**Revised PACE Codes 2017**

**C (Detention), E (Audio recording of interviews with suspects), F (Visual recording of interviews with suspects) and H (Detention – terrorism)**

**OVERVIEW OF PROPOSED REVISIONS.**

This overview has been prepared for the purpose of a statutory consultation on revising PACE Codes C, E, F and H currently published on the Home Office Website at<https://www.gov.uk/guidance/police-and-criminal-evidence-act-1984-pace-codes-of-practice>.

It is included as a preface to each of the draft revised Codes to help police officers, police staff and other practitioners to understand the scope of the changes being proposed.

**1. The main revisions to PACE Code C concern voluntary interviews, safeguards for vulnerable suspects and the amendments to PACE introduced by the Policing and Crime Act 2017.** The changes comprise new and amended provisions which:

(a) Introduce a new definition of ‘vulnerable adult’ supported by *Notes for Guidance* which replace references to the Mental Health Act and to ‘mentally vulnerable’ and update the role description of the appropriate adult and who may or may not act in this capacity. These changes clarify when an appropriate adult is needed and strengthen the requirement to secure an appropriate adult for a vulnerable adult. These proposals take account of the work of the Home Office chaired Working Group on Vulnerable People.

(b) For voluntary suspect interviews, set out in full the rights, entitlements and safeguards that apply and the procedure to be followed when arranging for the interview to take place. The changes take account of concerns that suspects might not realise that a voluntary interview is just as serious and important as being interviewed after arrest. This applies particularly when the interview takes place in the suspect’s own home rather than at a police station. The approach mirrors that which applies to detained suspects on arrival at the police station with the interviewer standing in for the custody officer. In particular, it requires the suspect to be informed of all the rights, entitlements and safeguards that will apply before they are asked to consent to the interview and to be given a notice to explain those matters.

(c) Reflect amendments to PACE made by the Policing and Crime Act 2017 which:

(i) insert new provisions to enable the use of a live link by:

* a superintendent to authorise an extension of detention without charge under section 42 of PACE, for up to 36 hours;
* a magistrates’ court to hear an application under section 43 of PACE for a warrant of further detention without charge and to hear applications under section 44 to extend a warrant of further detention by up to 96 hours;
* an interviewing officer who is not present at the police station where a suspect is detained in order to interview that suspect; and

(ii) amend previous provisions to ensure that 17-year-olds are treated as children for all purposes under PACE.

**2. The revisions to Code H mirror those in Code C but are confined to those described in paragraph 1(a) above.**

**3. The revisions to Code E which are mirrored (as appropriate) in Code F, introduce substantial changes to the existing approach to audio recording of suspect interviews**. The new and revised provisions cover all interviews for all types of offence, for all suspects – whether or not arrested and irrespective of the case disposal outcome. As a result, the format has been significantly changed with sections and paragraphs renumbered. In brief, the revised approach:

(a) Specifies the types of devices which, if authorised by the chief officer, are to be used to audio record suspect interviews for any offence type. This specification extends the range of devices that may be used. As a consequence, it will allow any suitably compliant 'BWV' equipment to be used to record suspect interviews.

(b) Means that for any interview for any type of offence whenever a suitably compliant authorised recording device is available and can be used, it must be used and a written interview record may be made only if a specified officer (the ‘relevant officer’) determines that such a device is not available/cannot be used and that the interview should not be delayed until such time that it can be audio recorded. Depending on the offence in question, whether the suspect has been arrested and where the interview takes place, the ‘relevant officer’ may be the custody officer, a sergeant or the interviewer.

(c) Is mirrored in Code F by setting out the requirements and modifications that apply exclusively for the purposes of making a visual recording with sound in the context that the police are under no obligation to make such a visual recording. The aim of this approach is to:

* make it clear that a visual recording with sound comprises an audio recording made in accordance with Code E together with a simultaneous visual recording;
* avoid replication of the full Code E provisions that govern the conduct and recording of all audio recorded interviews; and
* clarify and extend the circumstances under which police may make a visual recording to include the use of ‘BWV’ equipment.

**4. Minor typographical and grammatical corrections have been made and out of date references updated.**

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**TABLE - SUMMARY & EXPLANATION OF PROPOSED CHANGES TO CODE F**

This table briefly summarises all the changes (excluding minor grammar and typographical corrections) with links to the provisions and *Notes for Guidance*.

[Click here](#F_Contents) for the Table of Contents of the revised Code E

For access to, and comparison with, the PDF version of Code E which came into force on 26 October 2013, click on the link below:

<https://www.gov.uk/government/publications/pace-code-f-2013>

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For ease of reference, the grey highlighted text indicates new and amended text and this highlighted text (*which does not include* *than deletions)* is also shown when the “Display for Review” option is set at <Final>.

Click on underlined links to view relevant revised text of the Code.

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| **No.** | **Paragraph** | Summary of changes, reason/purpose |
| --- | --- | --- |
|  | [Commencement](#F_Commencement) | The revised Code will come into force as specified in the Order. |
|  | [F1.0](#F1_0) & [*Note 1C*](#F1_Note1C) | Amended to clarify scope of, and references to the Equality Act 2010 |
|  | [F1.3](#F1_3) | Amended for consistency with E1.3 |
|  | [F1.4](#F1_4) | Point out that section 2 specifies the scope of Code F  |
|  | [F1.5A](#F1_5A) | Amended and extended to point out the safeguards that audio and visual recording of interviews provide for suspects and police. |
|  | [F1.5](#F1_5), [F1.6A](#F1_6A), [F1.7](#F1_7), [F1.8](#F1_8), [Note 1A](#F1_Note1A) and [Note 1B](#F1_Note1B). | Not used –unnecessary repetition of the Code E provisions and Notes that govern the conduct and recording of all audio recorded interviews. |
|  | [Section 2](#F_Section2)Subheading ASubheading B | New section 2 comprises new provisions and some amended provisions taken from previous Code F (26/10/2013). As a result, provisions in section 2 to 7 that repeat the provisions of Code E are omitted and Code F effectively sets out the provisions that apply exclusively for the purposes of making a visual recording with sound. |
|  | [F2.1](#F2_1) & [F2.3](#F2_3) | Define “visual recording with sound” as an audio recording made in accordance with Code E together with a simultaneous visual recording made at the same time and the application of Code E to Code F. |
|  | [F2.2](#F2_2) | Applies the role of the ‘relevant officer to Code F and describes the occasions when visual recording should be considered.  |
|  | [F2.4](#F2_4) | Excludes interviews to which terrorism interview recording Codes apply. |
|  | [F2.5 to F2.12](#F2_PartB_Additional)Supported by [*Notes 2C*](#F2_Note2C)*,* [*2D*](#F2_Note2D)*,* [*2F*](#F2_Note2F) *&* [*2G*](#F2_Note2G)*.* | Set out provisions that apply exclusively to visual recording by amending previous provisions, provisions from Code E & realted Notes for Guidance. These deal with:[F2.5](#F2_5) - Information to be given to the suspect[F2.6](#F2_5) - Positioning of recording device (previously F2.2)[F2.7](#F2_7) - Disclosure of interviewers identity (previously F2.5).[F2.8](#F2_8)/[Note 2C](#F2_Note2C) - Decision not to make a visual record (previously F3.3).[F2.9](#F2_9) - Remote monitoring (from E2.7)[F2.10](#F2_10)/[*Note 2D*](#F2_Note2D)- Objections and complaints (previously F4.9) [F2.11](#F2_11) – Unconnected matters not being recorded (previously F4.10) [F2.12](#F2_12) - Failure of visual recording device (previously F4.15) |

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POLICE AND CRIMINAL EVIDENCE ACT (PACE)

CODE F

CODE OF PRACTICE ON VISUAL RECORDING WITH SOUND OF INTERVIEWS WITH SUSPECTS

**Commencement - Transitional Arrangements**

This contents of this Code should be considered if an interviewer proposes to make a visual recording with sound of an interview with a suspect after 00.00 twenty-one days after The Police and Criminal Evidence Act 1984 (Codes of Practice) (Revision of Codes of Practice C, E, F and H) Order 2017 is made.

There is no statutory requirement under PACE to visually record interviews.

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1 General

1.0 The procedures in this Code must be used fairly, responsibly, with respect for the people to whom they apply and without unlawful discrimination. Under the Equality Act 2010, section 149 (Public Sector Equality Duty), police forces must, in carrying out their functions, have due regard to the need to eliminate unlawful discrimination, harassment, victimisation and any other conduct which is prohibited by that Act, to advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it, and to foster good relations between those persons. The Equality Act *also* makes it unlawful for police officers to discriminate against, harass or victimise any person on the grounds of the ‘protected characteristics’ of age, disability, gender reassignment, race, religion or belief, sex and sexual orientation, marriage and civil partnership, pregnancy and maternity, when using their powers. See *[Note 1C](#F1_Note1C)*.

1.1 This Code of Practice must be readily available for consultation by police officers and other police staff, detained persons and members of the public.

1.2 The *Notes for Guidance* included are not provisions of this code. They form guidance to police officers and others about its application and interpretation.

1.3 Nothing in this Code shall detract from the requirements of [Code C](https://www.gov.uk/police-and-criminal-evidence-act-1984-pace-codes-of-practice), the Code of Practice for the detention, treatment and questioning of persons by police officers.

1.4 The interviews and matters to which this Code applies and provisions that govern the conduct and recording of those interviews and other matters are described in section 2.

1.5 *Not used*.

1.5A The provisions of Code E which require interviews with suspects to be audio recorded and the provisions of this Code which permit simultaneous visual recording provide safeguards:

* for suspects against inaccurate recording of the words used in questioning them and of their demeanour during the interview; and
* for police interviewers against unfounded allegations made by, or on behalf of, suspects about the conduct of the interview and what took place during the interview which might otherwise appear credible.

The visual recording of interviews must therefore be carried out openly to instil confidence in its reliability as an impartial and accurate record of the interview.

1.6 *Not used*.

1.6A *Not used.*

1.7 *Not used*.

* 1. *Not used.*

Notes for Guidance

1A Not used.

1B Not used.

1C In paragraph 1.0, under the Equality Act 2010, section 149, the ‘relevant protected characteristics’ are: age, disability, gender reassignment, pregnancy and maternity, race, religion/belief, and sex and sexual orientation. For further detailed guidance and advice on the Equality Act, see: <https://www.gov.uk/guidance/equality-act-2010-guidance>.

2. When interviews and matters to which Code F applies may be visually recorded with sound and provisions for their conduct and recording.

(A) General

2.1 For the purpose of this Code, a visual recording with sound means an audio recording of an interview or other matter made in accordance with the requirement in *paragraph 2.1* of the Code of Practice on audio recording interviews with suspects (Code E) (see [*Note 2A*](#F2_Note2A)) during which a *simultaneous* visual recording is made which shows the suspect and those in whose presence and hearing the audio recording was made.

2.2 There is no statutory requirement to make a visual recording, however, the provisions of this Code shall be followed on any occasion that the ‘relevant officer’ described in *Code E paragraph 2.4* considers that a visual recording of any matters mentioned in *paragraph 2.1* should be made. Having regard to the safeguards described in *[paragraph 1.5A](#F1_5A)*, examples of occasions when the relevant officer is likely to consider that a visual recording should be made include when:

(a) the suspect (whether or not detained) requires an appropriate adult;

(b) the suspect or their solicitor or appropriate adult requests that the interview be recorded visually;

(c) the suspect or other person whose presence is necessary is deaf or deaf/blind or speech impaired and uses sign language to communicate;

(d) the interviewer anticipates that when asking the suspect about their involvement in the offence concerned, they will invite the suspect to demonstrate their actions or behaviour at the time or to examine a particular item or object which is handed to them;

(e) the officer in charge of the investigation believes that a visual recording with sound will assist in the conduct of the investigation, for example, when briefing other officers about the suspect or matters coming to light during the course of the interview; and

(f) the authorised recording device that would be used in accordance with *paragraph 2.1 of Code E* incorporates a camera and creates a combined audio and visual recording and does not allow the visual recording function to operate independently of the audio recording function.

2.3 For the purpose of making such a visual recording, the provisions of Code E and the relevant *Notes for Guidance* shall apply equally to visual recordings with sound as they do to audio-only recordings, subject to the additional provisions in *paragraphs 2.5* to *2.12* below which apply exclusively to visual recordings. (See *[Note 2E](#F2_Note2E)*.)

2.4 This Code does not apply to the conduct and recording in England and Wales, of:

* interviews of persons detained under section 41 of, or Schedule 7 to, the Terrorism Act 2000, and
* post-charge questioning of persons authorised under section 22 of the Counter-Terrorism Act 2008.

These must be video recorded with sound in accordance with the provisions of the separate Code of Practice issued under paragraph 3 of Schedule 8 to the Terrorism Act 2000 and under section 25 of the Counter-Terrorism Act 2008. If, during the course of an interview or questioning being visually recorded under this Code, it becomes apparent that the interview or questioning should be conducted under that separate Code, the interview should only continue in accordance with that Code (see *Code E paragraph 1.4*).

(B) Application of Code E – additional provisions that apply to visual recording with sound.

(i) General

2.5 Before visual recording commences, the interviewer must inform the suspect that in accordance with *[paragraph 2.2](#F2_2),* a visual recording is being made and explain the visual and audio recording arrangements. If the suspect is a juvenile or a vulnerable adult (see Code C, *paragraphs 1.4, 1.5* and *1.13*), the information and explanation must be provided or (as the case may be) provided again, in the presence of the appropriate adult.

2.6 The device used to make the visual recording at the same time as the audio recording (see *[paragraph 2.1](#F2_1)*) must ensure coverage of as much of the room or location where the interview takes place as it is practically possible to achieve whilst the interview takes place (see *[Note 2B](#F2_Note2B)*).

2.7 In cases to which *paragraph 1.13* of Code E (disclosure of identity of officers or police staff conducting interviews) applies:

(a) the officers and staff may have their backs to the visual recording device; and

(b) when in accordance with Code E paragraph 3.21 or 4.12 as they apply to this Code, arrangements are made for the suspect to have access to the visual recording, the investigating officer may arrange for anything in the recording that might allow the officers or police staff to be identified to be concealed.

2.8 Following a decision made by the relevant officer in accordance with *[paragraph 2.2](#F2_2)* that an interview or other matter mentioned in *paragraph 2.1* above should be *visually recorded*, the relevant officer may decide that the interview is not to be visually recorded if it no longer appears that a visual recording should be made or because of a fault in the recording device. However, a decision not to make a *visual recording* does not detract in any way from the requirement for the interview to be *audio recorded* in accordance with *paragraph 2.1 of Code E*. (See *[Note 2C](#F2_Note2C)*.)

2.9 The provisions in *Code E paragraph 2.6* for remote monitoring of interviews shall apply to visually recorded interviews.

(ii) Objections and complaints by the suspect about visual recording

2.10 If the suspect or an appropriate adult on their behalf objects to the interview being *visually* recorded either at the outset or during the interview or during a break in the interview, the interviewer shall explain that the visual recording is being made in accordance with *[paragraph 2.2](#F2_2)* and that this Code requires the objections to be recorded on the *visual* recording. When any objections have been recorded or the suspect or the appropriate adult have refused to have their objections recorded visually, the relevant officer shall decide in accordance with *[paragraph 2.8](#F2_8)* and having regard to the nature and circumstances of the objections, whether visual recording should be turned off (see *[Note 2D](#F2_Note2D)*). Following a decision that visual recording should be turned off, the interviewer shall say that they are turning off the *visual* recording. The audio recording required to be maintained in accordance with Code E shall continue and the interviewer shall ask the person to record their objections to the interview being *visually* recorded on the audio recording. If the relevant officer considers that visual recording should not be turned off, the interviewer may proceed to question the suspect with the visual recording still on. If the suspect also objects to the interview being audio recorded, *paragraph 3.9* of Code E will apply if a removable recording media device (see Code E *paragraph 1.6(a)(ii)*) is being used) and *paragraph 4.6* of Code E will apply if a secure digital recording device (see Code E *paragraph 1.6(a)(iii)*) is being used.

2.11 If the suspect indicates that they wish to tell the interviewer about matters not directly connected with the offence of which they are suspected and that they are unwilling for these matters to be visually recorded, the suspect should be given the opportunity to tell the interviewer about these matters after the conclusion of the formal interview.

(ii) Failure of visual recording device

2.12 If there is a failure of equipment and it is not possible to continue visual recording using the same type of recording device (i.e. a removable recording media device as in Code E *paragraph 1.6(a)(ii)* ora secure digital recording network device as in Code E *paragraph 1.6(a)(iii)*) or by using a replacement device of either type, the relevant officer may decide that the interview is to continue without being visually recorded. In these circumstances, the continuation of the interview must be conducted and recorded in accordance with the provisions of Code E (See *[Note 2F](#F2_Note2F).)*

Notes for Guidance

2A Paragraph 2.1 of Code E describes the requirement that authorised audio-recording devices are to be used for record interviews and other matters.

2B Interviewers will wish to arrange that, as far as possible, visual recording arrangements are unobtrusive. It must be clear to the suspect, however, that there is no opportunity to interfere with the recording equipment or the recording media.

2C A decision made in accordance with [paragraph 2.8](#F2_8) not to record an interview visually for any reason may be the subject of comment in court. The ‘relevant officer’ responsible should therefore be prepared to justify that decision.

2D Objections for the purpose of [paragraph 2.10](#F2_10) are meant to apply to objections based on the suspect’s genuine and honestly held beliefs and to allow officers to exercise their discretion to decide whether a visual recording is to be made according to the circumstances surrounding the suspect and the investigation. Objections that appear to be frivolous with the intentions of frustrating or delaying the investigation would not be relevant.

2E The visual recording made in accordance with this Code may be used for eye-witness identification procedures to which paragraph 3.21 and Annex E of Code D apply.

2F Where the interview is being visually recorded and the media or the recording device fails, the interviewer should stop the interview immediately. Where part of the interview is unaffected by the error and is still accessible on the media or on the network device, that part shall be copied and sealed in the suspect’s presence as a master copy or saved as a new secure digital network recording as appropriate. The interview should then be recommenced using a functioning recording device and new recording media as appropriate. Where the media content of the interview has been lost in its entirety, the media should be sealed in the suspect’s presence and the interview begun again. If the visual recording equipment cannot be fixed and a replacement device is not immediately available, the interview should be audio recorded in accordance with Code E.

2G The relevant officer should be aware that a decision to continue visual recording against the wishes of the suspect may be the subject of comment in court.