

## RESPONSES TO CONSULTATION REQUESTING CHANGES or RE-CONSIDERATION – Summary

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

* No.	From – Organisation	Code/para.	Response <sup>1</sup> & purpose	Accept	*Reason/Comment N/R= Not relevant
1.	HMIP/HMIC	C General	Extend Code C to be specific about the need for pre release risk assessments and how they should be conducted.	N	Reference in C Note 8C [H Note 8E] to the Safer Detention Guidance is sufficient.
2.	Law Society	C General	Extend Code C to include requirements concerning police bail, particular concerning the making & recording of representations regarding bail and/or conditions.	N	Review of bail management & supervision is subject to separate consideration.
3.	Police - ACPO - Reducing Bureaucracy Practitioners Group (ACPO RBPG)	C General G General	Suggest clarification is required in relation to the legal responsibility of the custody officer in relation to the necessity test.	N	The necessity test is a matter for the arresting officer (Code G), not the custody officer. Custody officer training & case Law DPP v L and s.37 PACE.
4.	Police - ACPO - Reducing Bureaucracy Practitioners Group (ACPO RBPG)	C General – Training need	The HMIC report published 15 <sup>th</sup> December “Whose looking out for the Children?” indicates the potential need for further changes around the care and detention of children.	N	See 93
5.	Police - Lancashire (via ACPO)	C1.2 H1.8	Amend requirement for copies of the Code to be “readily available at all police stations for consultation ...” to be satisfied by making available electronic versions of the documents, or providing printed copies of the relevant sections downloaded direct from the relevant Home Office website.”	N	Not necessary. The Open Government Licence allows Forces to provide own versions in any format or medium. Add ‘Copyright’ notice.
6.	Law Society	C1.4 C1 Note 1G H1.10 H1 Note 1G	Amend definition <i>Note 1G</i> to reflect definition in s.1(2) of the Mental Health Act 1983, as amended by the Mental Health Act, 2007 - ‘any disorder or disability of the mind’.	Y	See 7

<sup>1</sup> Excluding minor typographical/style corrections/changes.

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7.	MENCAP	C1.4 C1 Note 1G H1.10 H1 Note 1G	Term 'mental vulnerability' does not adequately portray a person with a learning disability. A suspect's learning disability and need for support often goes unidentified.  Update the code to (i) amend definition of 'mental disorder' in the MHA 1983 which makes it clear that "a person with learning disability shall not be considered by reason of that disability to be...suffering from mental disorder." and (ii) the need to explicitly recognise not only 'mental vulnerability' but those in need of greater communication or other support.	Y	Only in respect of definition in MHA 1983.  Current terminology is sufficient to cover learning disability. Proposal would add unnecessary technical/ medical terms. Better identification of individuals who need an AA is a training issue.
8.	National Appropriate Adult Network (NAAN)	C1.4 C1 Note 1G	Amend Note 1G to reflect definition in s 1(2) of the Mental Health Act 1983, as amended by the Mental Health Act, 2007 - 'any disorder or disability of the mind'.	Y	See 7
9.	HMIP/HMIC	C1.5 H1.11 & throughout.	Amend 'juvenile' to cover anyone under the age of 18 – in line with other legislation.	N	Age 16 set by section 37(15) PACE.  Resource implications if age raised. Requires work with other Government Departments.
10.	MENCAP	C1.7(b)(iii) C1 Note 1D H1.13(b)(iii) H1 Note 1D	Amend definition of AA to place emphasis on the preference for adult being someone trained in care (i.e. a professional) or experienced in the care of that individual (e.g. family member) to minimise AA from outside one of these categories being called. E.g. if after all reasonable efforts are made to find adult from category (b)(i) or b(ii) then the adult may (iii) some other responsible adult aged 18 or over.	N	Existing emphasis is sufficient. Potential to restrict choice, cause delay or allow AA status to be challenged because of police lack of effort.  Provision of AA services for other than juveniles requires work with other Government Departments
11.	Independent Police Complaints Commission (IPCC)	C1.9 C1.15 H1.15 H1.19	Consider clarification in the Codes &/or revised Safer Detention and Handling Guidance to ensure custody officer responsibilities are performed by designated staff and that custody officers and staff are clear about their individual roles and responsibilities & who may perform important tasks relating to detainee care.	Y	Designation concerns powers & is subject to the PRA 2002  Detainee care is a separate issue for suitably trained & competent staff whether or not designated. See 24 & 25
12.	Police - Avon & Somerset (via ACPO)	C1.9 H1.15	Appears to reduce options for who may perform the role of custody officer. Would it be better to state that it includes "any designated member of staff performing that role or police officer .....?"	N	Designation not relevant. Reflects s.36(4) of PACE which applies only to police officers.

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13.	HMIP/HMIC	C1.10	Add reference to using a police station as a last resort as a place of safety for the purposes of section 136 along the same lines as in C3.16.	Y	See 21
14.	HMIP/HMIC	C1.15 H1.19	Clarify status of police staff designated under the Police Reform Act 2002 employed/contracted by the police authority.	N	Not necessary, C1.13 [H1.15] & C1.15 [H1.19] distinguishes between designated & non-designated staff. Deployment is matter for chief officers.
15.	HO PTU – Police Powers ACPO	C1.15 H1.19	Amend reference to police authorities.	Y	Amend to refer to police force.
16.	Law Society	C2.4 H2.5	Add Note for Guidance to indicate that the right of a solicitor or appropriate adult to ‘consult’ the custody record includes the right to read it. Resolves concern that ‘consult’ is being interpreted as meaning something less than being able to read it.	N	But change ‘consult’ to ‘inspect’ as in C2.5 [H2.7]
17.	Police - ACPO - Reducing Bureaucracy Practitioners Group (ACPO RBPG)	C2.3A H2.3A	Make clear that this refers to a person being entitled to a copy of the stop and search record as recorded on the custody record & not a separate record. Suggest in 4th line “a” should read “the”.	Y	
18.	Police - Individual officer	C3 & C6 H3 & H6	Propose a mandatory requirement in the Codes for the appropriate adult to be present with a juvenile or a vulnerable suspect during a private consultation with a solicitor.	N	Not appropriate, this is a matter for the solicitor.
19.	Police - Avon & Somerset (via ACPO)	C3 Note 3E H3 Note 3F	Future proof reference to Safer Detention Guidance by inserting “or the latest subsequent version of this publication...”	Y	Qualify by adding “as amended/ revised from time to time” to take account of interim updates.
20.	HMIP/HMIC	C3.1 H3.1	Add a right to see a health professional.	N	See 28
21.	MENCAP	C3.2 H3.2	If requested or by or on behalf of the detainee, written notice should be provided in a format that is accessible to the detainee, for example ‘easy read’, audio or video.	Y	Add reference in Note 3B to these versions & point out that access is subject to availability.
22.	HMIP/HMIC	C3.2 Note 3B H3.2 Note 3B & throughout.	References to written information in other languages/forms etc should include reference to ‘easy read’ versions that are available.	Y	See 21
23.	Institute of Legal Executives (ILEX)	C3.4 H3.4	Under heading the “Custody Officer Shall” 2 <sup>nd</sup> bullet point, last sentence, after “must” delete “always”	Y	

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24.	Independent Police Complaints Commission (IPCC)	C3.5 H3.5	Clarify changes which enable the custody officer to delegate tasks in the PACE codes or Safer Detention and Handling Guidance to make it clear that the custody officer retains overall responsibility for the care of detainee, even where specific tasks are delegated to others.	Y	C1.15 [H1.19] reflects s.39 PACE & points out the responsibility of the officer having custody to ensure compliance with Codes. See also 25
25.	MENCAP	C3.5 H3.5	Given that learning disability and other support needs are under identified, it is especially important that officers and staff to whom the custody officer delegates specified tasks are trained and experienced in recognising need for additional support.	Y	Insert new Note 3F [31] for the custody officer to be satisfied that staff directed to carry out tasks are trained, suitable & competent.
26.	National Appropriate Adult Network (NAAN)	C3.5 H3.5	Delete the provisions which allow the custody officer to delegate the determination whether the detainee requires an appropriate adult to other custody staff. Evidence suggests that mental vulnerability is significantly under identified & delegation may exacerbate this situation unless the person has received equivalent or superior training in recognising a detainee who might need help from an appropriate adult..	N	See 25
27.	Police – Staffordshire (via ACPO)	C3.5 H3.5	Should be more prescriptive around delegation and what would be authorised to be requested and the limits with how far it could be taken.	N	See 25
28.	HMIP/HMIC	C3.5(a) H3.5(a)	Add requirement in (a) to ask detainees whether they would like to see an appropriate healthcare professional. C3.5(c) requires custody officer to determine need to call AHCP, but this should also be and opportunity for the detainee to ask for one.	N	The Notice of R & E, Risk assessment enquiry questions & C9.8 are sufficient. See 20
29.	Law Society	C3.5(c) 3 <sup>rd</sup> bullet point C13.1 C13.2 C13.11 H3.5(c) H13.1 H13.2 H13.11	Revise to comply with EU Directive 2010/64/EU of on the right to information and translation in criminal proceedings (20 October 2010) regarding: C13.1 & 13.2 - Article 2(1) to refer to people who 'do not speak or understand English' or have difficult in that respect. C3.5(c) - Article 2(4) which requires that a procedure or mechanism to be in place to determine whether a suspect speaks and understands the language C13.11 - Article 7 which requires certain matter to be recorded. Directive does not have to be given effect until October 2014 but amendment could be done now.	N	For the future - liaise with MoJ.

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30.	Law Reform Committee of the Bar Council of England and Wales and the Criminal Bar Association (LRCBC & CBA)	C3.8A H3.8A	Amend the proposal that the content of any risk assessment etc. is only <i>required</i> to be disclosed <i>if failure to do so</i> might put that person at risk, to require disclosure <i>unless</i> there are reasonable grounds for withholding information. Presumption in favour of disclosure because the information <i>might</i> reveal to the person acting of the suspect's behalf an area of vulnerability which is not immediately apparent from the contents of the custody record itself.	N	The issue is safety & security of detainees and others. Potentially invites a person acting on the suspect's behalf to 'demand' information & challenge non-disclosure to do their own 'risk assessment'. Code does not require routine disclosure but does not prevent it. NPIA Safer detention 'issue'.
31.	Police - Metropolitan	C3.8A H3.8A	Add qualification for circumstances where risk assessment indicates that the detainee is an escape risk that sharing this <i>may</i> be prejudicial to the person's detention or an ongoing investigation and therefore may not be appropriate.	N	Need to disclose is based on 'risk' to safety of others. Does not <i>require</i> 'escape' risk to be mentioned as such. Operational decision for the custody officer
32.	National Appropriate Adult Network (NAAN)	C3.16	For clarity, amend sentence referring to appropriate adults to read " <i>An appropriate adult has no role in a Section 136 Mental Health Act assessment and therefore is not required to be present for any part of this process.</i> "	Y	With modification
33.	National Appropriate Adult Network (NAAN)	C3.16 C Annex E6	Amend 'approved social worker' to read 'approved mental health professional' to accord with terminology in the Mental Health Act 2007.	Y	
34.	Police - ACPO - Reducing Bureaucracy Practitioners Group (ACPO RBPG)	C3.16	This could be clearer about transfer arrangements from police stations to hospitals as reflected in <i>Note 9D</i> .	N	Currently includes a reference to Note 9D.
35.	Police - Avon & Somerset (via ACPO)	C3.16	Concerns that practitioners may be wrongly interpreting 136 MHA so that persons are being detained after assessment whilst they sort out other forms of social care. Suggest inserting additional text for clarity and to prevent unlawful detention.	N	C3.16 is clear as to the limits of detention under s.136. Refer to MHA Code for further details including transfer to hospital.
36.	Police - Devon & Cornwall	C3.16 C Annex E6	To accord with current Mental Health Act Code of Practice terminology amend 'approved social worker' to 'approved mental health professional'	Y	
37.	Police - Devon & Cornwall	C3.17 C3.18	C3.17 & C3.18 should follow C3.15 as continuing advice about appropriate adults they do not naturally follow C3.16 which refers to there being 'no requirement' for an adult to be at the assessment.	N	Not essential.

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38.	Institute of Legal Executives (ILEX).	C3.21	Under heading “persons attending a police station voluntary” clarify by amending to read: “In the event that their arrest is necessary, they must be informed immediately that (a) that they are under arrest; (b) the grounds and reasons of the arrest as required by Code G; and (c) brought before the custody officer. The custody officer is responsible for making sure that a custody record is open and that they are notified of their rights in the same way as other detainees as required by section 2 and this section of the Code”.	N	But amend layout to clarify.
39.	Law Society	C4.4 H4.4	Reinstate the previous requirement that the custody record should include details of anything found on, or taken from, the suspect on being booked in at the police station.	N	Reflects current provisions in section 54 PACE. Requirement to record all property etc. was removed by s.8 CJ Act 2003. Allows police discretion & avoids the need to routinely list ‘everything’. Solicitor may however ask.
40.	HMIP/HMIC	C4 Annex A	Add reference to Annex L. This has implications for Annex A searches but currently cited only in C4.1.	Y	Add reference to Annex A 5, 6 & 11.
41.	MENCAP	C4 Annex A2B C4 Annex K	Clarify the meaning of ‘appropriate consent’ and the form in which it must be given which currently is ‘in writing’. Particularly needed when detainees have low literacy levels or additional communication needs.	N	Requirement for consent in writing is statutory (see s.55(3A) & 55A(2) PACE. Role of AA is to help understanding
42.	Police - Devon & Cornwall (via ACPO)	C4 Annex E6 H4 Annex E6	Amend 'approved social worker' to read 'approved mental health professional'.	Y	
43.	HMIP/HMIC	C4. Annex K4	X rays are usually carried out by radiographers not nurses or doctors, similarly, whilst some nurses and doctors can carry out ultrasound scans it would be more usual for some other healthcare professional.	N	Code follows s.55A(10) & 56(17) PACE which refer to registered medical practitioners & registered nurses.
44.	a:gender	C4 Annex L H4 Annex L	With regards to the gender of the searching officer/staff: Note L5 should be extended to include Guidance for Chief officers. In Note L6, potentially relevant guidance material is unavailable.	N	See 46

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45.	National Trans Police Association	C4 Annex L H4 Annex L	Dissatisfied that the guidance does not deal with the gender of the officer or staff carrying the search. Note L5 presupposes that every Chief Officer has provided such guidance & that it is available to members of the public. The Code should reflect the West Midlands Police policy to permit trans officers & staff to search according to their social gender (acquired gender) as best practice.	N	See 46
46.	Police - ACPO - Lesbian, Gay, Bisexual & Transgender (LGBT) Portfolio	C4 Annex L H4 Annex L	Note L5 The current situation in which Chief Officers are responsible for providing guidance and instruction has resulted in significant differences between forces. This falls short in meeting the needs of trans officers and staff and affording them the same courtesy, consideration and respect as trans members of the public.	N	Employment law guidance is outside scope of the Code, but: Extend L5 to tell chief officers that their guidance must comply with the Equality Act 2010 & complement the Annex. Delete L6; no ACPO guidance available.
47.	Law Reform Committee of the Bar Council & Criminal Bar Association (LRCBC & CBA)	C5.4 H5.4	Extend the detainee's entitlement (at the custody officer's discretion) to receive visits from those likely to take an interest in their welfare, to include those in whose welfare the <i>detainee has an interest</i> . Acknowledges effect on a detained person of their responsibilities for others.	Y	Also a Safer Detention consideration.
48.	Police - Metropolitan	C5.4 C5 Note 5B H5.4 H5 Note 5B	To help prevent visits hindering particularly complex investigations, amend to indicate that the custody officer should consider all of the circumstances, including the needs of the investigation and this may include consultation with the investigating officer.	N	Not necessary. Note 5B refers to hindrance to the investigation & the custody officer has operational discretion to consult the IO.
49.	Law Society	C6 Note 6F H6 Note 6E	Amend 'Law Society' to read 'Solicitors Regulation Authority'.	Y	
50.	Police - Sussex	C6 Note 6F H6 Note 6E	Amend 'Law Society' to read 'Solicitor's Regulatory Authority'	Y	
51.	Law Society	C6.5 C6 Note 6B H6.4 H6 Note 6B	The custody officer should be placed under a positive duty to inform the DSCC of the factors, or exceptions, of which they are aware that will make the CDS Direct service inapplicable.	N	Communication process is an operational matter for police & DSCC.

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52.	Law Society	C6.5 C6Note 6B H6.4 H6 Note 6B	Question why, if a detainee wants to pay for legal advice, the matter should be referred to the DSCC. If a detainee nominates a solicitor, the police could contact the named solicitor directly. This would avoid problems in a busy custody suite of police not answering the call when the solicitor rings in.	N	DSCC is a one stop shop which saves police time. Matter for MoJ, LSC & ACPO to discuss.
53.	Law Society	C6.5 C6 Note 6B H6.4 H6 Note 6B	The custody officer should be placed under a positive duty to inform the DSCC of the factors, or exceptions, of which they are aware that will make the CDS Direct service inapplicable.	N	Police/DSCC operation for police & DSCC not the PACE Codes. See 51
54.	MENCAP	C6.5A & C3.19 H6.6 & H3.20	Extend right for an appropriate adult to ask for legal advice on behalf of a juvenile to apply to a mentally vulnerable adult detainee (see C3.19).	Y	See 55
55.	National Appropriate Adult Network (NAAN)	C6.5A & C3.19 H6.6 & H3.20	Extend right for an appropriate adult to ask for legal advice on behalf of a juvenile to apply to a mentally vulnerable adult detainee (see C3.19).	Y	C6.5A [H6.6] amended.
56.	Police - Avon & Somerset (via ACPO)	C6.6(d) H6.7	Significantly increases the work done when a detainee changing their minds. It is unlikely the Inspectors will allow them to change their minds given the work they would have to do.	See next column	See 63
57.	Police - Cheshire (via ACPO)	C6.6(d) H6.7	C6.6(d) extract from quote from Custody Sergeant " <i>The proposed change at 6.6(d) should be resisted at all costs. It represents an additional workload for both Inspectors and Custody Officers (in the form of lengthy entries on the custody record) ...</i> "	See next column	See 63
58.	Police - Cheshire (via ACPO)	C6.6(d) H6.7(d)	Addition at Code C 6.6 d (detainee changing their mind with regards legal advice), requires additional tasks for the PACE inspector. The general view is that the necessary safeguards are already in place to establish whether a detained person has been pressured into proceeding without legal advice.	See next column	See 63
59.	Police - Hampshire (via ACPO)	C6.6(d) H6.7	1. Permit custody officer to make contact with the solicitor and endorse custody record & reduce inspector's involvement. 2. Reduce duplication arising from recording everything on the custody record & then repeating it at commencement of interview.	See next column	See 63
60.	Police - Norfolk & Suffolk (via ACPO)	C6.6(d) H6.7(d)	New requirements when a detainee wishes to change their mind about legal advice are bureaucratic and unnecessary. The current safeguards are satisfactory.	See next column	See 63

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61.	Police - Sussex	C6.6(d)	Creates an onerous duty for an inspector to try and obtain the estimated time of arrival of a solicitor. The important issue is to make the inspector aware that the detainee has changed their mind so the inspector can then check.	See next column	See 63
62.	Law Society	C6.6(d)(i) H6.7(d)(i)	Insert requirement to give the solicitor the opportunity to speak directly with the suspect.	N	Contact with solicitor may not be possible at the time the decision needs to be made. See 63
63.	Police - ACPO - Reducing Bureaucracy Practitioners Group (ACPO RBPG)	C6.6(d)(i) H6.7(d)(i)	Concerns around the bureaucracy which this paragraph potentially creates. If change required, does it need to be specific to an inspector or could this be delegated or completed over the phone?	See next column	Re-considered, provisions revised & simplified & re-circulated.
64.	Law Society	C6.6(d)(iii) H6.7(d)(iii)	Include requirement to record 'the time that the solicitor was contacted, or attempted to be contacted, by whom and the number called'.	N	See 63
65.	Police - Avon & Somerset (via ACPO)	C6.6(d)(iii)	The interviewer may have no connection to or responsibility for producing the written record of interview	N	See 63
66.	Police - Devon & Cornwall (via ACPO)	C6.6(d)(iii) H6.7(d)(iii)	To avoid doubt, amend 'inspector' to read 'inspector or above' to enable a Ch/Insp. or Superintendent authorise if an inspector is not available.	Y	See 63
67.	Law Society	C6.8 H6.9	Delete the added 'or where they have requested free legal advice and that advice is limited to telephone advice'. This is because CDS Direct does not apply if the suspect is to be interviewed.	Y	In a CDS Direct case there will not be an interview.
68.	Police - Hampshire Police (via ACPO)	C7.2 H7.2	Only benefits to those using the Code electronically. This of course will automatically exclude all detainees. Suggest retaining Annex F with note indicating correct at time of printing and insert link for access to constantly updated list.	N	A printed list would have to be checked every time & is of no practical value to police or detainee. Web link included.
69.	Police - Devon & Cornwall (via ACPO)	C9 Note 9D	Amend 'alternative places of safety' to 'other places of safety'. Avoids giving impression that they are of secondary consideration.	Y	

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70.	Independent Police Complaints Commission (IPCC)	C9.2 C12.9 H9.3 H12.10	Amend to clarify & remove doubt about the requirement in C12.9 for interviewers to record complaints and bring them to the attention of the custody officer and its relationship with C9.2 which states that if it comes to notice that a detainee may have been treated improperly, even if no complaint is made, that must be reported to an inspector or above.	Y	C12.9 [H12.10] amended for consistency with C9.2 [H9.3] to point out that the duty of the interviewer is to report any apparent improper treatment coming to notice even if no complaint made.
71.	Independent Police Complaints Commission (IPCC)	C9.3 H9.4	Amend to more explicitly define intoxication. To resolve uncertainty as to action required arising from the Gary Reynolds case. IPCC recommendation. Already adopted in SDG.	Y	Amended to take account of the revised SDG definition which places the emphasis on the person being, “under the influence...”.
72.	HMIP/HMIC	C9.8 H9.10	Detainees should be able to request an AHCP of their own gender.	N	Matter for detainee & AHCP to resolve if raised. See item 28
73.	Faculty of Forensic and Legal Medicine of the Royal College of Physicians (FFLM)	C9.10 C9.11 H9.12 H9.13	Suggested alternative wording.	N	See 75
74.	G4S Forensic and Medical Services.	C9.10 C9.11 H9.12 H9.13	Proposals to allow nurses as well as doctors to supervise self-administration of Schedule 2/3 Drugs.	Y	See 75.
75.	HMIP/HMIC	C9.10 C9.11 H9.12 H9.13	Proposals to allow nurses as well as doctors to supervise self-administration of Schedule 2/3 Drugs.	Y	Revised after discussion with statutory/ professional bodies and relevant Home Office & Department of Health Officials.
76.	Secure Environment Pharmacists Group	C9.10 C9.11 H9.12 H9.13	Proposals to allow nurses as well as doctors to supervise self-administration of Schedule 2/3 Drugs.	Y	See 75

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77.	HMIP/HMIC	C9.15 H9.17	Written consent or at the very least verbal consent with a witness should be recorded regarding disclosure of medical condition.	N	Add reference in C9.5 [H9.6] to C Note 9E [H Note 9D]
78.	HMIP/HMIC	C9.16 H9.18	Add reference to AHCP's notes and where/how they should be stored [i.e. not in the boot of a car/at home etc.] see Caldicott Guidelines	N	Matter for AHCP & statutory body regs, not Codes. See 75
79.	MENCAP	C10.11 C10.12 H10.9 H10.10	Amend the reference to 'ordinary language' to something along the lines "in an accessible way, appropriate to the communication needs of the individual detainee".	N	Matter for the AA. For special warnings add new C10.11A [H10.9A] to state that for a juvenile or mentally vulnerable suspect, the AA <i>must</i> be present.
80.	Law Reform Committee of the Bar Council & Criminal Bar Association (LRCBC & CBA)	C11.13 H11.8A	Regarding the written record of comments made outside the context of an interview, add new requirement that; "A copy of the record should be provided to the suspect and their legal advisor (if any) prior to any subsequent interview." The amendment is necessary to ensure prompt and detailed disclosure of any alleged unsolicited comment outside the context of an interview.	N	Existing requirement in C11.2/11.4A [H11.4/11.5] is to 'disclose' significant statements which may have been recorded as per C11.13 [H11.8A] at beginning of the interview but not before. Timing of disclosure of any other information, e.g. unsolicited not significant comments, is for police.
81.	Law Reform Committee of the Bar Council & Criminal Bar Association (LRCBC & CBA)	C13 C13 Note 13A H13 H13 Note 13A	At the end, add " <i>Whenever possible the interpreter should not be a police officer</i> " Except for an urgent 'safety' interview, the interpreter should not be a police officer, and should be one whose neutrality between the parties is apparent. It is obviously inconsistent with legal professional privilege for a police officer to interpret when legal advice is being given.	N	Matter for the national arrangements implemented by MoJ for providing qualified competent interpreter. For legal advice, the solicitor would have the final say. Not aware that this has ever been problem.
82.	MENCAP	C13.9 C13.10 H13.9 H13.10	Amend the definition of interpreter to ensure it is sufficiently broad to include anybody who facilitates communication with the detainee.	N	The interpreter's defined role is independent & confined to interpreting word for word what is said. Unlike AAs, they cannot provide additional explanation, support etc.

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83.	National Appropriate Adult Network (NAAN)	C13.9 C13.10 H13.9 H13.10	Amend the definition of interpreter to ensure it is sufficiently broad to include anybody who facilitates communication with the detainee.	N	See 82
84.	MENCAP	C15.3	Reviews of detention – representations by appropriate adult: Amend to read: “Where the appropriate adult is no longer present at the police station and hence unavailable in person, officers shall make all reasonable efforts to seek their views through alternative channels. Where possible all efforts should be made to seek the opportunity to inform the appropriate adult who would in turn be able to make representations about the decision.”	Y	In principle Add new <i>Note</i> 15CA with guidance to emphasise requirement for solicitors & appropriate adults to be given an opportunity to make representations about detention.
85.	Prison Reform Trust & Children’s Society	C15.3	Reviews of detention – representations by appropriate adult: Amend to read: “(c) the Appropriate Adult if available at the time. If the Appropriate Adult is no longer available at the police station, reasonable attempts should be made to seek their views via the telephone.”	Y	In principle See 84
86.	National Appropriate Adult Network (NAAN)	C15.3(c)	Amend by inserting “If the appropriate adult is no longer available in the police station, reasonable attempts should be made to seek their views via the telephone.”	Y	In principle See 84
87.	Police - Sussex	C15.10; 15.11	This misses an opportunity to address the issue that for the detainee to be present, they must be at the work station in use at the time.	N	Follows the existing statutory requirement in s.37(5) PACE as applied to reviews by s.40(8).
88.	Prison Reform Trust & Children’s Society	C15.2A S.42 PACE	Ability to extend detention for 17 year olds without support of AA should be reversed.	N	Definition of juvenile (under 17) set by s.37(15) PACE. See 9 AA would be required if a 17 year old is vulnerable.
89.	Police - British Transport (via ACPO)	C16 Note 16D	For juveniles detained after charge, the section relating to finding secure accommodation before court should removed as no Council can ever provide such accommodation.	N	See 92 Reflects the existing statutory requirement in s.38(6) PACE.

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90.	MENCAP	C16.1 C16 Note 16C C Annex E 11	Amend to require all reasonable steps to be taken to ensure the appropriate adult is present for charging or other disposal. Annex E should remain as per the existing code in its discussion of appropriate adults.  Notes and Annex E11 imply that charging may/should proceed without the appropriate adult if they are not present at the police station. Proposed changes provisions will reduce the likelihood of the appropriate adult being present.	Y	In principle  Extend <i>Note 16C</i> to point out the need to make reasonable efforts to ensure an appropriate adult is present including option to release on bail to a time when the adult is present.
91.	National Appropriate Adult Network (NAAN)	C16.1 Note 16C C Annex E 11	Amend requirement for AA to be present at charge to require police to make efforts to ensure AA present by allowing a reasonable period to get an appropriate adult to the station before proceeding with the charge or other disposal.	Y	See 90
92.	HMIP/HMIC	C16.7 C16.10	Concerns that juveniles are being detained overnight in police custody after charge when they should be transferred to Local Authority Accommodation as required by section 38(6) PACE. It appears that Custody Officer are routinely asking for secure accommodation in respect of juveniles who do not pose a risk of serious harm as required in the legislation	Y	Training issue for police Resource issue for local authorities. See also 93
93.	Prison Reform Trust & Children’s Society	C16.7	Include new explicit presumption against the detention of children in the police station after charge & delete reference to “unless the custody officer certifies it is impracticable to do so”.	N	Reflects statutory option allowed in section 38(6) PACE which the Code cannot override.  New provisions & guidance to clarify & emphasise requirement to transfer a juvenile (under 17) detained after charge to local authority care added. See 92
94.	Prison Reform Trust & Children’s Society	C16.7 C16.10	Include requirement for local & central data collection & monitoring of juveniles detained after charge not being transferred to LA accommodation.	N	Data should be available to local YOTs/ courts via the certificate required to be produced to the court when the juvenile is not transferred (s.38(7) PACE). See 92
95.	Police - British Transport (via ACPO)	Detention periods – Part IV PACE.	Include provisions for ‘stopping’ the detention clock in relation to detainees affected by drink/drugs & whilst awaiting the arrival of appropriate adults & solicitors to compensate for the time wasted.	N	Statutory requirement cannot be amended by the Code.

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96.	Police - ACPO - Reducing Bureaucracy Practitioners Group (ACPO RBPG)	G General	There should be an understanding of the use of the necessity test in relation to the need to exercise powers of searching premises (s.32 and s.18 powers to search premises after arrest)	N	Covered in G2.9(e). Police training issue.
97.	Police - ACPO - Reducing Bureaucracy Practitioners Group (ACPO RBPG)	G General - scope	It needs to be made clear how this effects arrest for further offences whilst in custody (If at all)	Y	Same principle applies – s.24 PACE is the power of arrest for all offences and Code G applies. Note 2C extended.
98.	Police - ACPO - Reducing Bureaucracy Practitioners Group (ACPO RBPG)	G General - scope	Clarify application to ‘continuing offences’.	See next column	See 111
99.	Police – ACPO- Reducing Bureaucracy Practitioners Group (ACPO RBPG)	G General - scope	There needs to be clarification on whether or not the application of the test is required for bail responders.	N	Arrest s.46A PACE is not an arrest for an offence. See G2.3 & Notes 1 & 1A 1 <sup>st</sup> bullet point reflect s.46A & 34(7) PACE.
100.	Police - Avon & Somerset (via ACPO)	G Note 2B	Note 2B asks the officer to make what is currently a CPS decision (following an investigation) at the time of arrest. This surely cannot be reasonable?	See next column	See 111
101.	Police - Metropolitan	G Note 2D	Clarify whether warnings about a person’s behaviour prior to arrest relate to the offending behaviour <i>per se</i> or only the behaviour that may render arrest necessary. The example tends to suggest this is restricted to the potential for arrest.	N	Not necessary. The warnings concern the need to arrest. Matter for the officer to formulate & decide whether & how the suspect’s reaction affects the need to arrest.
102.	Police - Avon & Somerset (via ACPO)	G Note 2F	Note 2F Informing the person of their liability to arrest contradicts the word ‘voluntary’.	N	Person has no choice about being interviewed.
103.	Police - ACPO - Reducing Bureaucracy Practitioners Group (ACPO RBPG)	G Note 3	The example in the last sentence was confusing to frontline officers and it was felt the point it referred to was clearly stated and the example should be removed.	N	The point is not mentioned or stated elsewhere in the codes. See 111

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104.	Law Reform Committee of the Bar Council & Criminal Bar Association (LRCBC & CBA)	G1.3	Extend consequences of failing to justify the exercise of the power of arrest to include “internal disciplinary proceedings.”	N	Not necessary to refer to regulations governing police conduct.
105.	Police - Metropolitan	G1.3 G Note 2C	The Note is confusing when read in conjunction with G1.3 which emphasises that arrest <i>must never be used simply because it can be used.</i>	Y	Delete the words from G1.3. They are not needed since threshold for arrest is necessity.
106.	Police - Sussex	G1.3	All interferences with the ECHP which are disproportionate or unnecessary may render the police liable to civil action. Is it necessary to reiterate this here?	N	See 111
107.	Police - Avon & Somerset (via ACPO)	G2.1	This contradicts s.24(1) PACE (a) About to Commit and offence (c) <u>Reasonable grounds for Suspecting</u> to be about to commit an offence	N	Not meant to replicate details of s.24 PACE
108.	HMRC	G2.2 G2.9 G3.3 G Note 3	Concerned as to whether the level of information required correctly balances the need to provide sufficient information to the arrested person the need to enable an efficient and secure arrest to be made, in what can be stressful circumstances for all involved.	See next column	See 111
109.	Police - Avon & Somerset (via ACPO)	G2.2	Continuity of information being supplied. Use of ‘must’ & ‘should’	See next column	See 111
110.	Police - Sussex	G2.2	Refer here to Note 3 to address concern about giving too much information away too early in an investigation.	Y	See 111
111.	Police - Metropolitan	G2.3 G2.3A	Amend to reflect complex cases such as child abuse & money laundering where the needs of the investigation mean that the only viable option will be to arrest. In these cases there is likely to be ample evidence & factors to justify arrest, however, in these cases this will be more difficult to articulate concisely and could distract officers from the investigation.	See next column	Further revisions made to Code G to ‘simplify’ the requirements. Further revised draft circulated.
112.	Police - Avon & Somerset (via ACPO)	G2.3A	Good in theory but practical problems will arise	See next column	See 111
113.	Police - Norfolk & Suffolk (via ACPO)	G2.3A	Para 2.3A presents particular difficulties and could end up deterring arrests from being made which would be entirely appropriate and proportionate. Expects too much from officers & likely to be utterly and ruthlessly capitalised upon by defence solicitors and barristers.	See next column	See 111

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114.	Police – Staffordshire (via ACPO)	G2.3A	This amendment makes explicit what was hitherto implicit and puts into practice on a formal basis the discretion and professional judgement that officers have been demonstrating for many years	See next column	See 111
115.	Association of School and College Leaders	G2.3B	Welcome and support the proposed changes. They address the concerns about teachers of good character being arrested despite their willingness to co-operate by officers who appear to have no awareness of the power given to school staff by Section 93 of the Education and Inspections Act 2006.	See next column	See 111
116.	Crown Prosecution Service (CPS)	G2.3B	Concerned that the additional detailed provisions and guidance will cause more problems than they will solve. Expects too much from officers and invites potentially inadmissible ‘questioning’ and enquiries on the street, especially regarding ‘self defence’, that would be better carried out at the station. Provides unreasonable scope for the defence to challenge officers. Questions using the Code in this way to deal with what should be training issue.	See next column	See 111
117.	Police - Avon & Somerset (via ACPO)	G2.3B	Good advice but very problematic	See next column	See 111
118.	Police – Individual officer	G2.3B	Include provisions covering the use by a parent of reasonable force to restrain or restrict (but not punish) their child.	N	Matter for training / operational guidance. See 111
119.	Police - Metropolitan	G2.3B	Concern that the specific guidance in relation to householder self defence and allegations against school staff may lead to reluctance to arrest in these cases even if there are grounds to justify this course of action. Note 2B adequately deals with the use of force and this may be all that is needed.	See next column	See 111
120.	Police – Staffordshire (via ACPO)	G2.3B	We fully concur that this will instigate the appropriate response for incidents given in paragraphs 2.3B regarding school teachers and home owners defending their property.	See next column	See 111
121.	Police - Sussex	G2.3B	Split, make s.93 E&IA 2006 a separate paragraph.	See next column	See 111
122.	Police Foundation	G2.3BI	Reservation about directing officers to take account of the circumstances under which the law allows the use of reasonable force. Safeguards needed to ensure that assessment of reasonable force is made fairly and appropriately in every case and to mitigate against possible injustices.	See next column	See 111

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123.	Police - Avon & Somerset (via ACPO)	G2.4	Surely this should include Designated Person as per the Police Reform Act 2002. Without inclusion, we will have the situation where the original reason for arrest expire but person held for a different offence without the necessity being considered or being placed before the CO for him to record and authorise detention.	N	Applies only to staff designated as IOs (PRA 2002) for the purposes of making further arrests as per s.31PACE if they are necessary.
124.	Police - British Transport (via ACPO)	G2.4	Amend to make it clear that a supervisory officer cannot instruct a junior officer to make an arrest.	N	Training/supervision
125.	Police - Metropolitan	G2.4-2.7	Reference to officers' discretion to arrest should be replaced by guidance that officers should take into account factors such as operational imperatives and factors pointing to the person's innocence as well as their guilt.	N	Operational imperatives are not seen as being relevant to the need to arrest. See 111
126.	HMRC	G2.9 G Note 2F	Request further clarification on whether simply leaving an interview would make arrest necessary will provide this reason. Arguably, it should & Note 2F tends to suggest this.	See next column	See 111
127.	Police - Lancashire (via ACPO)	G2.9	Main comment is that G2.9 includes unnecessary repetition of what a person must be told.	See next column	See 111
128.	Police - Norfolk & Suffolk (via ACPO)	G2.9	It is not practicable to expect arresting officers to spend time providing a comprehensive explanation for the reason why they have made the arrest. There may be SOME instances when this can be done, otherwise impractical, unrealistic and highly unprofessional.	See next column	See 111
129.	Police – Staffordshire (via ACPO)	G2.9	Appreciate that there is a need to explain the necessity test criteria when arresting an individual. Concerned that this may lead to challenge, where due to the circumstances of the arrest and surrounding environment at the time, there could be an unintended consequence of officers not having had the opportunity to clearly articulate the necessity criteria. Requirement specified is too explicit and onerous to be a practical option in the majority of arrests.	See next column	See 111

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130.	Police - Hampshire (via ACPO)	G2.9(e)	This has the potential to seriously limit disclosure tactics and adversely affect an investigation. There are numerous occasions where the Code requires certain information to be given at a stage when would want to disclose it. Note 3 makes helpful reference to this issue but as notes are not part of the statutory Code it cannot overrule the Code instruction. Suggest that in each 'subsection' of 2.9(e) the words " <i>The person should be told that such action is thought necessary.</i> " be removed.	See next column	See 111 Note 3 outlines the minimum needed. The issue is not what police consider is necessary; it is what is reasonably necessary for the suspect to understand their position. Training need.
130A.	Police - Surrey	G2.9(e)	Proposals concerning voluntary interviews conflict with section 29 of PACE, C3.21 & 10.2. The latter should be amended to clarify when the need to arrest arises in these cases. Two of examples in (e)(i) which are not relevant to the need to arrest to interview should be moved, others should be amended.	See next column	See 111
131.	Police - Cheshire (via ACPO)	G2.9(e)(i) Voluntary attendance	No significant issues and no concerns on the additions regarding arrest necessity and voluntary attendance in Code G. Do not anticipate increased litigation as a result of the amendments.	See next column	See 111
132.	Police - Metropolitan	G2.9(e)(iii)	Clarify position regarding samples etc being offered voluntarily by suspects and whether, in these circumstances, officers can consider arrest is the only viable option as per Note 2C.	See next column	Section 61 & 63, provide for 'prints and samples to be taken with written appropriate consent. For the officer to decide whether arrest is needed.
133.	Police - Avon & Somerset (via ACPO)	G2.9(e)(v) G Note 2I	Application of arrest criteria for statutory drug testing contradicted by Note 2I which indicates that this reason cannot be used in isolation. Only relevant at stations where drug testing is in operation.	N	Add reference to Note 2I in G2.9(e)(v). Difference between 'trigger offences' for which testing is routine irrespective of belief that misuse contributed to offending.
134.	Police - Norfolk & Suffolk (via ACPO)	G3.1	Concerns that the requirement for a person to be cautioned prior to asking them anything about any offence might hinder initial 'street investigations' and leave the officer no alternative but to arrest in some cases.	N	This repeats existing established requirement in C10.1. See 111
135.	Police - Lancashire (via ACPO)	H General	The Code for Examining Officers issued under para. 6(1) of Schedule 14 to the Terrorism Act 2000 should form part of Code H and not be a separate document.	N	Code H issued under PACE, cannot cover the TA Code.

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136.	Police - Metropolitan	H1.6 H1 Note 1N	Clarify Note 1N to emphasise the need to consider bail after charge. This is to avert danger that custody officers could presume that bail after charge need not be considered in TACT cases.	Y	Additional text to avoid doubt.
137.	Law Reform Committee of the Bar Council & Criminal Bar Association (LRCBC & CBA)	Video interview recording - Codes C, H &TA/CTA Equally applicable to PACE Code F	Insert new a provision/paragraphs (C10.5A & H10.4A) applicable to video recorded interviews, to <i>require</i> that, after being cautioned, the suspect <i>must</i> also be told that: <i>“This interview is being video recorded. This means that your appearance and your behaviour during this interview may also be shown in evidence.”</i>	N	Not aware of evidence to indicate that suspects are at a disadvantage. Admissibility of ‘body language’ evidence is a matter for the Judge. Creates risk of interviewing officers focussing on body language & suspects ‘putting on an act’.
138.	Police - ACPO - Reducing Bureaucracy Practitioners Group (ACPO RBPG)	Video interview recording TA/CTA Code	Does not clarify set standards of equipment.	N	Technical specifications are outside scope of the Code.
139.	Police - Cheshire (via ACPO)	Video interview recording TA/CTA Code	Additional resources required for audio and video recording of interviews. Includes Schedule 7 examinations which subsequently become detentions.	See next column	Resource implications - referred for OSCT to consider exemption to allow audio only recording.
140.	Police - Hampshire (via ACPO)	Video interview recording TA/CTA Code	Currently facilities not available and thus these proposals have both equipment and training implications.	See next column	See 139
141.	Police - Lancashire (via ACPO)	Video interview recording TA/CTA Code	Requirement to video record all interviews means that police need some lead in time to install video interview facilities in custody suites.	See next column	See 139
142.	Police - Northumbria (via ACPO)	Video interview recording TA/CTA Code	The changes will require some additional training for officers with regard to video recording interviews. Concerns for further clarification regarding equipment technical standards and what should be videoed i.e. the subject only or the interviewer(s) as well.	See next column	See 139

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143.	Police - ACPO - Reducing Bureaucracy Practitioners Group (ACPO RBPG)	Video interview recording TA/CTA Code - 3.2	Wordy and confusing suggest simplified re-write	N	Follows PACE Code E.
144.	Police - ACPO - Reducing Bureaucracy Practitioners Group (ACPO RBPG)	Video interview recording TA/CTA Code - 4.21	Refusing to sign a seal - does this need to be an Inspector or could custody Sgt not complete this task?	N	Follows PACE Code E. Not appropriate to routinely require custody officer to leave the custody area.
145.	Police - ACPO - Reducing Bureaucracy Practitioners Group (ACPO RBPG)	Video interview recording TA/CTA Code - 5.1	Interviewing officer will make note in PNB re interview – this is already recorded on the custody record.	N	Follows PACE Code E. Ensures interviewing officer has a contemporaneous 'original note' for reference.
146.	Law Reform Committee of the Bar Council & Criminal Bar Association (LRCBC & CBA)	Video recording of interviews TA/CTA Code	Include a requirement that the suspect and legal advisor are made aware of the location of the cameras, or the manner in which the recording of the interview will appear when given in evidence. This is to enable the suspect to be given informed advice and make choices as to how to conduct themselves during the interview.	N	See 137 Applies equally to PACE Code F
147.	Police - Dorset (via ACPO)	Video recording of interviews TA/CTA Code	Proposed changes require Video Interviews: 1. For interview of persons arrested under s41 TACT (TACT Arrest). 2. For interview of persons under Schedule 7 (TACT) <u>when detained and examined at a Police Station.</u>  Concerns that without new video/audio interview facility, in custody transfer to a police station could add <u>3 hours (minimum)</u> to the detention period.	See next column	See 139
148.	Law Reform Committee of the Bar Council & Criminal Bar Association (LRCBC & CBA)	Video recording of interviews TA/CTA Code - 2.6	Add requirement that the sign or indicator which is visible to the suspect which shows when the recording equipment is recording <i>must be pointed out to the suspect prior to the interview.</i>	N	This is required in para. 4.4 Mistaken assumption that 4.4 is being deleted, only sub para 4.4(e) is disappplied.

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149.	Law Reform Committee of the Bar Council & Criminal Bar Association (LRCBC & CBA)	Video recording of interviews TA/CTA Code - 4.4	After pointing out the sign (para. 2.6) in the list of actions before interview starts, add last sub-para. “(f) point out to the suspect and his legal advisor (if any) the location of all cameras recording the interview.”	N	See 148
150.	Law Reform Committee of the Bar Council & Criminal Bar Association (LRCBC & CBA)	Video recording of interviews TA/CTA Code - 4.6	For consistency with proposed new para C10.4A & H10.4A above, include requirement to inform the suspect that the interview is being video record and about its use in evidence as Code H.	N	See 137 Applies equally to PACE Code F
151.	Law Reform Committee of the Bar Council & Criminal Bar Association (LRCBC & CBA)	Video recording of interviews TA/CTA Code - 7.6	Retain deleted provisions of 4.4(a) to (f) in 7.6	N	See 148