**EXPLANATORY MEMORANDUM TO**

**THE POLICE AND CRIMINAL EVIDENCE ACT 1984 (CODES OF PRACTICE) ORDER 2008**

**2008 No.**

**1.** This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 This order brings into effect the following revised Police and Criminal Evidence Act (PACE) 1984 Codes of Practice (Codes A to E).

2.2 The changes primarily clarify stop and search powers under section 60 of the Criminal Justice and Public Order Act 1998, implement Carter Review reforms to the provisions of publicly funded legal advice, enable the police to caution suspects directly in Welsh where appropriate and enable the audio recording of interviews on secure digital network to be piloted.

2.3 They also reflect other minor legislative changes and make other minor corrections to the previous Codes of Practice.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

**4. Legislative Background**

4.1 Section 67 of PACE enables the Secretary of State to introduce, by Order, Codes of Practice under PACE.

4.2 Under section 67(4) of PACE, before issuing a Code the Secretary of State must first consult the Association of Police Authorities, the Association of Chief Police Officers, the Bar Council, the Law Society, the Institute of Legal Executives and any other persons as he thinks fit.

4.3 Under section 67(7) of PACE an order bringing a code into operation may not be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

4.4 During the passage of the Criminal Justice Act 2003 through Parliament Ministers agreed that the process for agreeing amendments to the PACE Codes would be decided by the Home Affairs Select Committee. Following consultation with the Home Affairs Select Committee it was agreed that the revised PACE Codes of Practice should be agreed by affirmative resolution.

## 5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

## 6. European Convention on Human Rights

6.1 The Rt Hon Tony McNulty MP has made the following statement regarding Human Rights:

6.2 In my view the provisions of the Police and Criminal Evidence Act 1984 (Codes of Practice) Order 2007 are compatible with the Convention rights.

## 7. Policy background

7.1 The revised PACE Codes will replace the current versions of Codes A to E introduced on 1 January 2006 (Codes B, D and E, SI 2005/3503), 31 August 2006 (Code A, SI 2006/2165) and 25 July 2006 (Code C, SI 2006/1938). The current PACE Codes F, G (introduced on 1 January 2006, SI 2005/3503) and H (introduced on 25 July 2006, SI 2006/1938) are unaffected.

7.2 The following changes reflect changes in legislation that have been brought into effect since the previous Codes were published:

- amend the drug testing provisions in line with recent legislative changes under the Children Act 2004, the Fraud Act 2006 and the Criminal Justice and Courts Services Act 2000 (Amendment) Order 2007 (Code C)

- include the ability for police to photograph persons given a direction to leave and not return to a specified location for up to 48 hours by a police constable under section 27 of the Violent Crime Reduction Act 2006 (Code D)

7.3 The following changes provide clarity on the current content of the Codes or enable further changes to be made that do not rely on primary legislation:

- clarify the definition of offensive weapons under section 1(9) of PACE for stop and search powers (Code A)

- introduce reforms in relation to the arrangements for providing publicly funded legal advice at police stations in straight forward matters via the CDS Direct service, which is an essential support mechanism to the success of the wider reforms to legal aid that flow from Lord Carter's independent review. (Code C)

- enable the police caution to be given in Welsh (Code C)

- enable the audio recording of interviews on secure digital networks to be piloted by Lancashire Constabulary (Code E)

7.4 There are number of further changes that make minor corrections to the previous Codes of Practice. The full list of changes can be found in the table of changes at Annex A.

7.5 The revised Codes of Practice have been subject to formal consultation as required under section 67(4) of PACE. Copies of the revised Codes of Practice and the table of changes were sent to the Association of Police Authorities, the Association of Chief Police Officers, the Bar Council, the Law Society and the Institute of Legal Executives. Given the prior consultation on the Carter Review Reforms carried out by the Ministry of Justice and the Legal Services Commission and the relatively minor nature of the remaining changes the PACE Codes consultation lasted from 24 September to 17 October 2007.

7.6 The primary focus of responses related to the Carter Review reforms to publicly funded legal advice and a number of helpful comments have been taken on board in the drafting of the Codes. However, many of the concerns about the need to ensure that the reforms do not adversely impact upon suspects have already been the subject of the Ministry of Justice / Legal Services Commission consultation on the expansion of the CDS Direct service that took place earlier this year. The need to ensure the integrity of any secure digital network for the recording of interviews was also raised.

## 8. Impact

8.1 Regulatory Impact Assessments were prepared as part of the work and previous consultation on the reforms that flow from Lord Carter's independent review of legal aid. The Ministry of Justice consulted on the expansion of Duty Solicitor Call Centre and the CDS Direct expansion earlier this year, both the consultation itself, and the LSC's response to consultation were accompanied by Regulatory Impact Assessments. The total net savings from CDS Direct is expected to be £6m per annum.

8.2 Regarding the impact on the public sector, the Order affects police forces in England and Wales. The anticipated impact of the Carter Reforms on the police is that it will reduce delays in suspects receiving legal advice in custody and therefore increase the efficiency of the investigation, enabling suspects to spend less time in custody. Initial estimates from Lancashire Constabulary suggest that the use of secure digital networks will save approximately £140k in the Eastern Division alone. As part of the pilot the Home Office will be working with Lancashire Constabulary and the NPIA to assess the possible impact on resources nationally.

## 9. Contact

Neil Curtis at the Home Department Tel: 020 735 0881 or e-mail: neil.curtis@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.

**ANNEX A**

# PACE Codes of Practice - 2008 Changes

| Code | Change | Proposed by | Reason for change |
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| Code A | Commencement - Transitional Arrangements, change to:<br>"...after midnight on 31 January 2008,..." | HO, PPPU | To reflect implementation date of revised Code A. |
| A 2.27(b) | Delete "s." from "s.23(3)" | HO, PPPU | To correct typographical error |
| A 2.28 | Delete "s" from "s23(3)" | HO, PPPU | To correct typographical error |
| A GN 22 | Insert new paragraph:<br>"Definition of Offensive Weapon<br>22 'Offensive weapon' is defined as any article made or adapted for use for causing injury to the person, or intended by the person having it with him for such use or by someone else. There are three categories of offensive weapons: those made for causing injury to the person; those adapted for such a purpose; and those not so made or adapted, but carried with the intention of causing injury to the person. A firearm, as defined by section 57 of the Firearms Act 1968, would fall within the definition of offensive weapon if any of the criteria above." | HO, PPPU | To clarify the definition of 'offensive weapon' under PACE stop and search provisions. |
| A Annex A 15 | Change "…14…" to "…41…" | HO, PPPU | To correct typographical error |
| Code B | Commencement - Transitional Arrangements, change to:<br>"...after midnight on 31 January 2008,..." | HO, PPPU | To reflect implementation date of revised Code B. |
| *B GN 2A(b)* | Delete "a judge of the High Court," and ", a Recorder or a District judge" | HO, PPPU | See HOC 56/2005. Section 65 of Courts Acts 2003 not yet in effect so applications under Sch 1 PACE and Sch 5 of the Terrorism Act 2000 may only be made to a Circuit Judge. |
| B3.4(a) | Delete "...a judge of the High Court,…" and"..., a Recorder or a District judge…" | HO, PPPU | As above. |
| B3.6(e)(i) | Delete "...a judge of the High Court,..." and "..., a Recorder or a District judge,…" | HO, PPPU | As above. |
| Code C | Commencement - Transitional Arrangements, change to:<br>"...after midnight on 31 January 2008,..." | HO, PPPU | To reflect implementation date of revised Code C. |

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| C1.7(a)(ii) | Delete "…social services department..." | HO, PPPU | To reflect s63B(10) of PACE as amended by s64 and Schedule 5, Part 4 of the Children Act 2004. |
| C6.1 | After "…and that free independent legal advice is available" delete "from the duty solicitor". After "Note 6B" insert ", 6B1, 6B2". | MoJ | Carter reform changes mean that legal advice will not always be provided in person. |
| *C GN 6B* | After "..any particular firm of solicitors." add "See Notes for Guidance 6B1 and 6B2 below." | MoJ | As above. |
| *C GN 6B1* | **With effect from 1 February 2008**, Note for Guidance 6B above will cease to apply in the following forces areas:<br>Greater Manchester Police<br>West Midlands Police<br>West Yorkshire Police | MoJ | As above. |
| *C GN 6B1 (cont.)* | and the following provisions will apply to those force areas: a detainee who asks for legal advice to be paid for by himself should be given an opportunity to consult a specific solicitor or another solicitor from that solicitor's firm. If this solicitor is unavailable by these means, they may choose up to two alternatives. If these attempts are unsuccessful, the custody officer has discretion to allow further attempts until a solicitor has been contacted and agrees to provide legal advice. Otherwise, publicly funded legal advice shall in the first instance be accessed by telephoning a call centre authorised by the Legal Services Commission (LSC) to deal with calls from the police station. The Defence Solicitor Call Centre will determine whether legal advice should be limited to telephone advice or whether a solicitor should attend. Legal advice will be by telephone if a detainee is:<br>• detained for a non-imprisonable offence,<br>• arrested on a bench warrant for failing to appear and being held for production before the court (except where the solicitor has clear documentary evidence available that would result in the client being released from custody),<br>• arrested on suspicion of driving with excess alcohol (failure to provide a specimen, driving whilst unfit/drunk in charge of a motor vehicle), or<br>• detained in relation to breach of police or court bail conditions. | | |

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| *C GN 6B1 (cont.)* | An attendance by a solicitor for an offence suitable for telephone advice will depend on whether limited exceptions apply, such as:<br>• whether the police are going to carry out an interview or an identification parade,<br>• whether the detainee is eligible for assistance from an appropriate adult,<br>• whether the detainee is unable to communicate over the telephone,<br>• whether the detainee alleges serious maltreatment by the police.<br><br>Apart from carrying out these duties, an officer must not advise the suspect about any particular firm of solicitors. See Note for Guidance 6B2 below. | | |
| *C GN 6B2* | Insert new paragraph "**With effect from 21 April 2008**, the contents of Notes for Guidance 6B and 6B1 above will be superseded by this paragraph in all police forces areas in England and Wales by the following. A detainee who asks for legal advice to be paid for by himself should be given an opportunity to consult a specific solicitor or another solicitor from that solicitor's firm. If this solicitor is unavailable by these means, they may choose up to two alternatives. If these attempts are unsuccessful, the custody officer has discretion to allow further attempts until a solicitor has been contacted and agrees to provide legal advice. Otherwise, publicly funded legal advice shall in the first instance be accessed by telephoning a call centre authorised by the Legal Services Commission (LSC) to deal with calls from the police station. The Defence Solicitor Call Centre will determine whether legal advice should be limited to telephone advice or whether a solicitor should attend. Legal advice will be by telephone if a detainee is: | MoJ | As above. |
| *C GN 6B2 (cont.)* | • detained for a non-imprisonable offence,<br>• arrested on a bench warrant for failing to appear and being held for production before the court (except where the solicitor has clear documentary evidence available that would result in the client being released from custody),<br>• arrested on suspicion of driving with excess alcohol (failure to provide a specimen, driving whilst unfit/drunk in charge of a motor vehicle), or<br>• detained in relation to breach of police or court bail conditions. | | |

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| *C GN 6B2 (cont.)* | An attendance by a solicitor for an offence suitable for telephone advice will depend on whether limited exceptions apply, such as:<br>• whether the police are going to carry out an interview or an identification parade,<br>• whether the detainee is eligible for assistance from an appropriate adult,<br>• whether the detainee is unable to communicate over the telephone,<br>• whether the detainee alleges serious maltreatment by the police.<br><br>Apart from carrying out these duties, an officer must not advise the suspect about any particular firm of solicitors." | | |
| *C GN 6D* | After "…solicitor." insert ", Legal advice by telephone advice may be provided in respect of those offences listed in Note for Guidance 6B1 and 6B2 above. The Defence Solicitor Call Centre will determine whether attendance is required by a solicitor." | MoJ | As above. |
| C10.5 | After the caution in English insert:<br>"Where the use of the Welsh Language is appropriate, a constable may provide the caution directly in Welsh in the following terms:<br>'Does dim rhaid i chi ddweud dim byd. Ond gall niweidio eich amddiffyniad os na fyddwch chi'n sôn, wrth gael eich holi, am rywbeth y byddwch chi'n dibynnu arno nes ymlaen yn y Llys. Gall unrhyw beth yr ydych yn ei ddweud gael ei roi fel tystiolaeth.'" | Welsh Language Board, Local Government and Justice Unit | To enable the caution to be given in Welsh where appropriate. |
| C13.1 | Delete "...CADCP..." and insert "...CACDP..." | HO, PPPU | To correct typographical error |
| C16.2 | After the caution in English insert:<br>'"Where the use of the Welsh Language is appropriate, a constable may provide the caution directly in Welsh in the following terms:<br>'Does dim rhaid i chi ddweud dim byd. Ond gall niweidio eich amddiffyniad os na fyddwch chi'n sôn, yn awr, am rywbeth y byddwch chi'n dibynnu arno nes ymlaen yn y llys. Gall unrhyw beth yr ydych yn ei ddweud gael ei roi fel tystiolaeth.'" | Welsh Language Board, Local Government and Justice Unit | To enable the caution to be given in Welsh where appropriate. |

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| C16.4(a) | After the caution in English insert:<br>"Where the use of the Welsh Language is appropriate, caution the detainee in the following terms:<br>'Does dim rhaid i chi ddweud dim byd, ond gall unrhyw beth yr ydych yn ei ddweud gael ei roi fel tystiolaeth.'" | Welsh Language Board, Local Government and Justice Unit | To enable the caution to be given in Welsh where appropriate. |
| C16.5(a) | After the caution in English insert:<br>"Where the use of the Welsh Language is appropriate, the interviewer shall caution the detainee, 'Does dim rhaid i chi ddweud dim byd, ond gall unrhyw beth yr ydych yn ei ddweud gael ei roi fel tystiolaeth.'" | Welsh Language Board, Local Government and Justice Unit | To enable the caution to be given in Welsh where appropriate. |
| 17.16(b) | Delete:<br>"(b) must be retained until the person concerned has made their first appearance before the court."<br><br>And replace with:<br>"(b) can be disposed of as clinical waste unless it is to be sent for further analysis in cases where the test result is disputed at the point when the result is known, or where medication has been taken, or for quality assurance purposes." | HO / DIP | Clarifies use of samples and information derived from them. |

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| C 17.17 | After "...impose a requirement..." add "on the detainee"<br><br>After "..for its duration." insert "Where such a requirement is imposed, the officer must, at the same time, impose a second requirement on the detainee to attend and remain for a follow-up assessment. The officer must inform the detainee that the second requirement will cease to have effect if, at the initial assessment they are informed that a follow-up assessment is not necessary."<br><br>Change final sentence to "These requirements may only be imposed..." | HO / DIP | Reflect provisions in respect of the follow-up assessment in Part 3 of the Drugs Act 2005 (Assessment of Misuse of Drugs) which applies to persons aged 18 and over at police stations where the relevant chief officer has been notified by the Secretary of State that arrangements for conducting follow-up assessments have been made. The provisions will operate from 1st April 2007 in custody suites for which such notification has been given (and not withdrawn) where drug testing on arrest and the initial assessment provisions have been implemented. |
| C 17.17 (b) | After "...conducting initial…" insert "and follow-up" | HO / DIP | As above. |
| C 17.18 | After "…to attend an initial assessment…" insert "and a follow-up assessment" | HO / DIP | As above. |
| C 17.18 (c) | Amend to "warn the person that they may be liable to prosecution if they fail..." and at the end insert "…and if they fail to attend the follow-up assessment and remain for its duration (if so required)." | HO / DIP | As above. |
| C17.19 | After "…to attend an initial assessment…" insert "and a follow-up assessment" | HO / DIP | As above. |
| C17.19(a) | Amend to "confirms their requirment to attend and remain for the duration of the assessments: and" | HO / DIP | As above. |
| C17.20(a) | After "…to attend an initial assessment…" insert "and a follow-up assessment" | HO / DIP | As above. |
| C GN 17A | After the warning in English insert:<br><br>"Where the Welsh language is appropriate, the following form of words may be used:<br><br>'Does dim rhaid i chi roi sampl, ond mae'n rhaid i mi eich rhybuddio y byddwch chi'n cyflawni trosedd os byddwch chi'n methu neu yn gwrthod gwneud hynny heb reswm da, ac y gellir, oherwydd hynny, eich carcharu, eich dirwyo, neu'r ddau.'" | Welsh Language Board, Local Government and Justice Unit | To enable the warning to be given in Welsh where appropriate. |

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| *C GN 17D* | Delete:<br>"The retention of the sample in paragraph 17.16(b) allows for the sample to be sent for confirmatory testing and analysis if the detainee disputes the test. But such samples, and the information derived from them, may not be subsequently used in the investigation of any offence or in evidence against the persons from whom they were taken."<br><br>And replace with:<br>"Samples, and the information derived from them, may not be subsequently used in the investigation of any offence or in evidence against the persons from whom they were taken." | HO / DIP | Clarifies use of samples and information derived from them. |
| *C GN 17E* | Under 1. Theft Act 1968 delete "section 15 (obtaining property by deception)" | HO / DIP | Trigger offence list amended by the Fraud Act 2006 (w.e.f. 15 January 2007). |
| *C GN 17E* | Delete:<br>"3. An offence under section 1(1) of the Criminal Attempts Act 1981 if committed in respect of an offence under any of the following provisions of the Theft Act 1968:<br>section 1 (theft)<br>section 8 (robbery)<br>section 9 (burglary)<br>section 15 (obtaining property by deception)<br>section 22 (handling stolen goods)"<br><br>and insert: | HO / DIP | Trigger offence list amended by:<br>- the Fraud Act 2006 (w.e.f. 15 January 2007).<br>- the Criminal Justice and Courts Services Act 2000 (Amendment) Order 2007 (SI 2007/2171) (w.e.f. 1 August 2007) |

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| *C GN 17E (cont.)* | 3. Offences under the following provisions of the Fraud Act 2006:<br>section 1 (fraud)<br>section 6 (possession etc. of articles for use in frauds)<br>section 7 (making or supplying articles for use in frauds)<br><br>3A.An offence under section 1(1) of the Criminal Attempts Act 1981 if committed in respect of an offence under<br>(a) any of the following provisions of the Theft Act 1968:<br>section 1 (theft)<br>section 8 (robbery)<br>section 9 (burglary)<br>section 22 (handling stolen goods)<br>(b) section 1 of the Fraud Act 2006 (fraud) | | |
| *C GN 17G* | Delete "…, in England, a local authority or, in Wales,…" and "…social services department…" | HO / DIP | To reflect s63B(10) of PACE as amended by s64 and Schedule 5, Part 4 of the Children Act 2004 |
| *C Annex A GN A6* | After the warning in English insert:<br>"Where the use of the Welsh Language is appropriate, the following form of words may be used:<br>'Nid oes rhaid i chi roi caniatâd i gael eich archwilio, ond mae'n rhaid i mi eich rhybuddio os gwrthodwch heb reswm da, y gallai eich penderfyniad i wrthod wneud niwed i'ch achos pe bai'n dod gerbron llys.'" | Welsh Language Board, Local Government and Justice Unit | To enable the warning to be given in Welsh where appropriate. |
| C Annex C 2 | After the caution in English insert:<br>"Where the use of the Welsh Language is appropriate, the caution may be used directly in Welsh in the following terms:<br>'Does dim rhaid i chi ddweud dim byd, ond gall unrhyw beth yr ydych chi'n ei ddweud gael ei roi fel tystiolaeth.'" | Welsh Language Board, Local Government and Justice Unit | To enable the caution to be given in Welsh where appropriate. |

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| *C Annex K GN K2* | After the caution in English insert:<br>"Where the use of the Welsh Language is appropriate, the following form of words may be provided in Welsh:<br>'Does dim rhaid i chi ganiatáu cymryd sgan uwchsain neu belydr-x (neu'r ddau) arnoch, ond mae'n rhaid i mi eich rhybuddio os byddwch chi'n gwrthod gwneud hynny heb reswm da, fe allai hynny niweidio eich achos pe bai'n dod gerbron llys.'" | Welsh Language Board, Local Government and Justice Unit | To enable the caution to be given in Welsh where appropriate. |
| Code D | Commencement - Transitional Arrangements, change to:<br>"...after midnight on 31 January 2008,..." | HO, PPPU | To reflect implementation date of revised Code D. |
| D 3.5 | Delete "Change to: '…" | HO, PPPU | To correct typographical error |
| *D 5.12(b)* | Delete "or" at the end of (v), replace "." at the end of (vi) with "; or" and insert<br>"(vii) given a direction to leave and not return to a specified location for up to 48 hours by a police constable (under section 27 of the Violent Crime Reduction Act 2006)." | HO, PPPU | To reflect implementation of section 27 of the Violent Crime Reduction Act 2006 and the amendment to section 64A of PACE. |
| Code E | Commencement - Transitional Arrangements, change to:<br>"...after midnight on 31 January 2008,..." | HO, PPPU / HSDB | To reflect implementation date of revised Code E. |
| E 1.6 | Insert "(c) 'digital network solution' means the use of platform architecture that secures a network by providing each user with a digital identity and is managed by a central digital certificate authority (see section 7 of this Code)." | HO, PPPU / HSDB | Make best use of technology by enabling the use of digital network solutions to improve the efficiency of interview recording. |
| E 3.3 (a) | Change from "…or recorder…" to "…or recording equipment…" | HO, PPPU / HSDB | As above. |

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| E 7 | Insert new section 7:<br>"**7 Recording of Interviews by Secure Digital Network**<br><br>7.1 This section of the Code applies only in the following area:<br><br>• Lancashire Constabulary, Eastern Division as defined at 1 September 2007<br><br>7.2 This section of the Code does not extend to the audio recording of interviews with suspects by secure digital network (SDN) to any other Division of the Lancashire Constabulary nor to any other police force area in England and Wales. Any interviews with suspects subject to recording by secure digital network in an area other than that listed in *paragraph 7.1* above must be simultaneously recorded, and any recordings used, in accordance with *sections 1 to 6* above.<br><br>7.3 The following requirements are solely applicable to the use of a secure digital network for the recording of interviews.<br><br>**Application of section 1 to 6 of Code E**<br><br>7.4 Sections 1 to 6 of Code E above apply except for the following paragraphs:<br><br>• Paragraph 2.2<br>• Paragraph 4.3<br>• Paragraph 4.4 (e)<br>• Paragraphs 4.11 – 4.19<br>• Paragraphs 6.1 – 6.4 | HO, PPPU / HSDB | As above. |

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| | **Commencement of Interview**<br><br>7.5 When the suspect is brought into the interview room, the interviewer shall without delay and in the sight of the suspect, switch on the recording equipment and enter his or her digital identifier.<br><br>7.6 The interviewer must then provide the appropriate case reference for the interview and inform the suspect that the interview is being recorded via a secure digital network and that recording commenced when the interviewer inserted the digital identifier.<br><br>7.7 In addition to the requirements of paragraph 4.4 (a –d) above, the interviewer must inform the person that the recording of the interview can only be accessed on the order of a court; that copies of the recording will be made available in the event that he or she is charged or informed that they will prosecuted; and that a written notice will be provided to them at the end of the interview setting out their access rights and what will happen to the recording. | | |
| E 7<br>(cont.) | **Taking a break during interview**<br><br>7.8 When a break is taken and the interview room vacated by the suspect, the recording shall be stopped and the procedures for the conclusion of an interview followed.<br><br>7.9 When a break is a short one and either the suspect or the interviewer or both remain in the interview room, the recording must be stopped. There is no need to create a new secure digital network file. When the interview recommences the recording should continue on the same secure network file. The time the interview recommences shall be recorded on the audio recording.<br><br>7.10 After any break in the interview the interviewer must, before resuming the interview, remind the person being questioned that they remain under caution or, if there is any doubt, give the caution in full again. See *Note for Guidance 4G*. | | |

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| E 7<br>(cont.) | **Failure of recording equipment**<br><br>7.11 If there is an equipment failure which can be rectified quickly, e.g. by commencing a new secure digital network recording, the interviewer shall follow the appropriate procedures as in *paragraph 7.8*. When the recording is resumed the interviewer shall explain what happened and record the time the interview recommences. If, however, it is not possible to continue recording on the secure digital network the interview should be recorded on removable media as in *paragraph 4.3* unless the necessary equipment is not available. If this happens the interview may continue without being audibly recorded and the interviewer shall seek the custody officer's authority as in *paragraph 3.3*. See *Note for Guidance 4H*. | | |
| E 7<br>(cont.) | **Conclusion of interview**<br><br>7.12 At the conclusion of the interview, the suspect shall be offered the opportunity to clarify anything he or she has said and asked if there is anything they want to add.<br><br>7.13 At the conclusion of the interview, including the taking and reading back of any written statement:<br><br>(a) the time shall be orally recorded<br>(b) the suspect shall be handed a notice which explains:<br>-- how the audio recording will be used<br>-- the arrangements for access to it<br>-- that if the person is charged or informed they will be prosecuted, a copy of the audio recording will be supplied as soon as practicable or as otherwise agreed between the suspect and the police.<br>See Note for Guidance 7A. | | |

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| E 7<br>(cont.) | (c) the suspect must be asked to confirm that he or she has received a copy of the notice at *paragraph 7.13(b)* above. If the suspect fails to accept or to acknowledge receipt of the notice, the interviewer will state for the recording that a copy of the notice has been provided to the suspect and that he or she has refused to take a copy of the notice or has refused to acknowledge receipt.<br><br>(d) the time shall be recorded and the interviewer shall notify the suspect that the recording is being saved to the secure network. The interviewer must save the recording in the presence of the suspect. The suspect should then be informed that the interview is terminated. | | |
| E 7<br>(cont.) | ***Note for Guidance***<br>*7A The notice at paragraph 7.13 above should provide a brief explanation on the secure digital network and how access is strictly limited to the recording. The notice should also explain the access rights of the suspect, his or her legal representative, the police and the prosecutor to copies of the recording of the interview. Space should be provided on the form to insert the date and the file reference number for the interview.* | | |