EXPLANATORY MEMORANDUM TO

THE POLICE AND CRIMINAL EVIDENCE ACT 1984 (CODES OF PRACTICE) (REVISIONS TO CODES A, B, C, E, F AND H) ORDER 2013

2013 No. 2685

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

2. Purpose of the instrument

2.1 The Order brings into force on 27 October 2013 changes to Codes of Practice A, B, C, E, F and H issued under the Police and Criminal Evidence Act 1984 (PACE). These changes will bring the Codes in line with changes in legislation, policy and operational policing practice and improve safeguards for suspects which include the requirements arising from a recent High Court judgment on the treatment of 17 year old suspects and from EU Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings.

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

3.1 None.

4. Legislative Context

4.1 Most of the changes to Codes A and B 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.

4.2 Code A is extended to include the powers to search persons without them being arrested introduced by the Terrorism Prevention and Investigation Measures Act 2011 (TPIM). 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 PACE Code A. In Code B, new provisions on the TPIM powers to enter and search premises for the purposes of serving, monitoring and enforcing TPIM notices replace the repealed control order provisions in the Prevention of Terrorism Act 2005.

4.3 Other changes are:

(a) in *Code A*; Annex F (Gender and searching) is deleted and superseded by Annex L in Code C.

(b) in *Code B*; an amendment is made to the reference to the three calendar month period within which section 16(3) of PACE requires a search warrant to be exercised 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.

(c) in *Codes A and B*;

- a correction is made to 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 which was reduced from reasonable *belief* to reasonable *suspicion* by section 48 of the Violent Crime Reduction Act 2006.
- the summaries of the Equality Act 2010 are amended for accuracy.

4.4 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 :

- the Equality Act summary which is included in other Codes is inserted.
- corrections are made to the cross references to the Code of Practice for video recording interviews in terrorism cases which into force on 10 July 2012.
- amendments and new provisions are made for the security of master recordings to ensure consistency in Codes E and F and the corresponding terrorism interview recording provisions.
- consequential changes are made arising from Codes C and H concerning the treatment of 17 year olds and interpreters.

4.5 The main changes to Codes C and H mirror each other with regards 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 judgment concerning safeguards for 17 year olds- 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).

4.6 The changes to which the High Court judgment applies (see paragraph 4.5(a) above) extend the requirement for an appropriate adult to 17 year olds. They do not and cannot amend any statutory provisions which relate to 10-16 year olds and the definition of arrested juvenile for the purposes of Part IV of PACE in section 37(15) remains. The revisions point this out with regard to:

- section 38(6) 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 years and under, and
- 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 give consent on their behalf, which applies to those aged 16 years and under.

4.7 The changes required by the EU Directive (see paragraph 4.6(b) above) apply to the investigation stage for which the Secretary of State of the Home Department

is responsible. A Transposition Note which sets out how this stage is implemented by the PACE Codes is available on www.legislation.gov.uk alongside the statutory instrument which brings the revised Codes into force. The main impact of these changes is the introduction of a right for a suspect to have a *written* translation of 'essential documents'. The latter 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 which relates to the Criminal Procedure (Amendment) Rules 2013/2525. The Scrutiny History of the EU Directive is set out in the Annex.

4.8 There are some minor changes to the Codes which variously correct typographical and grammatical errors, update cross references and terminology (including legislation) and reflect current practice.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to neither the affirmative nor the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 Police powers are governed by the Police and Criminal Evidence Act 1984 ("PACE") and the accompanying Codes of Practice, which set out the core framework of police powers and safeguards for individuals. Changes are being made to Code A (Stop and search), Code B (Searching premises and seizure of property), Code C (Detention), Code E (Audio recording of suspect interviews), Code F (Visual recording of interviews with suspects) and Code H (Detention in terrorism cases).

7.2 The changes to the PACE Codes are necessary to bring the Codes in line with changes to legislation and policy, to implement a High Court judgment and EU Directive, and to update police working practices.

7.3 The provisions to implement the EU Directive need to be in place to meet the transposition deadline in Article 9(1) which is 27 October 2013.

7.4 Under section 67(5) of PACE a revision of a Code does not come into operation until the Secretary of State by order so provides. It is, therefore, necessary to legislate through this Order.

- ***Consolidation***

7.5 The requirement to consolidate does not arise here.

8. Consultation outcome

8.1 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 website.

8.2 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.

8.3 The majority of the responses and comments received either supported the draft Codes as circulated, or made constructive suggestions which the Department was able incorporate. The draft for Code C generated the only responses which it was not possible 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 judgment; the Home Office is giving further consideration to the need to amend primary legislation and will seek views from any bodies with an interest. The Home Office is working with the police to minimise any additional bureaucracy and burdens associated with interpretation and translation.

8.4 Tables in the Annex summarise the responses to Codes A, B, E and F and to Codes C and H respectively. They briefly indicate the proposed outcomes.

8.5 A Government response to the two consultation exercises is being published on the Home Office website.

9. Guidance

9.1 The Home Office will work with the National Policing Lead & College of Policing to determine whether there is a need for further guidance and support.

9.2 With regard to the translation of essential documents, the Home Office will work with the National Policing Lead to assess the need for 'templates' and how these

can be produced and disseminated to forces. In the meantime, police forces will need to work on this with their interpreter service providers and ensure good practice is shared.

9.3 A Home Office Circular will be issued to publicise the revised Codes and the changes within them.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 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 Teams in England and Wales. The Home Office is undertaking further assessment of these estimates and their treatment under the new burdens doctrine.

10.3 The cost of transposing EU Directive 2010/64/EU into PACE Codes C and H is based on a number of variable assumptions and difficult to quantify. Our estimate is that overall cost across England and Wales may be in the region of £3,500,000 a year. This cost would be spread over the 43 forces, although likely to be concentrated in the Metropolitan Police area.

10.4 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Success criteria for the changes will be:

- Improved care and treatment of 17 year olds in police detention.
- Improved standards of evidence obtained from voluntary interviews.
- Smooth transposition of the EU Directive in interpretation and translation with regard to the investigation stage.

12.2 The National Policing Leads, in conjunction with the College of Policing, the Home Office and Her Majesty's Inspector of Constabulary, will monitor the implementation and impact of the amendments on an ongoing basis.

13. Contact

13.1 Alastair Thomas, Home Office Policing Transparency Unit, alastair.thomas@homeoffice.gsi.gov.uk (020 7035 0581) can answer any queries regarding the instrument.

ANNEX

Tables summarising the responses to the consultations:

(1) Responses for Codes A, B, E and F;
(2) Responses for Codes C and H.

Tables summarising the changes:

(3) Changes to Codes A (Stop and search);
(4) Changes to Code B (Searching premises and seizure of property);
(5) Changes to Code C (Detention);
(6) Changes to Code E (Audio recording of suspect interviews);
(7) Changes to Code F (Visual recording of suspect interviews);
(8) Code H (Detention - terrorism).

Scrutiny History of EU Directive 2010/64/EU.

Table (1)

Codes A, B, E, F: RESPONSES TO CONSULTATION REQUESTING CHANGES or RE-CONSIDERATION – Summary [14 October 2013]

To sort columns: Click on the table, use <Table Tools><Layout><Data> tabs then <Sort> as required.

***NOTE:** Reason/comment column includes linked cross references to 1st column – to update 'Select column' & press F9.

* 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 section149 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.
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.

* 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.
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 (3rd 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 *indictable offences* 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.

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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 *and* 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.

Table (2)

Codes C and H: RESPONSES TO CONSULTATION REQUESTING CHANGES or RE-CONSIDERATION – Summary 14 October 2013

To sort columns: Click on the table, use <Table Tools><Layout><Data> tabs then <Sort> as required.

***NOTE:** The 'From' and Reason/Comment columns includes linked cross references to other responses – to update all, 'Select columns' & press F9.

* 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.
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.

APP = Authorised Professional Practice produced by the College of Policing.

* 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.
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.
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.

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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	**Matters relevant to making changes to the present revised Codes:** 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. **Matters requiring separate consideration for the next revision of Codes C & H** 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.

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* 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	It is important that the exception in the Directive does not become the rule. 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	**Safeguards for 17-year-olds** 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.

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20.	Police – British Transport Police T/ACC Corporate Recourses.	Code C 13.10B Annex M	**Interpretation and translation** 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. It is important that the exception in the Directive does not become the rule. 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 written record is required see *C11.11, 13.3, 13.4 & Code E4.7*. No change in current practice.
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. It is important that the exception in the Directive does not become the rule. 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.

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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
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.

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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
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.

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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.
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.

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* 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.
33.	Police – National Policing Lead	Code C C1.5A Note 1L/Note 1M Code H H1.11A Note 1O/Note 1P	**Concerning the treatment of 17 year olds:** 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.
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

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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.
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.

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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 understands 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.
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.

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* 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.
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.
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

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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	It is important that the exception in the Directive does not become the rule. 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.

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* 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. It is important that the exception in the Directive does not become the rule. 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. **Repetition of sections that now apply to 17 year olds** 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.

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* 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 **requires** 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. **Organisations** 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) **Individuals:** (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.

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* 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	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 (such as transfer to local authority accommodation), even if they go beyond the legislative requirements. 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. 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.	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.		1. For police to determine on a case by case basis. Code **requires** 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. See 62 Prison Reform Trust response.
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.

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69.	YOT Service Manager Royal Borough of Windsor and Maidenhead	Code C C1.5A	Enquires about why proposed changes to are **not** 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	1. Welcome plans to ensure that 17-year-olds are treated in the same way as 'juveniles' when in police detention. 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. 3. Would welcome an expedient process to consider amending PACE section 37(15) to ensure equal treatment of all children in police detention. 4. The term 'juvenile' is now an outdated and for consistency and understanding should be replaced with the term 'child or young person'. 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.	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.

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Table (3)

Revised PACE Code A (Stop and Search)
Table of changes

The table below identifies the paragraphs and Notes for Guidance which have been revised (excluding minor grammar and typographical corrections) and briefly outlines the changes.

For ease of reference, web links to other specified documents are included.

[ ] indicates changes made since the consultation draft was circulated.

No.	Paragraph	Summary of changes, reason/purpose
1.	A1.0 to A1.03	Paragraph numbering added.
2.	A1.03(c)	New sub-paragraph (c) excludes terrorism search powers from scope of Code A.
3.	A1.1 & A2.2 New *Note 1A*	Amendments and new *Note 1A* to clarify reminder about unlawful discrimination and the protected characteristics relevant to the Code to which the Equality Act 2010 applies.
4.	A2.1(a) A2.1(c) A2.2, A2.3, A2.8 A2.21 to A2.25	All references to stop and search powers under the Terrorism Act 2000 removed. This follows an amendment to PACE made by the Protection of Freedoms Act 2012 which removed the requirement for these powers to be included in PACE Code A and made them subject to a new Code of Practice issued under the Terrorism Act 2000.
5.	A2.1(e) New heading A2.18A A2.19 to A2.26	New provisions outline the powers to search persons without them having to be arrested introduced by the Terrorism Prevention and Investigation Measures Act 2011 (TPIMS). These are outside the scope of the new terrorism Code but within the statutory scope of sections 2 and 3 of PACE and Code A. Additions ensure that Codes A applies to the conduct and recording of the exercise of these powers.
6.	A2.28	The statutory threshold for exercising the power in section 139B of the Criminal Justice Act 1988 to search for weapons is amended from 'reasonable belief' to 'reasonable suspicion' to reflect the amendment to section 139B made by section 48 of the Violent Crime Reduction Act 2006, and reference to the new offence under section 139AA introduced by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 is added.
7.	A3.6, *Note 4* & *Annex F*	References to Annex L in Code C added to reflect the introduction of Annex L in Code C from 10 July 2012 to supersede Annex F.
8.	A3.8(d)(ii) A4.3(d)	New provisions specify the information to be given before a search under the TPIMs powers and the information to be included in the search record.
9.	A5.4	'Police authorities' amended to 'police and crime commissioners'.
10.	Annex A paras 15 & 16	References to TPIMs search powers replace references to repealed Terrorism Act search powers.
11.	Annex C para. 1	References to repealed Terrorism Act search powers deleted.

15 October 2013

Table (4)

Revised PACE Code B (Searching premises & seizing property)

Table of changes

The table below identifies the paragraphs and Notes for Guidance which have been revised (excluding minor grammar and typographical corrections) and briefly outlines the changes.

For ease of reference, web links to other specified documents are included.

[ ] indicates changes made since the consultation draft was circulated.

No.	Paragraph	Summary of changes, reason/purpose
1.	B1.3A New *Note 1A*	Amended and *Note 1A* added to clarify reminder about unlawful discrimination and the protected characteristics relevant to the Code to which the Equality Act 2010 applies.
2.	*B Note 2A(a), Note 2B(g)* Section 10 & *Note 10A*	*New provisions* on the powers to enter and search premises under Schedule 5 to the Terrorism Prevention and Investigation Measures Act 2011 (TPIMs) for the purposes of serving, monitoring and enforcing TPIMs notices. These replace the repealed 'control order' provisions under the Prevention of Terrorism Act 2005.
3.	*B Note2C*	The statutory threshold for exercising the power in section 139B of the Criminal Justice Act 1988 to search for weapons is amended from 'reasonable belief' to 'reasonable suspicion' to reflect the amendment to section 139B made by section 48 of the Violent Crime Reduction Act 2006 and reference to the new offence under section 139AA introduced by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 added.
4.	B6.1	Adds a general reference to warrants where the issuing enactment specifies a period less than three calendar months within which it must be executed. One current example is section 23 of the Misuse of Drugs Act 1971 where the period is one month.

15 October 2013

Table (5)

REVISED PACE CODE C (DETENTION)

Table of changes

The main changes in this revision have been made in order to:

(a) comply with the Divisional Court judgement concerning safeguards for 17-year-olds- 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).

The table below identifies the paragraphs and Notes for Guidance which have been revised (excluding minor grammar and typographical corrections) and briefly outlines the changes.

For ease of reference, web links to other specified documents are included.

Key: AA = change arising from the judgement concerning safeguards for 17-year-olds.
EU IT = change relating to EU Directive 2010/64 on interpretation and translation.
[ ] indicates changes made since the consultation draft was circulated.

No.	Paragraph	Summary of changes, reason/purpose
1	C1.0 & new *Note 1AA*	Amended to clarify scope of the Equality Act 2010 supported by new *Note 1AA*.
2	C1.5 & C1.5A	AA C1.5 amended and new C1.5A to extend the safeguards for juveniles to 17-year-olds unless precluded by statutory provisions.
3	C1.7(a) *Notes 1B & 1C*	AA Note added to point out that C1.5A extends C1.7(a) to 17year olds. References to *Notes 1B & 1C* added for clarity.
4	*C Note 1F*	Redundant reference to lay visitors deleted.
5	*C Notes 1L & 1M*	AA New *Notes* to support C1.5 and 1.5A
6	C2.4, C2.4A & C2.5	AA Notes added to point out that C1.5A extends requirements concerning access to custody records to the person called to fulfil the role of the appropriate adult for 17-year-old detainees.
7	C3.2/*Note 3B*	Link to Notices on Home Office web page added.
8	C3.5(c)(ii)	References added: • AA to C1.4, 1.5 & 1.5A, which relate to the need to call an appropriate adult. • to C3.20, which is relevant to determining the need for help to check documentation. • EU I&T to C3.12 and *Note 13B* as amended/added to describe the suspects for whom an interpreter is required to accord with EU Directive 2010/64
9	C3.9/*Note 3E*	New reference to the latest guidance in a College of Policing publication in place of the Circular from 2000.
10	C3.12	EU I&T Amended to accord with the terms of EU Directive 2010/64 in respect of persons who require an interpreter. Refers to C13.1C if the person is in Wales.
11	C3.13 & C3.14 C3.15, C3.17 & C3.18	AA Note added to point out that C1.5A extends the requirements in C3.13, C3.14, C3.15, C3.17 & 3.18 to 17-year-olds.
12	C3.20 & *Note 13C*	Reference to new *Note 13C* added
13	C3.21	EU I&T Amended and references to paragraph C3.12 and section 13 (interpreters) added to make it clear that the need for an interpreter applies to suspects who have not been arrested.
14	C3.19 & C6.5A	AA Notes added to point out that C1.5A allows the appropriate adult to ask for legal advice on behalf of a 17-year-old.
15	C5.7B & *Note 5F*	Updates reference to Prison Service Instruction 26/2012 – production of prisoners for interview etc.
16	C6.5	EU I&T Reference to Annex M5 which requires suspects to be reminded of their right to legal advice before waiving the right to a written translation of an essential document.
17	C7.2	Updates FCO contact information concerning notification of arrest.

No.	Paragraph	Summary of changes, reason/purpose
18	C7.4 & 7.5	Changes reflect UKBA's transition to the Home Office. See http://www.ukba.homeoffice.gov.uk/sitecontent/newsarticles/2013/may/11-transition
19	C8.1/*Note 8C*	New reference to the latest guidance in a College of Policing publication.
20	C8.8 & C8.10	AA Note added to point out that C1.5A extends requirement concerning cell accommodation and keeping juveniles and adults separate to 17-year-old detainees.
21	*C Note 9B*	AA Frequency of visits to detainees: Amended to point out that C1.5A extends this *Note* to 17-year-old detainees.
22	C10.12A	AA Cautions & special warnings: New para. points out that C1.5A extends C10.11A & C10.12 to 17-year-old detainees.
23	C11.12, C11.15 C11.18(a) *C Note 11C*	AA Interviews of juvenile and vulnerable suspects: Notes added to point out that C1.5A extends the requirements to 17-year-old suspects.
24	C11.16 C *Note11D*	AA Interviews at places of education: Note added to point out that C1.5A extends the requirement to 17-year-olds. Arrests at places of education: Amended to point out that C1.5A extends *Note11D* to 17-year-olds. See also Code G *Note 1B*
25	C11.18(c)	EU I&T Amended to clarify and limit the exception from the need for an *independent* interpreter for an urgent interview of a detainee for which a superintendent's authority is required.
26	C13.1, new C13.1A & *Notes 13A & 13B*	EU I&T Amended and new paragraphs describe the responsibility of chief officers to provide interpretation & translations services to accord with the terms of EU Directive 2010/64. Supported by amended *Note 13A* and new *Note 13B.*
27	*C Note 13C* new	*Note* to support C3.20 by determining whether a suspect who requires an interpreter able to read.
28	C13.1B new	Reference to provision of interpretation and translation services being at public expense moved from C13.8 which is not used.
29	C13.1 & C13.1C new	EU I&T New provision in C13.1C with reference to it in C13.1 to clarify position when the person is in Wales for the purposes of Welsh Language Schemes.
30	C13.2	EU I&T Simplified for consistency with C3.5(c)(ii) & C3.12 where the need for a interpreter is determined according to person's ability to speak &understand English. The *routine* (non-urgent) exception if the interviewer speak the suspect's own language is deleted to accord with the EU Directive 2010/64 which requires interpreters to be independent. In any event, this would be would be operationally impracticable in that an English translation of the interview would be required. Amendments to C11.18(c) (see above) still allow for urgent interviews.
31	C13.2A new	EU I&T Requires an interpreter for a parent/guardian appropriate adult who does not appear to speak or understand English. Mirrors existing C13.6 for a parent or guardian who has a hearing or speech impediment.
32	C13.3	EU I&T Clarification
33	C13.4	EU I&T Clarification – applies to statement made by suspects *under caution*.
34	New sub-heading (c), C13.5 and C13.6	EU I&T Heading amended for consistency to refer to with C3.5(c)(ii) & C3.12 where the need for a interpreter is determined according to a person's hearing or speaking ability and for clarification.
35	C13.6	AA Note added to point out that C1.5A extends the requirement to 17-year-olds.
36	C13.8	EU I&T Not used – interpreters provided at public expense included as C13.1B.
37	C13.9	EU I&T Removes reference to police officers acting as interpreters to reflect the terms of EU Directive 2010/64 and need for interpreters to be independent.
38	C13.10	EU I&T Additional clarification about the interpreters role which reflects what should be current practice.
39	C13.10A 13.10B new sub-heading (e) C13.10C C13.10D new sub-heading (f)	EU I&T New paragraphs & sub headings reflect the requirements of EU Directive 2010/64 concerning: (a) the suspect's right to challenge/complain about: • decisions not to provide interpretation & translations, and • the quality of interpretation & translations provided. (b) the provision of written translations of 'essential documents' to which a new Annex M applies.
40	C13.11 under sub heading (g)	EU I&T Extends and clarifies the recording requirements to accord with the terms of EU Directive 2010/64.
41	C15.2A C15.3(c) C15.3C(a)	AA Reviews and extension of detention: Note added to point out that C1.5A extends the requirements concerning appropriate adults to 17-year-old detainees.
42	C Note 15B(f)	Changes reflect UKBA's transition to the Home Office.
43	C16.1, C16.3 & C16.4A & C16.6	AA Notes added to point out that C1.5A extends the charging related requirements concerning appropriate adults to 17-year-old detainees.

No.	Paragraph	Summary of changes, reason/purpose
44	C16.7 & *Note 16D*	AA Notes added to point out that the requirement to transfer a juvenile detailed after charge to local authority accommodation does not apply to 17-year-olds.
45	*Note 16A*	*Note 16A* references to reprimands & warnings deleted to reflect the Legal Aid, Sentencing & Punishment of Offenders Act 2012 amendments to the Crime and Disorder Act 1998.
46	C17.7 & *Note 17G*	AA Notes added to point out that C1.5A extends the statutory requirements concerning the presence of the appropriate adult and who may fulfil that role to 17-year-old detainees.
47	Annex A2B Annex A5 Annex A11(c)	AA Intimate and strip searches: Note added to point out that C1.5A extends the requirements concerning appropriate adults to 17-year-old detainees.
48	Annex B *Note B1*	AA Note added to point out that C1.5A extends the requirement to 17-year-olds.
49	Annex K2 Annex K3 Annex K6	X-Rays & Ultra sound scans: References to 'staff custody officer' deleted - not applicable following repeal of the provisions of sections 120/121 of the Serious Organised Crime & Police Act 2005. AA Note added to point out that C1.5A extends the requirements concerning appropriate adults to 17-year-old detainees. Para 6 deleted – duplicates para. 3.
50	Annex M *Notes M1*, *M2* & *M3*	EU I&T New Annex with table listing 'essential documents' and the requirements to provide translations to reflect the terms of EU Directive 2010/64 as follows: Annex M1: Explains the meaning of 'essential document' for the purposes of the Code. Annex M2: Table listing documents & when translations are to be created & provided. Annex M3: Use of oral translations/oral summaries of written translations instead of written translation. Annex M4, M5, M6, and M7: Waiving the right to a written translation. Annex M8: Representations that another document should be 'essential'. Annex M9: Inspector to be consulted in cases of doubt. Annex M10: Recording requirement for action under Annex M. *Note M1*: Clarifies information which need not be disclosed in any translation *Note M2*: Supports M6 - suspects should not be persuaded to waive the right to a written translation. *Note M3*: Supports M6 to point out that detention cannot be extended to provide written translations.

15 October 2013

Table (6)

Revised PACE Code E (Audio recording of interviews)
Table of changes

The table below identifies the paragraphs and Notes for Guidance which have been revised (excluding minor grammar and typographical corrections) and briefly outlines the changes.

Many of the changes to Code E are mirrored (with modifications as necessary) in the revised version of PACE Code F for visual recording of interviews and vice versa.

For ease of reference, web links to other specified documents are included.

[ ] indicates changes made since the consultation draft was circulated.

No.	Paragraph	Summary of changes, reason/purpose
1.	E1.0 New *Note 1B*	New paragraph and *Note 1B*: General reminder about unlawful discrimination which refers to the protected characteristics relevant to the Code to which the Equality Act 2010 applies.
2.	E1.4	Clarification; avoids confusion in the event that any of those listed in C1.12 become a suspect for an offence and need to be interviewed.
3.	E1.5	Amended to reflect the requirement in Code C1.5A to call someone to fulfil the role of the appropriate adult for 17 year old suspects.
4.	E2.3 E3.2 *Note 3C*	Reflect the requirement that the conduct and recording of interviews in terrorism cases must accord with a separate terrorism Code
5.	E1.5 *Notes 3D, 3E & 3F* E4.4(c) E4.4A E4.10 E4.11 E4.14 *E Note 4G* E5.1 *Note 6C* E7.14	Changes made for consistency between Codes E & F and the Code of Practice for video recording interviews in terrorism cases which applies to terrorism cases and came into force on 10 July 2012. Additions and amendments taken from Code F and the terrorism code which are equally applicable to Code E as well as clarification of the current provisions.

No.	Paragraph	Summary of changes, reason/purpose
6.	E1.12 *Note 1A* E3.1(a) E3.3(a) & (b) E3.3A E3.4 *Note 3A* E4.2 E4.5 E4.8 E4.9 E4.15 E4.18 E7.11 *Notes 4E & 4F*	New and amended provisions for the conduct and recording of voluntary interviews of suspects who are not under arrest. These take account of the recent revisions to Code G (Arrest) and changes to Code C3.21 & C3.22 which support the use of voluntary interviews to ensure that voluntary interviews are subject to Code E & distinguish them from custody cases. A general provision in E1.12(c) avoids the need to distinguish the voluntary option in detail in every paragraph. The changes recognise that the current provisions which focus on custody cases for which the custody officer is responsible are not practicable for voluntary interviews which need not take place at a police station with custody facilities. They provide for a sergeant to be responsible for voluntary, non-custodial cases and for giving authority not to make an audio recording similar to the arrangements in place for those in custody. E3.1(a) exempts any 'urgent' interview of an arrested suspect elsewhere than at a police station as allowed for by C11.1 from the need for authority not to audio record.
7.	E1.6(c) *E Note 5A*	Update terminology to reflect the establishment of the College of Policing and the creation of the National Police ICT Company and to allow for future changes to references to national guidance.
8.	E1.8(a) & (b)	Amends 'police authority' to 'police force' as a general descriptive term to distinguish between directly employed & contracted civilian police staff for the purposes of the Police & Social Responsibility Act 2011 which introduced Police and Crime Commissioners to replace police authorities.
9.	E4.7, sub-heading (c) & *Note 4C*	Amended to accord with terms of Code C & EU Directive 2010/64 in respect of persons who require an interpreter.
10.	Section 6 E6.1, E6.3 E6.3A to 6.3C Notes 6D to 6E	Amendments and new provisions concerning security of master recordings to ensure consistency across the interview recording provisions in Codes E and F and the corresponding terrorism provisions.

15 October 2013

Table (7)

Revised PACE Code F (Visual recording of interviews)
Table of changes

The table below identifies the paragraphs and Notes for Guidance which have been revised (excluding minor grammar and typographical corrections) and briefly outlines the changes.

The changes mirror (with modifications as necessary) those in Code E (audio recording).

For ease of reference, web links to other specified documents are included.

[ ] indicates changes made since the consultation draft was circulated.

No.	Paragraph	Summary of changes, reason/purpose
1.	F1.0 New *Note 1C*	New paragraph and *Note 1C:* General reminder about unlawful discrimination which refers to the protected characteristics relevant to the Code to which the Equality Act 2010 applies.
2.	F1.4	Clarification; avoids confusion in the event that any of those listed in C1.12 become a suspect for an offence and need to be interviewed.
3.	F1.5	Amended to reflect the requirement in Code C1.5A to call someone to fulfil the role of the appropriate adult for 17 year old suspects.
4.	F1.6A F4.4(c), F4.4A F4.10 *F Notes 4AA & 4F* E7.14	Changes made for consistency between Codes E & F and the Code of Practice for video recording interviews in terrorism cases which applies to terrorism cases and came into force on 10 July 2012. Includes additions and amendments taken from Code E and the terrorism code which are equally applicable to Code F as well as clarification of the current provisions.
5.	F1.6(c) *Note 5A*	Updates terminology to reflect the establishment of the College of Policing and the creation of the National Police ICT Company and to allow for future changes to references to national guidance.
6.	F1.8 & *Note 1B* *Note 1B* F3.3 *Note 3A* F4.2, F4.5 F4.8 F4.9 F4.15 F4.18 *Notes 4B & 4C*	New and amended provisions for the conduct and recording of voluntary interviews of suspects who are not under arrest which mirror the corresponding provisions for audio recording in Code E. These complement the recent revisions to Code G (Arrest) which promote the use of voluntary interviews. Following changes to Code C3.21 & C3.22 they ensure that voluntary interviews are subject to Codes E & F. A general provision in F1.8(c) avoids the need to distinguish the voluntary option in detail in every paragraph. The changes modify the current provisions for which the custody officer is responsible to apply to voluntary interviews which need not take place at a police station. They therefore provide for a sergeant to be responsible for giving authority not to make an audio/visual recording similar to the arrangements in place for those in custody.
7.	F4.7, sub-heading (c)	Amended to accord with terms of Code C & EU Directive 2010/64 in respect of persons who require an interpreter.
8.	F2.5, F3.2 *Note 3E*	Reflects requirement that the conduct and recording of interviews in terrorism cases must accord with a separate terrorism Code.
9.	Section 6	Minor amendments and new headings concerning security of master recordings for consistency across the interview recording provisions in Codes E and F and the corresponding terrorism provisions.

15 October 2013

Table (8)

REVISED PACE CODE H (DETENTION-TERRORISM)

The main changes in this draft have been made in order to:

(a) comply with the Divisional Court judgement concerning safeguards for 17-year olds- 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).

These mirror the changes to Code C.

The table below identifies the paragraphs and Notes for Guidance which have been revised (excluding minor grammar and typographical corrections) and briefly outlines the changes.

For ease of reference, web links to other specified documents are included.

Key: AA = change arising from the judgement concerning safeguards for 17-year-olds.
EU IT = change relating to EU Directive 2010/64 on interpretation and translation.
[ ] indicates changes made since the consultation draft was circulated.

No.	Paragraph	Summary of changes, reason/purpose
1	H1.0 & new *Note 1AA*	Amended to clarify scope of the Equality Act 2010 supported by new *Note 1AA*.
2	H1.11A	AA New H1.11A extend the safeguards for juveniles to 17-year-olds unless precluded by statutory provisions.
3	H1.13(a) *Notes 1B & 1C*	Note added to point out that C1.11A extends C1.13(a) to 17year olds. References to *Notes 1B & 1C* added for clarity.
4	*H Note 1F*	Redundant reference to lay visitors deleted.
5	*Note 1O & 1P*	AA New Notes to support H1.11A
6	H2.5, H2.6 & H2.7	AA Notes added to point out that H1.11A extends requirements concerning access to custody records to the person called to fulfil the role of the appropriate adult for 17-year-old detainees.
7	H3.5(c)(ii)	References added: • AA to H1.10, 1.11 & 1.11A which relate to the need to call an appropriate adult. • to H3.21, which is relevant to determining the need for help to check documentation. • EU IT to H3.14 and *Note 13B* as amended/added to describe the suspects for whom an interpreter is required to accord with EU Directive 2010/64.
8	H3.14	EU IT Amended to accord with the terms of EU Directive 2010/64 in respect of persons who require an interpreter. Refers to H13.1C if the person is in Wales.
9	H3.15 & H3.16 H3.17, H3.18 H3.19	AA Note added to point out that H1.11A extends the requirements in C3.15 and C3.16 to 17-year-olds.
10	H3.20 & H6.6	AA Notes added to point out that H1.11A allows the appropriate adult to ask for legal advice on behalf of a 17-year-old.
11	H3.21 & *Note 13C*	EU IT Reference to new *Note 13C*.
12	H6.4	EU IT Reference to Annex K5 which requires suspects to be reminded of their right to legal advice before waiving the right to a written translation of an essential document.
13	H7.2	Updates FCO contact information concerning notification of arrest.
14	H7.4 & 7.5	Changes reflect UKBA's transition to the Home Office. See http://www.ukba.homeoffice.gov.uk/sitecontent/newsarticles/2013/may/11-transition
15	H8.9	AA Note added to point out that H1.11A extends requirement concerning cell accommodation and keeping juveniles and adults separate to 17-year-old detainees.
16	*H Note 9B*	AA Frequency of visits to detainees: Amended to point out that H1.11A extends this *Note* to 17-year-old detainees.
17	H10.11A	AA Cautions & special warnings: New para. points out that H1.11A extends C10.10A & C10.11 to 17-year-old detainees.

No.	Paragraph	Summary of changes, reason/purpose
18	H11.9, H11.11(a) *H Note 11C*	AA Interviews of juvenile and vulnerable suspects: Notes added to point out that H1.11A extends the requirements to 17-year-old suspects.
19	H11.11(c)	EU IT Amended to clarify and limit the exception from the need for an *independent* interpreter for an urgent interview of a detainee for which a superintendent's authority is required.
20	H13.1, new H13.1A & *Notes 13A & 13B*	EU I&T Amended and new paragraphs describe the responsibility of chief officers to provide interpretation & translations services to accord with the terms of EU Directive 2010/64. Supported by amended *Note 13A* and new *Note 13B.*
21	*H Note 13C* new	*Note* to support H3.21 by determining whether a suspect who requires an interpreter is able to read.
22	H13.1B new	Reference to provision of interpretation and translation services being at public expense moved from H13.8 which is not used.
23	H13.1 & H13.1C new	EU I&T New provision in H13.1C with reference to it in H13.1 to clarify position when the person is in Wales for the purposes of Welsh Language Schemes.
24	H13.2	EU I&T Simplified for consistency with H3.5(c)(ii) & H3.14 where the need for a interpreter is determined according to person's ability to speak & understand English. The *routine* (non urgent) exception if the interviewer speak the suspect's own language is deleted to accord with the EU Directive 2010/64 which requires interpreters to be independent. In any event, this would be would be operationally impracticable in that an English translation of the interview would be required. Amendments to C11.11(c) (see above) still allow for urgent interviews.
25	H13.3	EU I&T Requires an interpreter for a parent/guardian appropriate adult who does not appear to speak or understand English. Mirrors existing C13.6 for a parent or guardian who has a hearing or speech impediment.
26	H13.4	EU I&T Clarification – applies to statement made by suspects *under caution*.
27	New sub-heading (c), H13.5 and H13.6	Heading amended for consistency to refer to with H3.5(c)(ii) & H3.14 where the need for a interpreter is determined according to a person's hearing or speaking ability and for clarification.
28	H13.6	AA Note added to point out that H1.11A extends the requirement to 17-year-olds.
29	H13.8	EU I&T Not used – interpreters provided at public expense included as H13.1B.
30	H13.9	EU I&T Removes reference to police officers acting as interpreters reflect the terms of EU Directive 2010/64 and need for interpreters to be independent.
31	H13.10	EU I&T Additional clarification about the interpreters role which reflects what should be current practice.
32	H13.10A 13.10B new sub-heading (e) H13.10C H13.10D new sub-heading (f)	EU I&T New paragraphs & sub headings reflect the requirements of EU Directive 2010/64 concerning: (c) the suspect's right to challenge/complain about • decisions not to provide interpretation & translations. • the quality of interpretation & translations provided. (b) the provision of written translations of 'essential documents' to which a new Annex K applies.
33	H13.11 under sub-heading (g)	EU I&T Extends and clarifies the recording requirements to accord with the terms of EU Directive 2010/64.
34	Annex A3 Annex A6 Annex A12(c)	AA Intimate and strip searches: Note added to point out that H1.11A extends the requirements concerning appropriate adults to 17-year-old detainees.
35	Annex B *Note B1*	AA Note added to point out that H1.11A extends the requirement to 17-year-olds.
36	Annex K *Notes K1*, *K2* & *K3*	EU I&T New Annex with table listing 'essential documents' and the requirements to provide translations to reflect the terms of EU Directive 2010/64 as follows: Annex K1: Explains the meaning of 'essential document' for the purposes of the Code. Annex K2: Essential documents and when to be created & provided. Annex K3: Use of oral translations/oral summaries of written translations instead of written translation. Annex K4, K5, K6, and K7: Waiving the right to a written translation. Annex K8: Representations that another document should be 'essential'. Annex K9: Inspector to be consulted in cases of doubt. Annex K10: Recording requirement for action under Annex K. *Note K1:* Clarifies information which need not be disclosed in any translation *Note K2:* Supports K6 - suspects should not be persuaded to waive the right to a written translation. *Note K3*: Supports K6 to point out that detention cannot be extended to provide written translations.

Scrutiny History

Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings ("the Directive")

On 30 December 2009, an Explanatory Memorandum was deposited with the United Kingdom Parliament, outlining the Government's initial response to a Member States' Initiative for a Proposal for the Directive (16801/09). The text was deposited at the same time.

On 20 January 2010, the Proposal cleared scrutiny by the European Union Select Committee. The Government responded to the Committee with an update on 3 February 2010. Also on 20 January, the European Scrutiny Committee released its first report into the Proposal, and the Government responded, again on 3 February 2010. The Government decided to opt in to the Proposal on 8 March 2010.

On 30 March 2010, the European Scrutiny Committee issued its second report into the proposed Directive.

On 15 April 2010 Member States considered the text of the Proposal in detail, and on 19 April 2010 the Proposal entered trilogue with the European Parliament and the Commission.

On 9 June 2010, the Government deposited an updated Explanatory Memorandum with the UK Parliament. The update was necessary to reflect amendments proposed by the European Parliament. On 16 June 2010 the updated text of the Proposal was overwhelmingly adopted by the European Parliament at first reading.

On 1 July 2010 the revised text was cleared from scrutiny by the European Union Select Committee, and on 9 September 2010 the European Scrutiny Committee followed with scrutiny clearance.

The Directive was formally adopted by Member States at a meeting of the Justice and Home Affairs Council on 20 October 2010.