



Home Office

## **Police and Criminal Evidence Act 1984 (‘PACE’) Codes of Practice consultations**

A response to the Home Office  
consultations on PACE Codes A, B, E & F  
and C & H

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# 1. Introduction

- 1.1 Separate eight and five week public consultations were carried out in respect of Codes A, B, E and F and Codes C and H respectively. In accordance with section 67(4) of the Police and Criminal Evidence Act 1984, the statutory consultees (the Association of Police and Crime Commissioners, the Mayor's Office for Policing and Crime, the Common Council of the City of London, the Association of Chief Police Officers for England, Wales and Northern Ireland, the General Council of the Bar, the Law Society of England and Wales and the Institute of Legal Executives) and others were invited to comment. Separate invitations to the public at large to respond were also published on the Home Office Web site.
- 1.2 A total of 53 individual responses were received. Of these, 12 concerned Codes A, B, E and F and 41 concerned Codes C and H. Police respondents included the relevant National Policing lead, individual police forces, officers and police staff, the Independent Police Complaints Commission, Her Majesty's Inspectorate of Constabulary and Her Majesty's Inspectorate of Prisons, Her Majesty's Revenue and Customs, and organisations, charitable voluntary groups and others involved in supporting children and vulnerable adults in police custody which included The Youth Justice Board for England and Wales, the Howard League for Penal Reform and the Prison Reform Trust.
- 1.3 The majority of the responses and comments received either supported the draft Codes as circulated, or made constructive suggestions which we were able to incorporate. The draft for Code C generated the only responses we have not been able to accommodate within these revisions. These were the absence of clear proposals to amend primary legislation concerning 17 year olds, specifically PACE 1984, and concerns expressed by the police over the cost and resource implications arising from the requirements of the EU Directive. The revisions to Codes C and H make changes concerning the provision of appropriate adults for 17 year olds as required in the High Court judgement; the Home Office is giving further consideration to the need to amend primary legislation and will seek views from any body with an interest. The Home Office is working with the police to minimise any additional bureaucracy and burdens associated with interpretation and translation.
- 1.4 The tables at 2.2 and 3.2 summarise the responses to Codes A, B, E and F and to Codes C and H respectively. They briefly indicate the proposed outcomes.
- 1.5 Statutory consultation is a critical element in the development of the PACE codes. It helps to ensure that the police continue to have the ability to exercise their powers effectively whilst at the same time ensuring the appropriate safeguards are in place. We are grateful to all those who took the time to consider the proposed revisions and to respond to the consultations.
- 1.6 This Government response to the two consultations sets out a summary of the changes, provides a summary of responses and outlines the Government's proposed next steps.

## 2. Consultation on PACE Codes A, B, E and F

### 2.1 Summary of Changes

#### 2.1.1 Code A

Most of the changes to Code A reflect changes to legislation concerning terrorism powers. Terrorism powers to stop and search are now governed by a new Code of Practice issued under the Terrorism Act 2000. This came into force on 10 July 2012 and the terrorism provisions have therefore been removed from Code A.

Code A is extended to include the powers to search persons without them being arrested introduced by the Terrorism Prevention and Investigation Measure Act 2011 (TPIMS). These are outside the scope of the terrorism stop and search Code and their inclusion in Code A ensures that the conduct and recording of such searches is subject to that code.

We have also deleted Annex F (gender and searching) which has been superseded by Annex L in Code C.

#### 2.1.2 Code B

Most of the changes to Code B reflect changes to legislation concerning terrorism powers. In Code B, new provisions on the TPIMS powers to enter and search premises for the purposes of serving, monitoring and enforcing TPIMS notices replace the repealed control order provisions in the Prevention of Terrorism Act 2005.

The reference to a three calendar month period within which section 16(3) of PACE requires a search warrant to be exercised has been amended to acknowledge enactments which specify a shorter period. An example is Section 23 of the Misuse of Drugs Act 1971 where the period is one calendar month.

#### 2.1.3 Codes A and B

We have corrected the threshold for exercising the powers in sections 139B and 139AA of the Criminal Justice Act 1988 on school premises to search persons and to search for weapons. This was reduced from reasonable *belief* to reasonable *suspicion* by section 48 of the Violent Crime Reduction Act 2006. We have also amended the summaries of the Equality Act 2010 for accuracy.

#### 2.1.4 Codes E and F

The main changes to Codes E and F complement the 2012 revisions to Codes C and G and concern the conduct and recording of voluntary interviews of suspects who are not under arrest. For voluntary interviews of suspects not in police detention which need not take place at a police station, the changes provide for a sergeant to be responsible along similar lines to the arrangements in place for those in custody. The other changes to Codes E and F are:

- (a) the insertion of the Equality Act summary which is included in other Codes;

- (b) the correction of cross references to the code of practice for video recording interviews in terrorism cases which came into force on 10 July 2012;
- (c) to make amendments and new provisions for the security of master recordings to ensure consistency in Codes E and F and the corresponding terrorism interview recording provisions; and
- (d) to make consequential changes arising from Codes C and H concerning the treatment of 17 year olds and juveniles and interpreters.

## 2.2 Table of Responses

2.1.1 Twenty-four comments were received from twelve organisations including policing bodies (including a number of police forces, Her Majesty's Inspectorate of Constabulary, the Independent Police Complaints Commission and the Police Federation), legal representative bodies (such as the Law Society) and Non-Departmental Public Bodies (such as the Youth Justice Board). The comments and our responses, are summarised below:

**\*NOTE:** Reason/comment column includes linked cross references to 1<sup>st</sup> column

* No.	From – Organisation	Code reference.	Response & purpose	Accept Y/N or NR	*Reason/Comment NR= Not relevant to revising the text of the Code at this time.
1.	Bar Council of England and Wales and the Criminal Bar Association (Joint Response)	Codes A & B Code E & F	Changes are functional and generally uncontroversial. Nothing objectionable in the amendments of these Codes.	NR	
2.	Discrimination Law Association	E1.0 F1.0	Concerned that the final sentence of these paragraphs (which is identical in Codes A, B all six Codes) fails to reflect accurately the legal duty of police forces under section 149 of the Equality Act 2010.	Y	Revised together with the corresponding provisions in Codes A, B, C & H. Clarify the scope of the Equality Act 2010 supported by new Note for Guidance.
3.	Her Majesty's Revenue & Customs	A, B E & F	Accept all the proposals	NR	
4.	Independent Police Complaints Commission (IPCC)	A, B E & F	General comment: Suggest that once the PACE codes are updated, forces should take proactive steps to make officers aware of how any revisions or additions impact on their work. Information about these updates could be communicated through electronic or shift briefings, or through more formal refresher training where this is provided.	NR	NR
5.	Law Society	E3.1(a)	Query about the Code E3.1(a) exception for audio recording an interview elsewhere than at a police station and its application to post-arrest interviews taking place before the suspect arrives at a police station where there are audio recording facilities.	N	The exception is provided for by C11.1 which permits a post-arrest 'urgent interview' before the suspect arrives at a police station.
6.	Law Society	E4.14 E7.10	Apparent oversight - the reminder about the right to legal advice added to E4.14 for removal media recording should also be added to E7.10 for secure digital network recording.	Y	E7.10 amended.

<b>* No.</b>	<b>From – Organisation</b>	<b>Code reference.</b>	<b>Response &amp; purpose</b>	<b>Accept Y/N or NR</b>	<b>*Reason/Comment</b> NR= Not relevant to revising the text of the Code at this time.
7.	Law Society	E4.17 E7.12	In E4.17 the words 'he or she has' have been changed to 'they have'. In the equivalent paragraph E7.12 for Secure Digital Network recording, it remains as 'he or she has'.	Y	E7.12 amended.
8.	National Union of Journalists	Code B	The statutory provisions relating to the search for, and seizure of, excluded material, special procedure material and journalistic material should be detailed in full in Code B. This is to assist those who may not be fully familiar with the statutory provisions and for whom they may not be readily to hand.	N	Outside scope of present consultation. Search warrants & production orders are subject to judicial scrutiny and new Criminal Procedure Rules.
9.	Police – BTP	A5.4	Requirement to monitor stop and search refers to the Police and Crime Commissioner however this is not applicable to BTP. It would be beneficial if an exception could be made for the British Transport Police Authority to fulfil this role for BTP.	N	Responsibility for monitoring stop & search rests with the elected local policing body for the geographical force area, not the BTP Police authority. A5.4 amended to make this clear.
10.	Police – BTP	E6.3 F6.3	Security of master recordings refers to the Chief Officer of Police however the BTP Chief Constable does not constitute a Chief Officer of Police and so BTP would be excluded from the application of this provision. An exception for BTP would again be required.	N	For the purposes of Code E & BTP investigations, chief officer would include the BTP. Specific exception not necessary. Applies to other non-Police Act forces.
11.	Police – Dyfed-Powys	E7.11 F4.15 & F4.18	The provision for voluntary interviews needs to be included.	Y	References to E3.3/F3.3 and interviews with suspects not under arrest added.
12.	Police – Dyfed-Powys	General	Where headings/sub headings of each code are the same, wording of the subsequent paragraphs should be the same. Compare E4.8/E4.9 with F4.8/F4.9 of Code F. Some variances under other headings and between procedures to be followed for digital and non-digital equipment.	Y	Some minor adjustments made.
13.	Police - Hertfordshire	Code F F3.3/3.5 F4.8/Note 4G	F4.8/Note 4G indicate that there is no statutory requirement for visual recording by making references that to continue against the suspects wishes are subject to comment at court (if the interviewer proceeds to visually record). F3.3/3.5 however imply a statutory requirement to visually record all interviews.	N	See 16
14.	Police - Hertfordshire	E4.18	The word 'rank' to be removed (3 <sup>rd</sup> line from bottom of paragraph)	Y	
15.	Police - Metropolitan	Code A	For consistency, the Terrorism Stop & Search Code should be amended to include the TPIMS powers and avoid the need to include them in Code A.	N	Precluded by the statutory scope of the Terrorism Act stop & search Code.

* No.	From – Organisation	Code reference.	Response & purpose	Accept Y/N or NR	*Reason/Comment NR= Not relevant to revising the text of the Code at this time.
16.	Police Federation	Code F F3.1/F3.3 F4.8/Note 4G	Conflicting paragraphs: F 3.1 states it is the interviewer’s decision whether or not to visually record an interview but F3.3 states a decision not to visually record can only be made by the custody officer or a Sergeant.  It reads like it is a statutory requirement to visually record interviews when it is not. F4.8 and Note 4G supports that it is not a statutory requirement and this needs to be reflected and clarified in F3.1.	NR	The transitional arrangements make it clear that there is <u>no statutory requirement</u> to visually record and the changes retain the approach in the current Code F. This applies the audio recording regime to prevent arbitrary changes of mind following an interviewer’s decision to visual record made under F3.1 & thereby ensure that mandatory audio recording is not overlooked.
17.	Police Federation	E3.1	Changing the requirement to have every interview audio recorded will place an unnecessary burden on officers hampering operational effectiveness as well as a financial burden on forces. Unnecessary additional burdens on supervisors at a time when they are increasing due to reductions in the number of sergeants.	N	The changes extend appropriate audio recording & supervisory safeguards to voluntary interviews for <i>indictable offences</i> only. Expectation is that most will take place by prior appointment at police stations with audio recording equipment & offset by reduced demand on custody facilities.
18.	Youth Justice Board	A5.4	Should local scrutiny arrangements also include publication of the stop and search data?	N	Matter for the discretion of the elected local policing body when making the arrangements.
19.	Youth Justice Board	ANNEX C	Amend ‘community support officer’ and ‘CSO’ to Police community support officer’ and ‘PCSO.	N	Code A uses the statutory term ‘community support officer’ which is taken from the Police Reform Act 2002.
20.	Youth Justice Board	B2.3	After 3rd bullet point insert “as below” then new line:  ‘It is unnecessary to seek consent under paragraphs 5.1 and 5.2 if this would cause disproportionate inconvenience to the person concerned.’  This is only a line but makes much easier reading and reference for the user.	N	Addition duplicates B5.4 and the consent option cannot be properly implemented without reading B5.1 and B5.2.



* No.	From – Organisation	Code reference.	Response & purpose	Accept Y/N or NR	*Reason/Comment NR= Not relevant to revising the text of the Code at this time.
21.	Youth Justice Board	B6.8	Amend to allow officer to show the occupier the copy warrant but refrain from giving them a copy until the search is completed.	N	Statutory requirement in s.16(5) of PACE for the copy warrant to be provided at the time the constable seeks to execute the search warrant, not after the search has been completed.
22.	Youth Justice Board	E1.5, E1.11	Repeat cross references to provisions in Code C in full in Codes E & F to avoid the need to refer to Code C.	N	Citing only paragraph numbers avoids the need to revise Codes E & F if the provisions in Code C are revised (as has happened in the past).
23.	Youth Justice Board	E2.3 F2.5	Amend to an interviewer's reasons for not disclosing identity to be recorded in both the custody record <i>and</i> their note book rather than 'and/or'.	N	Unnecessarily prescriptive. Matter for the operational discretion of police.
24.	Youth Justice Board	E4.2 F4.2	Remove the reference to the suspect being 'arrested' for the purposes of special warnings under s.36 and s.37 of the Criminal Justice and Public Order Act 1994	N	This is a statutory requirement – special warnings apply only if the suspect has been arrested.

## 2.3 Key Comments and Home Office Responses

2.3.1 Codes E and F do not properly reflect the legal duty of police officers under section 149 of Equality Act 2010 to eliminate discrimination, advance equality of opportunity and foster good relations between people both with and without a shared 'protected characteristic' under the Act.

**Home Office response: We have amended the appropriate paragraphs.**

2.3.2 How does the requirement to make an audio recording of an interview that takes place elsewhere than at a police station apply to interviews made after arrest but prior to the arrival of the suspect at the police station (where there would be facilities for making an audio recording)?

**Home Office response:**

**The exception is provided for in paragraph 11.1 of Code C which allows the police to conduct an urgent interview after arrest under certain exceptional circumstances. These exceptional circumstances are limited to situations where delaying the interview, including delay to arrange audio recording, would lead to serious consequences such as, harm to people, damage to evidence or property, alerting others suspects.**

2.3.3 The requirement to give a reminder about the right to legal advice under paragraph 4.14 of Code E appears to have been omitted from paragraph 7.10.

**Home Office response: We have amended the appropriate paragraph.**

2.3.4 Provisions relating to the search for, and seizure of, excluded, special procedure and journalistic material in Code B need to be expanded.

**Home Office response:**

**This is beyond the scope of the current consultation. Search warrants and production orders are subject to judicial oversight and come under the new Criminal Procedure Rules.**

2.3.5 The requirement for police and crime commissioners (PCCs) to monitor the use of stop and search does not apply to the British Transport Police (BTP) which retains a police authority.

**Home Office response:**

**The BTP police authority does not have the jurisdiction to do this. We have amended paragraph 5.4 of Code A to reflect this.**

**Responsibility for monitoring stop and search rests with the elected local policing body<sup>1</sup> for the Police Act force area, not the BTP Police authority. However, we would expect the BTP to report the use of stop and search to the locally elected policing body. We have amended paragraph 5.4 of Code A to clarify this.**

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<sup>1</sup> The Police and Crime Commissioner except in the Metropolitan Police Service (where it is the Mayor's Office for Policing and Crime) the City of London Police (where it is the City of London Corporation).

- 2.3.6 The section on the security of master recordings does not apply to the BTP because the BTP Chief Constable is not included under the legal definition of “chief officer of police”. Can an exception for the BTP be added?

**Home Office response:**

**Although the codes of practice do not apply directly to the non-Police Act forces (such as the BTP), section 67(9) of PACE nonetheless requires all such forces to “have regard” to the codes. This paragraph would therefore apply to the BTP and an exception is not necessary.**

- 2.3.7 Reference to voluntary interviews (with suspects not under arrest) needs to be included in Codes E paragraph 7.11 and Code F, paragraphs 4.15 and 4.18.

**Home Office response: We have amended the appropriate paragraphs.**

- 2.3.8 Code F implies that there is a statutory requirement to visually record all interviews when in fact there is not.

**Home Office response:**

**The transitional arrangements for Code F make it clear that there is no requirement to visually record any interview.**

- 2.3.9 The requirements to audio record every voluntary interview places an unnecessary burden on the police.

**Home Office response:**

**The requirement to audio record a voluntary interview applies only to indictable offences. The expectation is that these interviews will take place by prior appointment. The associated costs will be offset by the reduced demand for custody facilities.**

- 2.3.10 Where a search of premises is carried out, a copy of the search warrant should not be required to be provided until after the search has been completed.

**Home Office response:**

**Section 16(5) of PACE requires the warrant to be provided at the time of the search, not after it has been completed.**

- 2.3.11 The reasons for an interviewer not disclosing their identity should be recorded in both the custody record and their pocket book not and/or.

**Home Office response:**

**To require a record to be made in both documents would be unnecessarily prescriptive. This is an operational matter for the chief officer to determine.**

2.3.12 Special warnings should not refer to the suspect being arrested.

**Home Office response:**

**Under sections 36 and 37 of the Criminal Justice and Public Order Act 1994, special warnings apply only to suspects who have been arrested.**

# 3. Consultation on PACE Codes C and H

## 3.1 Summary of Changes

3.1.1 The main changes to Codes C and H mirror each other with regard to safeguards for 17 year old suspects and for suspects who do not speak and understand English. They are required in order to:

- (a) comply with the High Court judgement concerning safeguards for 17 year olds- (see <http://www.judiciary.gov.uk/Resources/JCO/Documents/Judgments/c-v-sshd-and-met-police-judgment.pdf>) and;
- (b) implement the EU Directive on the right to interpretation and translation in criminal proceedings (see [EU Directive 2010/64/EU](#)).

3.1.2 The changes to which the High Court judgement applies extend the requirement for an appropriate adult, with modifications, to 17 year olds. They do not and cannot amend any statutory provisions which relate to 16 year olds and the definition of juvenile for the purposes of PACE in section 37(15) remains. The revisions point this out with regard to:

- (a) section 38 of PACE where the age limit for persons detained after charge to be transferred to local authority accommodation pending appearance at court remains at 16; and
- (b) section 65 of PACE whereby 17 year olds can continue to give consent in their own right without the need for their parent or guardian to also give consent which applies to those ages 16 year and under.

3.1.3 The changes required by the EU Directive apply to the investigation stage for which the Secretary of State of the Home Department is responsible. The main impact of these changes is the introduction of a right for a suspect to have a written translation of 'essential documents'. These are defined in Code C as comprising authorisations of detention under PACE given by police and the court, details of offences charged and written interview records. Various orders which deal with implementation of other aspects of the Directive are listed in the transposition note published alongside the Criminal Procedure (Amendment) Rules 2013/2525.

## 3.2 Table of Responses

3.2.1 We received a total of 70 comments from 51 organisations including police forces and related bodies (e.g. Her Majesty's Inspectorate of Constabulary), legal representative bodies (such as the Bar Council), Non-Departmental Public Bodies (such as the Youth Justice Board), pressure groups (such as the Standing Committee on Youth Justice), representative bodies (such as the National Appropriate Adult Network) and individuals. The responses we received, and our responses, are summarised below:

**\*NOTE:** The 'From' and Reason/Comment columns includes linked cross references to other responses.

* No.	From – Organisation/ individual	Code reference	Response & purpose	Accept Y/N or NR	*Reason/Comment NR= Not relevant to revising the text of the Code at present.
1.	Bar Council	Codes C & H	Agree to changes	NR	
2.	Children's Commissioner for Wales	Code C C1.5A	Revision of Codes C and H concerning the treatment of 17-year-olds welcomed. Disappointed that the statutory provisions concerning transfer to local authority accommodation have not been amended.	NR	Further changes require amendment to primary legislation. Changes to primary legislation will require consultation with other government departments and interested parties. Response forwarded for consideration in that context.
3.	Dorset YOT PACE Co-ordinator - Supervisor of AAs.	Code C C1.5A	Fully support changes suggested.	NR	
4.	HM Inspectorate of Constabulary/Prisons	Code C C1.5A	Changes welcome but concerns that they do not go far enough to apply the full range of safeguards currently applicable to juveniles to 17-year-olds, particularly with regards to: 1. Section 38 PACE - transfer to local authority accommodation after charge; and 2. Section 65 PACE and capacity to give appropriate consent.	NR	1.& 2. Further changes require amendment to primary legislation. C16.7 extended to emphasise this with regard to s.38 of PACE & power of LA to detain. Changes to primary legislation will require consultation with other government departments and interested parties. Response forwarded for consideration in that context.

* No.	From – Organisation/ individual	Code reference	Response & purpose	Accept Y/N or NR	*Reason/Comment NR= Not relevant to revising the text of the Code at present.
5.	HM Inspectorate of Constabulary/Prisons	Code C C11.18(c) Code H H11.11(c)	1. Urgent interview provisions require clarification.  2. 'Effective' communication can only be achieved by speaking and not by any other means as implied.	1. Y  2. N	1. C11.18/H11.11 revised and simplified. (see 38 NPL response) 2. Retained as necessary for 'urgent' interviews following consultation with police, HMRC & Border Force investigators.
6.	HM Inspectorate of Constabulary/Prisons	Code C Note 13B Code H Note 13B	1. Qualifications to determine ability to speak & understand are not made clear. 2. A person should not be further detained for an assessment / confirmation of their ability to speak and understand English	1. NR 2. NR	1. Details of the arrangements for the provision of interpreters in the Criminal Justice System and setting qualifications and standards are outside the scope of the Code. 2. Determining need for interpreter is relevant to need to detain to interview authorised under PACE.
7.	HM Inspectorate of Constabulary/Prisons	Code C Note 3E	Note 3E reference to Guidance on Safer Detention and Handling should be amended to read 'Authorised Professional Practice on Detention and Custody'.	Y	Notes 3E & 8C amended to refer to 'The Detention and Custody Authorised Professional Practice (APP)' (See 58 - West Yorkshire Police response)
8.	HM Inspectorate of Constabulary/Prisons	Code H Intimate Search, x-ray & ultra sound.	There is no Code H equivalent for: 1. Code C: Annex A – Intimate and Strip searches 2. Code C Annex K - X Rays and Ultrasound scans. Recommend amending Code H.	1. NR 2. N	1. Code H Annex A mirrors Code C Annex A. 2. X-rays/ultra sound scans (s.55A PACE) require drug related arrest for offence - not applicable to arrests under section 41 of the Terrorism Act 2008.
9.	Howard League for Penal Reform	Code C C1.5A	Decision to amend Code C in relation to appropriate adults for 17-year-olds following the HC judgment welcomed.  Disappointed that the Code and primary legislation continue to draw distinctions between 17-year-olds and other children particularly with regards to Section 38 PACE - transfer to local authority accommodation after charge.	NR	Further changes require amendment to primary legislation. C16.7 extended to emphasise this with regard to s.38 of PACE & power of LA to detain.

* No.	From – Organisation/ individual	Code reference	Response & purpose	Accept Y/N or NR	*Reason/Comment NR= Not relevant to revising the text of the Code at present.
10.	Individual (Independent Custody Visitor).	Code C Various	1. Require consent for strip search with the detainee removing their clothes. 2. Extend list of entitlements. 3. Fit cells with audio /video feeds accessible to the detainee. 4. Use specially trained officers to avoid use of force to transfer vexed detainees. 5. Restraint techniques not to be used on arrest unless absolutely necessary.	1. N 2-5 NR	1. Strip searches subject to statutory power (s.54 of PACE) 2. & 3. Matters for operational discretion of police & the Detention and Custody APP. 4. & 5. Training issues for police.
11.	Individual (CB)	Code C C1.5A(a)	Submits detailed study on local authority PACE arrangements for dealing with children to assist in addressing legislative inconsistencies.	NR	Study forwarded for information concerning further changes which require amendment to primary legislation.
12.	Individual (SW)	Code C C1.5A(a)	There should be an explicit ministerial commitment to amend PACE and bring 17 year-olds within the scope of s.38 of PACE and the requirements to transfer to Local Authority accommodation after charge.	NR	Further changes require amendment to primary legislation. C16.7 extended to emphasise this with regard to s.38 of PACE & power of LA to detain
13.	Law Society	Code C C2.4	Do not agree with the amendment to C2.4 which inserts the words 'or the justifiable needs of the investigation'. We are not aware that the inspection of custody records is either leading to delays in investigations, or to any other concerns with respect to the investigation.	Y	Proposed addition deleted.
14.	National Appropriate Adult Network (NAAN)	Code C C1.5A C2.4 C13.6	<b>Matters relevant to making changes to the present revised Codes:</b> 1. The amendment in C2.4 about to access to custody records should be deleted. 2. Parents acting as Appropriate Adults should have access to an interpreter where the child is fluent in English but the parent is not. <b>Matters requiring separate consideration for the next revision of Codes C &amp; H</b> The response highlighted a range of matters for consideration, including: 1. Amendment to PACE and other statutory provisions which treat 16 year-olds as adults and capacity of person under 18 to give consent. 2. Wishes of 16 & 17 year-olds concerning informing parents and role of appropriate adult in discussing these concerns and ensuring person fully understands their position. 4. Resources.	1. Y 2. Y	1. Proposed addition deleted. 2. New paragraphs C13.2A & H13.3 added to mirror C/H13.6. See SCYJ response 68. Response forwarded for consideration in the context of: - Changes to primary legislation which require consultation with other government departments and interested parties & - Operational police guidance (APP)
15.	Peterborough - Appropriate Adult Service Co-ordinator	Code C C1.5A	Thoroughly endorse the NAAN response and support its recommendations. Provides sample data concerning the demand for appropriate adults.	NR	Data forwarded for consideration in context of future changes.



* No.	From – Organisation/ individual	Code reference	Response & purpose	Accept Y/N or NR	*Reason/Comment NR= Not relevant to revising the text of the Code at present.
16.	Police - Cheshire	Code C C13.10B Annex M.	1. No issues with the extended safeguards for 17-year-olds. 2. Concerns about requirement to provide written translation of 'essential documents' to suspects who do not speak or understand English and how the exception might apply in practice.	NR	<u>It is important that the exception in the Directive does not become the rule.</u> We will work with the National Policing Lead & College of Policing to determine need for further guidance and support.
17.	Police – Avon and Somerset (Individual custody support officer)	Code C C1.5A	Requirement for all 17 year olds to have an appropriate adult is unnecessary.	N	There is a well established legal obligation to extend the safeguards in 17-year-olds which has been accepted.
18.	Police – Bedfordshire Ch Inspector on behalf of ACC.	Code C & H C1.5A C13. Code H H1.11A H13.	The proposed draft revisions for Codes C and H are fully supported. The revisions help to remove the anomaly in PACE and are welcomed. Foresee a need to improve appropriate adult services to meet increased demand but this is not a complex task. Revisions to Code H are not likely to impact on custody process. Interpretation and translation services have been provided for many years and it is clear that these revisions are necessary in to protect an individual's right to fair trial within the European Union which is clearly a positive change.	NR	NR
19.	Police – British Transport Police T/ACC Corporate Recourses.	Code C C1.5A Code H C1.1A	<b>Safeguards for 17-year-olds</b> Support the approach in C1.5A to treat 17 year olds as juveniles subject to a few exceptions. Request an indication as to when primary legislation will be amended to remove the exceptions.	NR	Changes to primary legislation will require consultation with other government departments and interested parties.
20.	Police – British Transport Police T/ACC Corporate Recourses.	Code C 13.10B Annex M	<b>Interpretation and translation</b> 1. Request further information concerning what are 'essential documents,' when translations need to be created and provided and the exception. 2. Concerned that requirement for written interview records to be created contemporaneously by the interpreter for the person to check and sign will create significantly delay and will impact upon the flow of an interview.	1. NR 2. NR	1. <u>It is important that the exception in the Directive does not become the rule.</u> We will work with the National Policing Lead & College of Policing to determine need for further guidance and support. 2. Applies only to interviews for which a <u>written</u> record is required see C11.11, 13.3, 13.4 & Code E4.7. No change in current practice.

* No.	From – Organisation/ individual	Code reference	Response & purpose	Accept Y/N or NR	*Reason/Comment NR= Not relevant to revising the text of the Code at present.
21.	Police – Cambridge Continuous Improvement Team	Code C C13.10B Annex M	Request further information concerning: 1. What are ‘essential documents,’ when translations need to be created and provided and the exception; 2. Impact on the “custody clock” and delaying release of suspect. 3. Translation of the documents for the execution of the European arrest warrant.		1. <u>It is important that the exception in the Directive does not become the rule.</u> We will work with the National Policing Lead & College of Policing to determine need for further guidance and support. 2. Table in Annex M amended with new Note to make it clear that detention cannot be extended solely to create and provide written translations. 3. Referred for UK Immigration.
22.	Police – Devon and Cornwall T/Superintendent Head of Criminal Justice.	Code C C7.2 Code H H7.2	Concerned about Code C & H 7.2 and the mandatory notification of arrest of citizens of independent Commonwealth countries or foreign nationals for which the link to the government website has been removed.	NR	Internet access re-established. Link to relevant web pages included in both Codes.
23.	Police – Devon and Cornwall T/Superintendent Head of Criminal Justice.	Code C C13.10B Annex M	1. In Annex M, Table of Essential Documents, 1(a), “Code C paragraph 3.4 and 15.6(a)” should read “15.16(a)”. 2. With regard to the provision of written translations of essential documents., request that the Home Office provide online translations in respect of the General Grounds for Detention (initial authorisation, custody reviews for continued detention, and remand in custody for court hearings), in multiple languages, on similar lines to those already provided for a detainees Rights and Entitlements.	1. Y  2. NR	1. Reference amended.  2. We are working with the National Policing Lead & College of Policing to assess the need for ‘templates’ for these authorities and how best to address the need. In the meantime, Forces need to work on this with their interpreter service providers and ensure good practice is shared.
24.	Police – Devon and Cornwall T/Superintendent Head of Criminal Justice.	Code C/ C1.5A Code H H1.11A	The changes in respect of 17-year-olds in Codes C and H are what were expected and there are no issues with the suggested amendments.	NR	NR
25.	Police – Gwent Inspector	Code C C1.5A	No issues with the proposed amendments, staff already aware and complying with the national interim guidance for offering all 17 year old detainees the right to an appropriate adult.	NR	NR

* No.	From – Organisation/ individual	Code reference	Response & purpose	Accept Y/N or NR	*Reason/Comment NR= Not relevant to revising the text of the Code at present.
26.	Police – Gwent Chief Inspector Wales Interpretation and Translation Service (WITS)	Code C Note 13A Code H Note 13A	Concerned that citing the Ministry of Justice Framework Agreement of 2011 (MoJ FA) as an example of services that satisfy the requirements of the EU Directive, gives credence to a commercial contract which has been widely discredited. 1. Suggest the reference be removed. 2. Suggest deleted reference to national arrangements be reinstated.	1. N 2. N	1. Procurement arrangements left to the discretion of chief officers and selection processes are not affected. Note 13A amended to make this clear. 2. Details of the arrangements for the provision of interpreters in the Criminal Justice System and setting qualifications & standards are outside the scope of the Code. Responses forwarded for the information of the Ministry of Justice.
27.	Police – Hampshire Staff Officer to ACC	Code C C1.5A	Although primary legislation has not been amended, what is proposed does appear workable. The main issue is resources to meet the increased demand. Extra demand on AA providers will depend on how many 17-year-old detainees have access to/will accept a family member who is available as an appropriate adult.	NR	NR
28.	Police – Hertfordshire Detective Chief Inspector Head of Custody.	Codes C and H	We completely agree with the proposed changes to the Codes, with no further comment above that	NR	NR

* No.	From – Organisation/ individual	Code reference	Response & purpose	Accept Y/N or NR	*Reason/Comment NR= Not relevant to revising the text of the Code at present.
29.	Police – Humberside	Code C C13.10B Annex M Note 13A	Request further information concerning: 1. What are ‘essential documents,’ when translations need to be created and provided and the exception; 2. Whether a suspect can be detained for the purposes of written translations. 3. Interpreters– checking qualifications.	1. NR 2. NR 3. NR	1. <u>It is important that the exception in the Directive does not become the rule.</u> We will work with the National Policing Lead & College of Policing to determine need for and nature of further guidance and support. 2. Table in Annex M amended with new Note to make it clear that detention cannot be extended solely to create and provide written translations. 3. Procurement arrangements are left to the discretion of chief officers and existing selection processes are not affected. Note 13A amended to make this clear.  Detailed arrangements for providing interpreters in the Criminal Justice System and setting qualifications and standards are outside the scope of the Code.
30.	Police - Kent Chief Inspector Head of Central Custody	Code C C13.10B Annex M	Requests concerning the requirement to translate key documents: 1. That the suite of documents be defined by the Home Office on behalf of all police forces in England and Wales. 2. The suite of key documents is translated once into the languages into which the notice of rights and entitlements has been translated and made available to all forces to prevent duplication.	1. N  2. NR	1. Table in Annex M defines the minimum list. Others are at the discretion of police. 2. We are working with the National Policing Lead & College of Policing to assess the need for ‘templates’ for these authorities and how best to address the need. In the meantime, forces need to work on this with their interpreter service providers and ensure good practice is shared.

* No.	From – Organisation/ individual	Code reference	Response & purpose	Accept Y/N or NR	*Reason/Comment NR= Not relevant to revising the text of the Code at present.
31.	Police – Kent Chief Inspector Head of Central Custody	Code C C1.5A	Support for the changes concerning 17 year olds. Concerned about the costs of providing an appropriate adult service to cover 17 year olds.	NR	NR
32.	Police – Merseyside	Code C C1.5A	Request to extend Notes for Guidance with regard to: 1. Detention of 17-year-olds after charge to reinforce the applicability of s.38 (6) PACE. 2. Cases in which police have no discretion over release (Breach of Bail, No Bail Warrants, etc) the child or young person concerned will remain in police custody. 3. Detention in police custody of child or young person in pre-charge where this is necessary and overnight bail to return to the station.	1. N 2. N 3. N	Training issues and requests for further guidance referred to the National Policing Lead and College of Policing. 1. Post charge application of Section 38 PACE is quite clear. C16.7 is extended to emphasise this with regard to power of LA to detain which applies only to s.38 & police responsibility. 2. Note 15B lists a range of detention powers other than PACE i.e. not subject to s.38(6). 3. Use of bail is an operational matter for police.
33.	Police – National Policing Lead	Code C C1.5A Note 1L/Note 1M Code H H1.11A Note 1O/Note 1P	<b>Concerning the treatment of 17 year olds:</b> 1. The principal legislation should brought into line with the Codes of Practice at the earliest opportunity, specifically, Detention after charge – juvenile to be transferred to local authority accommodation (s.38) and appropriate consent (s.65). Further legislative provisions relating to juveniles included. 2. Impact on provisions of appropriate adults and local authority accommodation needs to be examined & problems addressed. 3. Note 1M should read ‘all other PACE safeguards are extended’	1/2 NR 3. Y	1. & 2. Changes to primary legislation and impact will require consultation with other government departments and interested parties. Response forwarded for consideration in that context. 3. Amended to refer to safeguards ‘in this and other Codes’
34.	Police – National Policing Lead	Code C C7.2	Internet access to accurate list of countries for which notification of arrest is mandatory is the only seriously cost effective option and should be re-instated.	Y	Internet access re-established. Link to relevant web pages included in both Codes.

* No.	From – Organisation/ individual	Code reference	Response & purpose	Accept Y/N or NR	*Reason/Comment NR= Not relevant to revising the text of the Code at present.
35.	Police – National Policing Lead	Code C C13.10B Annex M	1. Template translations of essential documents for translation should be provided. 2. Exception an oral summary or translation of documents should be acceptable if authorised by the custody officer for detainees who have difficulty in reading.	1. Y 2. N	1. We are working with the National Policing Lead & College of Policing to assess the need for ‘templates’ for these authorities and how best to address the need. In the meantime, forces need to work on this with their interpreter service providers and ensure good practice is shared. Arrangements in progress for provision of templates. 2. Exception is set by the directive. New Note 13C reminder about C3.20 & requirement to provide assistant if suspect cannot read.
36.	Police – National Policing Lead	Code C C13.1A	Under procedures to help determine, add ‘whether a suspect is able to read and what language they are able to read’.	Y	Not an express requirement of the Directive, added as a new Note 13C linked to C3.20.
37.	Police – National Policing Lead	Code C C13.12	New paragraph ‘In Wales, wherever the provisions of section 13 make reference to English, that reference should be read as a reference to English or Welsh.’	Y	New para 13.1C in Codes C & H to ensure Welsh Language Schemes are not affected.
38.	Police – National Policing Lead (NPL)	C11.18(c)	Needs to be clarified.	Y	C11.18 revised and simplified. See 5 HMIC/HMIP response
39.	Police – North Wales	Code C C1.5A	Clarify and simplify by amending the definition of a juvenile to young people under 18 with the statutory provisions highlighted as exceptions.	N	Definition is set by s.37(15) PACE. Revised approach distinguishes between 16 and 17 year olds. See 61 Prison Reform Trust response.
40.	Police – North Wales	Code C C7.2	Internet access to accurate list of countries for which notification of arrest is mandatory is the only seriously cost effective option and should be re-instated.	Y	Internet access re-established. Link to relevant web pages included in both Codes.
41.	Police – North Wales	Code C C13.10B Annex M	The exception whereby a custody officer may authorise an oral summary or translation instead of a written translation needs to be simplified and sentence shortened.	N	Emphasis necessary to ensure the exception does not become the rule.

* No.	From – Organisation/ individual	Code reference	Response & purpose	Accept Y/N or NR	*Reason/Comment NR= Not relevant to revising the text of the Code at present.
42.	Police – Northumbria Chief Superintendent and Head of Criminal Justice Department,	Codes C & H	Changes assessed by force Custody Manager - none appear contentious or to have any unintended consequences. Expectation that learning requirements will be considered in due course.	NR	NR
43.	Police – Nottinghamshire Head of Custody for ACC Crime & Justice	Code C C1.5A	The changes simply recognise the April 2013 High Court decision regarding the treatment of 17 year-year-olds. We are already working in accordance with the interim proposals and this will have no further impact for Nottinghamshire Police.	NR	The requirement arising from C1.5A to call an appropriate adult will supersede the 'offer' applicable under the interim guidance.
44.	Police – South Wales Head of Custody Services	Code C C1.5A	Requests for further guidance: 1. Will onus on Social Services for the provision of appropriate adult services apply to 17-year-olds? 2. For intimate samples from a 17-year-old what legislative provision has been catered for as to who decides to consent for the taking of a sample? 3. Provision of written translations of essential document suggests the need for national prescribed form of words set for each document required to avoid 43 forces producing their own versions.	1. NR 2. NR 3. NR	1. Yes Section.38(4)(a) of the Crime and Disorder Act 1998 ('appropriate adult services') applies to children and young persons, i.e. under 18s. Therefore applies to 17-year-olds and is not restricted to juveniles. 2. See C1.5A(b) and Note 1M(d)(i) last bullet point. 3. We are working with the National Policing Lead & College of Policing to assess the need for 'templates' for these authorities and how best to address the need. In the meantime, forces need to work on this with their interpreter service providers and ensure good practice is shared.
45.	Police – Sussex Crime and Justice Dept	C13.10	Significant change - The wording requires an interpreter to translate the review process and s.42 extension but it removes any reference to the time. In practice this will mean that the s.40 review process will be explained to the detainee when the interpreter arrives. Good practice requires an interpreter to be present for a s.42 extension so this will be little change.	NR	Reflects what should be current practice for interpreter to available without delay (in person or by telephone) to ensure the suspect is able to understand the grounds for their detention.
46.	Police – Sussex Crime and Justice Dept	C13.10A 13.10C	Process for dealing with complaints about quality of interpretation not likely to work in practice. Problem more likely to come out after the event.	NR	A requirement of the Directive.

* No.	From – Organisation/ individual	Code reference	Response & purpose	Accept Y/N or NR	*Reason/Comment NR= Not relevant to revising the text of the Code at present.
47.	Police – Sussex Crime and Justice Dept	Code C C13.10B Annex M	General: The interpreter revisions complicate a straightforward idea. It would be more practical for a custody officer to authorise an oral translation (which may be recorded on internal CCTV systems) of the essential documents rather than engage the issue of written translations and associated waivers.	NR	See Reason/Comment 51.
48.	Police – Sussex Crime and Justice Dept	Code C C3.12	In para 3.12 ‘as soon as practicable’ amended to ‘without delay’. Removes discretion for the custody officer to only call the interpreter when it is practical. It takes no account of a person who is not in a fit state to be dealt with.	NR	Term used in the directive. We will work with the National Policing Lead & College of Policing to determine need for and nature of further guidance and support.
49.	Police – Sussex Crime and Justice Dept	Code C C1.5A	1. Changes concerning treatment of 17-year-olds welcome. 2. In the absence of amendment to definition of juvenile (s.37(15) PACE leaves, request clarification as to which agency is responsible for providing the appropriate adult. Currently this is Youth Offending Schemes for juveniles and police for vulnerable adults. The actual changes seem straightforward and should not cause any great difficulty.	1. NR 2. NR	1. NR 2. Section.38(4)(a) of the Crime and Disorder Act 1998 (‘appropriate adult services’) applies to children and young persons, i.e. under 18s. Therefore applies to 17-year-olds and is not restricted to juveniles.
50.	Police – Sussex Crime and Justice Dept	Code C C13 General	The EU provision has been in existence since November 2010. Although there may be a good reason for delaying the consultation to a month before start date, the consequences will be temporarily inaccurate systems and notices for detainees. Require police to implement ‘workarounds’ and other temporary actions until systems catch up.	NR	Need to amend Code to implement Directive notified to National Policing Lead in March 2013. Consultation limited scope since requirements are determined by the Directive.
51.	Police – Sussex Crime and Justice Dept	Code C Annex M M1 M3	Request for further guidance: 1. Other documents which may be considered ‘essential’. 2. Difference between value of oral and written translations & having regard to increased time & costs, to produce, likelihood is that oral translations will be authorised.		1. Annex M table sets out minimum list of ‘essential documents’ & gives police discretion regarding other documents on request. 2. <u>It is important that the exception in the Directive does not become the rule.</u> We will work with the National Policing Lead & College of Policing to determine need for and nature of further guidance and support.
52.	Police – Sussex Crime and Justice Dept	Code C M4 - 7	Waiving right to written translation: Given the complexity of the procedure, and likelihood of an oral translation, process is unlikely to be adopted in practice.	NR	See Reason/Comment 51.



* No.	From – Organisation/ individual	Code reference	Response & purpose	Accept Y/N or NR	*Reason/Comment NR= Not relevant to revising the text of the Code at present.
53.	Police – Sussex Crime and Justice Dept	Code C Annex M M9	The inspector would require central guidance to be in a better position to advise than the custody officer.	NR	Assumed that inspector would have additional knowledge & experience. We will work with the National Policing Lead & College of Policing to determine need for and nature of further guidance and support.
54.	Police – Sussex Crime and Justice Dept	Code C3.2 C13.1B	Update Notice of Rights and Entitlements to explain the changes. Include explanation that interpreter services are provided at public expense.	Y NR	Work in hand
55.	Police – Thames Valley A/Inspector Custody Criminal Justice Dept.	Code C C1.5A	Statutory provisions relating to 16-year-olds (s.38 & 65 of PACE) should be amended to include 17-year-olds.	NR	Changes to primary legislation and impact will require consultation with other government departments and interested parties. Response forwarded for consideration in that context.
56.	Police – Thames Valley	Code C C7.2	The changes replace a link to the FCO website which has been unobtainable almost since the last changes to the Codes. A link to the website is still the preferred option.	NR	Internet access re-established. Link to relevant web pages included in both Codes.
57.	Police – Thames Valley	Code C C13.10B Annex M	Request for guidance as to when translations of ‘essential documents’ need to be created and provided and the exception.  Suggest that in normal circumstances and with straightforward matters an oral translation and summary of the authorisations of detention and charges, would suffice.	NR	<u>It is important that the exception in the Directive does not become the rule.</u> We will work with the National Policing Lead & College of Policing to determine need for and nature of further guidance and support.
58.	Police - West Yorkshire Sergeant - Professional Development Dept	Code C Note 3E	Note 3E: reference to the Guidance on Safer Detention and Handling should refer to Authorised Professional Practice College of Policing.	Y	Note 3E revised. (See HMIC/HMIP response 7)
59.	Police – West Yorkshire	Code C C1.5A Note 1L & 1M Code H H1.11A Note 1O & 1P	Comments concerning 17 year olds:  1. The changes applicable to 17 year olds are straightforward and expected.  2. Anomalies remain regarding post-charge transfer to local authority accommodation and giving of consent.	1. NR 2. NR	1.NR  2. Changes to primary legislation will require consultation with other government departments and interested parties. Response forwarded for consideration in that context.

* No.	From – Organisation/ individual	Code reference	Response & purpose	Accept Y/N or NR	*Reason/Comment NR= Not relevant to revising the text of the Code at present.
60.	Police – West Yorkshire	Code C Section 13 Code H Section 13	Comment about written translations for of ‘essential documents’ concerning: 1. Exception from need for oral translation/summary. 2. Impact – cost implications and delaying availability of interpreters.		1. <u>It is important that the exception in the Directive does not become the rule.</u> We will work with the National Policing Lead & College of Policing to determine need for further guidance and support. 2. We are working with the National Policing Lead & College of Policing to assess the need for ‘templates’ for these authorities and how best to address the need. In the meantime, forces need to work on this with their interpreter service providers and ensure good practice is shared.
61.	Prison Reform Trust (1)	Code C C1.5A	PRT Recommendations 1-4: 1. The Home Office should give an undertaking to amend the Police and Criminal Evidence Act 1984 at the earliest opportunity to deal with the remaining inconsistencies 2. The Home Office should give further consideration to extending additional safeguards to seventeen year olds where they do not explicitly contradict legislation, even if they go beyond its requirements 3. The term ‘Juvenile’ should be removed from PACE and replaced with references to children that are aligned with other legislation 4. Seventeen year olds should be brought under the auspices of s.38(6) transfers to local authority accommodation. <b>Repetition of sections that now apply to 17 year olds</b> Notes highlight wherever paragraph 1.5A extends coverage to seventeen year olds. Although this may seem somewhat repetitious, it makes the Code a more effective working document and provides clarity for Appropriate Adults and Police. A major revision such as this will take time to become embedded in local practice. Such clarity in the core document will be of major benefit and the repeated notes should not be removed.	1 - 4. NR	Changes to primary legislation will require consultation with other government departments and interested parties. Response forwarded for consideration in that context.

* No.	From – Organisation/ individual	Code reference	Response & purpose	Accept Y/N or NR	*Reason/Comment NR= Not relevant to revising the text of the Code at present.
62.	Prison Reform Trust (2)	Code C C1.5A	PRT Recommendation 5: 1. For the purpose of informing parents, the wishes of 16 and 17-year-olds year olds should be listened to and respected. 2. Appropriate Adults should have the opportunity to discuss concerns about informing parents with the child or young person.	1. NR  2. NR	1. For police to determine on a case by case basis. Code <b>requires</b> person responsible for welfare to be informed & for AA who need not be a parent/guardian to be called. 2. Allowed under existing provisions if AA is not a parent/guardian.
63.	Prison Reform Trust (3)	Code C C2.4	PRT Recommendation 6: The amendment to paragraph 2.4 should be deleted.	Y	Proposed addition deleted.
64.	Sixteen separate responses – 5 from organisations involved in providing services, and 11 from individual interpreters. See 'Response & purpose' column.	Code C Note 13A Code H Note 13A	1. Requested that the Ministry of Justice Framework Agreement should not be cited as an example of arrangements which comply with the Directive. Some included detailed information about the Framework agreement to support this. 2. Many asked that the deleted reference to national arrangements be reinstated. <b>Organisations</b> within the Professional Interpreters for Justice (PI4J) including Association of Police and Court Interpreters (APCI) Chartered Institute of Linguists (CIOL) Institute of Translation and Interpreting (ITI) National Register of Public Service Interpreters Ltd (NRPSI) National Union of Professional Interpreters and Translators (NUPIT) Professional Interpreters Alliance (PIA) Society of Official Metropolitan Interpreters UK Ltd (SOMI) Society for Public Service Interpreting (SPSI) Wales Interpreter and Translation Service (WITS) <b>Individuals:</b> (initials only): AC, AN, IM, JC, JM, JP, KS, LRS, NK, SGT and TP	1. N  2. N	1. Procurement arrangements are left to the discretion of chief officers. Note 13A amended to make this clear. 2. Details of the arrangements for the provision of interpreters and setting in the Criminal Justice System are outside the scope of the Code.  Responses forwarded for the information of the Ministry of Justice.

* No.	From – Organisation/ individual	Code reference	Response & purpose	Accept Y/N or NR	*Reason/Comment NR= Not relevant to revising the text of the Code at present.
65.	Standing Committee for Youth Justice (SCYJ) (1)  See Prison Reform Trust Response 61.	Code C C1.5A	<p>1. The Home Office should give an undertaking to amend the Police and Criminal Evidence Act 1984 at the earliest opportunity to deal with the remaining inconsistencies</p> <p>2. The Home Office should give further consideration to extending additional safeguards to seventeen year olds where they do not explicitly contradict legislation (such as transfer to local authority accommodation), even if they go beyond the legislative requirements.</p> <p>3. The term ‘Juvenile’ should be removed from PACE and replaced with references to ‘children’ as in the Legal Aid Sentencing Punishment of Offenders Act 2012, the Children Act 1989 and the United Nations Convention on the Rights of the Child.</p> <p>4. Seventeen year olds should be brought under the auspices of s.38(6) transfers to local authority accommodation, first by amendment to Code C (as per Recommendation 2 above) and then by legislative amendment (as per Recommendation 1) to align with the Children Act 1989.</p>	1. – 4. NR	Changes to primary legislation will require consultation with other government departments and interested parties. Response forwarded for consideration in that context.
66.	Standing Committee for Youth Justice (SCYJ) (2)  See Prison Reform Trust Response 62.	Code C	5. In relation to informing parents specifically, the wishes of sixteen and seventeen year olds should be listened to and followed. Appropriate Adults should have the opportunity to discuss concerns about informing parents with the child or young person.		<p>1. For police to determine on a case by case basis. Code <b>requires</b> person responsible for welfare to be informed &amp; for AA who need not be a parent/guardian to be called.</p> <p>2. Allowed under existing provisions if AA is not a parent/guardian.</p> <p>See 62 Prison Reform Trust response.</p>
67.	Standing Committee for Youth Justice (SCYJ) (3)  See Prison Reform Trust Response 63.	Code C C2.4	6. The amendment to paragraph 2.4 should be deleted	Y	Proposed addition deleted.
68.	Standing Committee for Youth Justice (SCYJ) (4)  See NAAN response 14.	Code C C13.6	7. Appropriate Adults should have access to an interpreter in relation to foreign languages	Y	New paragraphs C13.2A & H13.3 added to mirror C/H13.6.

* No.	From – Organisation/ individual	Code reference	Response & purpose	Accept Y/N or NR	*Reason/Comment NR= Not relevant to revising the text of the Code at present.
69.	YOT Service Manager Royal Borough of Windsor and Maidenhead	Code C C1.5A	Enquires about why proposed changes to are <b>not</b> extended to 17 years with regard to consent and if detained after charge, transfer to local authority accommodation.	NR	Further changes require amendment to primary legislation. C16.7 extended to emphasise this with regard to s.38 of PACE & power of LA to detain. Changes to primary legislation will require consultation with other government departments and interested parties. Response forwarded for consideration in that context.
70.	Youth Justice Board England & Wales)	Code C C1.5A	<ol style="list-style-type: none"> <li>1. Welcome plans to ensure that 17-year-olds are treated in the same way as 'juveniles' when in police detention.</li> <li>2. The exceptions relating to detention after charge and consent for the taking of fingerprints samples and searching seem incompatible with the High Court's ruling on continuing to treat 17-year-olds as adults.</li> <li>3. Would welcome an expedient process to consider amending PACE section 37(15) to ensure equal treatment of all children in police detention.</li> <li>4. The term 'juvenile' is now an outdated and for consistency and understanding should be replaced with the term 'child or young person'.</li> <li>5. Request full consideration given to previous the YJB paper outlining key concerns and issues circulated for the purposes of previous meeting to discuss the consultation and specifically the issues arising from decision not (at this time) to amend primary legislation and look forward to hearing about intentions to take this forward.</li> </ol>	NR	Further changes require amendment to primary legislation. C16.7 extended to emphasise this with regard to s.38 of PACE & power of LA to detain. Changes to primary legislation will require consultation with other government departments and interested parties. Response forwarded for consideration in that context.

## 3.3 Key Comments and Home Office Responses

### 3.3.1 General

- (a) The vast majority of comments related either to the proposed changes in relation to 17 year olds or those relating to the EU Directive on Interpretation and Translation. There were a few comments on other areas and three responses supported the change without comment.

### 3.3.2 EU Directive on Interpretation and Translation

- (a) Some respondents did not support the reference to the Ministry of Justice Framework Agreement for Interpreter and Translation Services being included in Note for Guidance 13A as an example of services that meet the requirements of the EU Directive.

#### Home Office Response:

**We have retained reference to the Ministry of Justice Framework Agreement on the basis that it is available to chief officers who have discretion when determining an operational matter such as the individuals or organisations they use to provide services for their forces. The comments offered by respondents have been forwarded to the Ministry of Justice for information.**

- (b) A significant number of responses expressed concerns at the cost, time and additional work needed to produce copies of the essential documents<sup>2</sup>.

#### Home Office Response:

**The Government is bound by EU Law to comply with the EU Directive so the modest resource implications highlighted would need to be met by forces. We estimate that the costs of translation are likely to amount to around £3.5m per annum which works out an average cost of just over £81,000 per force, although it is likely to be concentrated in the Metropolitan Police's area.**

- (c) The list of key documents should be more clearly defined.

#### Home Office Response:

**We are content that the list provided at Annex M of Code C meets the requirements of the Directive. Decisions on whether or not to translate any additional documents would be an operational matter for the chief officer.**

- (d) The Home Office should provide more guidance on what circumstances an oral translation as opposed to one in writing would be acceptable.

#### Home Office Response:

**We will liaise with national policing leads to establish whether further guidance in this area is necessary. Oral translations should, however, be the exception, not the rule.**

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<sup>2</sup> Essential documents consist of records required to be made in accordance with the codes which are relevant to decisions to deprive a person of their liberty, to any charge and to any record considered necessary to enable a detainee to defend themselves in criminal proceedings and to safeguard the fairness of those proceedings.

**Decisions on whether or not an oral translation would be sufficient are an operational matter and should be made on a case-by-case basis.**

- (e) The requirement for written interview records to be created contemporaneously by the interpreter for the person to check and sign will create significantly delay and will impact upon the flow of an interview.

**Home Office Response:**

**This applies only to interviews for which a written record is required and does not represent a change in current practice. Interpreters are already required to provide this so there is no extra burden.**

- (f) The Home Office should provide translations of the essential documents in multiple languages, perhaps the same list as the Notice for Rights and Entitlements.

**Home Office Response:**

**We are currently discussing with national policing leads the feasibility of providing standard translations of the commonly used forms in an appropriate range of languages.**

- (g) Can a person be detained for the purposes of producing a translation?

**Home Office Response:**

**The reasons under which an individual can be detained in police custody are set out in Part IV of PACE. There is no power to detain a person to complete and provide a written translation. We have added a note M3 to Annex M to clarify this.**

- (h) Concern was raised over the implications for police forces in Wales with regard to the need for Welsh interpreters and translations.

**Home Office Response:**

**New paragraph 13.1C inserted to make it clear that the Codes do not affect the application of Welsh Language Schemes by police and crime commissioners in Wales in accordance with the Welsh Language Act 1993**

### **3.3.3 Appropriate Adults for 17 year olds**

- (a) All but one of the consultees who commented on the changes in relation to providing appropriate adults to 17 year olds were in favour of the changes.
- (b) However, many raised concerns that we were not also proposing to amend primary legislation to require the post-charge transfer of 17 year olds to local authority accommodation<sup>3</sup> (as happens in most cases in relation to 10 to 16 year olds).

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<sup>3</sup> section 38(6), PACE 1984.

- (c) Concerns were also raised that 17 year olds, unlike 10 to 16 year olds, would still be able to give their consent to procedures (such as an x-ray or ultrasound scan), intimate body searches and the taking of samples (such as DNA or fingerprints) without also requiring the consent of their parent<sup>4</sup>.
- (d) The Home Office should replace the term “juvenile” with “children” (to bring it into line with other primary legislation) or, as suggested by one respondent, “young people under 18”.
- (e) There was concern over the costs of making the change.
- (f) The parents of a 16 or 17 year old should not be informed of their detention if that was against their wishes.

**Home Office response:**

**Changes to primary legislation would be required to fulfil the suggestions outlined above at paragraphs (b), (c) and (d). This is outside the scope of this consultation (see section 4 below).**

**An initial estimate of additional costs arising from the provisions of appropriate adults to 17 year olds indicates that they may be up to £1,500,000 a year, with the costs falling to local authority Youth Offending Team in England and Wales. The Home Office is undertaking further assessment of these estimates and their treatment under the new burdens doctrine.**

**Whilst we understand that some 16 and 17 year olds may not want their parent (or other person responsible for their welfare) informed of their detention, we nonetheless take the view that we should continue to treat 16 year olds in the same way as younger children and inform their parents. Furthermore, we believe that we should extend this requirement to 17 year olds.**

### 3.3.4 Other comments

- (a) We should not add an additional requirement that the viewing of the custody record (by solicitors or appropriate adults) must not unjustifiably interfere with the needs of the investigation as well as the custody officer’s duties.

**Home Office Response: We have removed this additional requirement.**

- (b) The provision which allows an urgent interview to take place without an interpreter needs to be clarified.

**Home Office Response:**

**Paragraph 11.18(c) amended to make it clear that where a detainee does not speak or understand English, a police officer who is fluent in the suspect’s language or is otherwise able to communicate with them may, solely for the purposes of an urgent interview, carry out the interview without an independent interpreter being present.**

- (c) In paragraph 7.2, Internet access to the list of countries for which mandatory notification of arrest is required should be restored.

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<sup>4</sup> Section 65, PACE 1984



**Home Office Response:**

Internet access has been restored and paragraph 7.2 updated as follows:

A list of the countries to which this requirement currently applies and contact details for the relevant High Commissions, Embassies and Consulates can be obtained from the Consular Directorate of the Foreign and Commonwealth Office (FCO) as follows:

- from the FCO web pages:
  - ~ <https://gov.uk/government/publications/table-of-consular-conventions-and-mandatory-notification-obligations>, and
  - ~ <https://www.gov.uk/government/publications/foreign-embassies-in-the-uk>
- by telephone to 020 7008 3100,
- by email to [fcocorrespondence@fco.gov.uk](mailto:fcocorrespondence@fco.gov.uk).
- by letter to the Foreign and Commonwealth Office, King Charles Street, London, SW1A 2AH.

(d) The reference to the Guidance on Safer Detention and Handling should be replaced with a reference to the Authorised Professional Practice produced by the College of Policing.

**Home Office Response: We have amended this paragraph to reflect this.**

## 4. Next Steps

- 4.1 Following careful consideration of the consultation responses, the Home Office has finalised revisions to the six codes of practice. These revised codes have been laid before Parliament, along with the statutory instrument (SI 2013/2685) which will bring them into operation on 27 October 2013. Copies of the revised codes are being made available online at: <https://www.gov.uk/government/organisations/home-office>.
- 4.2 There was considerable strength of opinion that the requirement under section 38(6) of PACE, for an 'arrested juvenile' who is charged with an offence and not released to be transferred to local authority accommodation pending appearance at court, should be extended to 17 year olds. The current age limit is specified by section 37(15) of PACE which defines an arrested juvenile as a "...*person arrested with or without a warrant who appears to be under the age of 17*". A change in this area would therefore require an amendment to the Act itself and, as such, is outside the scope of this consultation.
- 4.3 For the same reasons as outlined under 4.2 above, we are unable to revise Code C to require the consent of a parent in addition to that of the 17 year old themselves before the carrying out of an intimate body search, the taking of a sample (such as DNA and fingerprints) or the carrying out of a procedure such as an x-ray or ultrasound scan.
- 4.4 Although we could replace the term 'juvenile' with a term more in keeping with current legislation (such as 'children and young people') we have, for the sake of consistency with PACE, continued to use the term 'juvenile'. If primary legislation is amended to address the issues highlighted under 4.2 and 4.3 above, we would also consider updating the term juvenile and amend the PACE codes accordingly.
- 4.5 The revisions to Codes C and H on the provision of appropriate adults for 17 year olds are those required to comply with the High Court judgement. The Home Office is giving further consideration to all legislation which appears to treat 17 year olds as adults in the criminal justice system and will bring forward legislative proposals as necessary.
- 4.6 There were also calls for the Government to provide a set of templates for essential documents translated into a range of languages in order to reduce the resource implications for individual police forces. We are currently working with police forces to establish the practicalities of doing so and develop solutions which minimise bureaucracy and burdens. We are also looking to include additional information in the Notice of Rights and Entitlements to explain this new requirement for detainees who require an interpreter.
- 4.7 The Government concluded a wider consultation on stop and search powers on 24 September 2013. The changes we are making to Code A (stop and search) following this consultation do not affect or presuppose the outcomes of the stop and search consultation. Any changes to policy on stop and search arising as a result of the stop and search consultation will be reflected in a future revision of Code A.