well as theirs unless they are under 14, in which case the consent of a parent or guardian is sufficient in it's own right.




Outcomes

- ◆ At the end of the process in the police station, there are several options available.
- ◆ If attending for interview, it is important that both the Appropriate Adult and the solicitor remain until a decision is reached in order to advocate on behalf of a young person.




No Further Action

- ◆ The police decide there is either:
 - not enough evidence to proceed; or
 - the event does not warrant further investigation or prosecution.
- ◆ The person is released without charge or further investigation.




Reprimand

- ◆ For those who have committed a minor or first offence.
- ◆ This is a verbal warning from the police that next time they will not get off so lightly.
- ◆ The young person needs to have admitted the offence.
- ◆ This remains on their record for a set period of time, usually five years.




Final Warning

- ◆ This is the next stage after the reprimand and will again be given to young people for whom this is a second minor or first offence.
- ◆ It is a verbal warning from the police followed by a programme of intervention from a local agency.
- ◆ This remains on record for 5 years
- ◆ A risk assessment is completed by the police prior to them making the referral.




- ◆ A Final Warning is a serious matter. It is recorded by the police; it will influence them in their decision whether or not to institute proceedings if the person should offend again, and it may be cited in any subsequent court cases.
 - There must be evidence of the offender's guilt sufficient to give a realistic prospect of conviction;
 - The offender must admit the offence
 - The offender or, in the case of a juvenile, his parent or guardian, must understand the significance of a Final Warning
- ◆ Appropriate Adults can accept this charge.




Bail To Return

- ◆ In order to gather more evidence, such as forensics or witness statements, the police will ask the person to return on a specific date when they should be informed as to the outcome of the investigation. Occasionally people are bailed to be interviewed at a later date – an appropriate adult will also have to attend.
- ◆ A person may be bailed to attend an identification procedure. Consent from parent or guardian is required, and an appropriate adult will be required to attend with the young person.




Bail Conditions

- ◆ Where a custody officer has granted bail in criminal proceedings, he or another custody officer serving at the same station may, at the request of the person to whom it was granted, vary the condition of bail and in doing so may impose conditions or more onerous conditions.




- ◆ Appropriate Adults can sign for these conditions.
- ◆ Advocate on behalf of young person.
- ◆ Ensure parent or guardian is aware of this.
- ◆ Ensure conditions are 'reasonable'.
- ◆ Ensure young person understands them.
- ◆ Conditions may include:
 - Curfew
 - Sleeping at a given address
 - Stay out of a certain area.



Charge

- ◆ Charged and released – at end of process police feel they have sufficient evidence to charge immediately. A date to attend court will be set.
- ◆ Charged and detained – police feel they have enough evidence to charge but wish to detain for court the next day. This decision depends on their history and the type of offence committed.



Release

Young people should be asked how they are getting home and there are options depending on age and time of night:

- ◆ Police escort young person home
- ◆ Relative or other adult may be contacted to collect them.
- ◆ Young person can be given fare home.
- ◆ Social services can be contacted to arrange transportation.

