

POLICE POWERS AND PROCEDURES ACT 1998

CODE F

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

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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. When police officers are carrying out their functions, they also have a duty to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it, and to take steps to foster good relations between those persons. See *Note 1C*.
- 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 is to be taken as detracting in any way from the requirements of the Code of Practice for the detention, treatment and questioning of persons by police officers (Code C). (See *Note 1A*.)
- 1.4 The interviews to which this Code applies are described in section 3.
- 1.5 In this code, the term “appropriate adult”, “advocate” and “interview” have the same meaning as those set out in Code C.
- 1.5A The visual recording of interviews shall be carried out openly to instil confidence in its reliability as an impartial and accurate record of the interview.
- 1.6 Any reference in this Code to visual recording is to be taken to mean visual recording with sound and in this code:
- (aa) “recording media” means any removable, physical audio recording medium (such as magnetic tape, optical disc or solid state memory) which can be played and copied.
  - (a) not used;
  - (b) not used; and
  - (c) “secure digital network” is a computer network system which enables an original interview recording to be stored as a digital multi media file or a series of such files. See *paragraph 1.6A* and section 7 of this Code.
- 1.6A Section 7 below sets out the provisions which apply to interviews visually recorded using a secure digital network by reference to Code E and by excluding provisions of sections 1 to 6 of this Code which relate or apply only to removable media.
- 1.7 References to “pocket book” in this Code include any official report book issued to police officers.
- 1.8 In the application of this Code to the conduct and visual recording of an interview of a suspect who has not been arrested:

- (a) references to the “custody officer” include references to an officer of the rank of sergeant or above who is not directly involved in the investigation of the offence(s);
- (b) if the interview takes place elsewhere than at a police station, references to “interview room” include any place or location which the interviewer is satisfied will enable the interview to be conducted and recorded in accordance with this Code and where the suspect is present voluntarily (see *Note 1B*); and
- (c) provisions in addition to those which expressly apply to these interviews shall be followed insofar as they are relevant and can be applied in practice.

#### *Notes for Guidance*

1A *As in paragraph 1.9 of Code C, references to custody officers include those carrying out the functions of a custody officer.*

1B *An interviewer who is not sure, or has any doubt, about the suitability of a place or location of an interview to be carried out elsewhere than at a police station, should consult an officer of, or above, the rank of sergeant for advice.*

1C *In paragraph 1.0, ‘relevant protected characteristic’ includes: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.*

## **2. Recording and sealing of master recordings**

2.1 Not used.

2.2 The camera(s) shall be placed in the interview room so as to ensure coverage of as much of the room as is practicably possible whilst the interviews are taking place. (See *Note 2A.*)

2.3 When the recording medium is placed in the recorder and it is switched on to record, the correct date and time, in hours, minutes and seconds, will be superimposed automatically, second by second, during the whole recording, see *Note 2B*. See section 7 regarding the use of a secure digital network to record the interview.

2.4 One recording, referred to in this code as the master recording copy, will be sealed before it leaves the presence of the suspect. A second recording will be used as a working copy. (See *Notes 2C and 2D.*)

2.5 Nothing in this code requires the identity of an officer or police staff to be recorded or disclosed:

- (a) not used.
- (b) if the interviewer reasonably believes that recording or disclosing their name might put them in danger. In these cases, the interviewer will have their back to the camera and shall use their warrant or other identification number.

Such instances and the reasons for them shall be recorded in the custody record or the interviewer's pocket book. (See Note 2E.)

#### *Notes for Guidance*

- 2A *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.*
- 2B *In this context, the recording medium should be capable of having an image of the date and time superimposed as the interview is recorded.*
- 2C *The purpose of sealing the master recording before it leaves the presence of the suspect is to establish their confidence that the integrity of the recording is preserved.*
- 2D *The visual recording of the interview may be used for identification procedures in accordance with paragraph 3.21 or Annex E of Code D.*
- 2E *The purpose of the paragraph 2.5(b) is to protect police officers and others involved in the investigation of serious organised crime or the arrest of particularly violent suspects when there is reliable information that those arrested or their associates may threaten or cause harm to the officers, their families or their personal property. In cases of doubt, an officer of inspector rank or above should be consulted.*

### **3 Interviews to be visually recorded**

- 3.1 Interviews may only be visually recorded if permitted by an order made by the Department under section 63(2) of PPPA<sup>1</sup>.
- 3.2 The Anti-Terrorism and Crime Act 2003 make separate provisions for a Code of Practice for the video recording with sound of:
- interviews of persons detained under section 30 of, or Schedule 7 to, that Act; and
  - post-charge questioning of persons authorised under section 41A of that Act.
- The provisions of this code do not therefore apply to such interviews. (See *Note 3E.*)
- 3.3 Following a decision by an interviewer to *visually record* any interview mentioned in paragraph 3.1 above, the custody officer may authorise the interviewer not to make a *visual record* and for the purpose of this Code (F), the provisions of Code E paragraphs 3.1, 3.2, 3.3, 3.3A and 3.4 must apply as appropriate. However, authority not to make a *visual recording* does not detract in any way from the requirement for *audio recording*. This would require a further authorisation not to make in accordance with Code E. (See *Note 3F.*)
- 3.4 Not used.
- 3.5 The whole of each interview must be recorded visually, including the taking and reading back of any statement.

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<sup>1</sup> As amended by section 40 of the Criminal Justice, Police Powers and Other Amendments Act 2014.

- 3.6 A sign or indicator which is visible to the suspect must show when the visual recording equipment is recording.

*Notes for Guidance*

- 3A *Not used.*
- 3B *Attention is drawn to the provisions set out in Code C about the matters to be considered when deciding whether a detained person is fit to be interviewed.*
- 3C *Code C sets out the circumstances in which a suspect may be questioned about an offence after being charged with it.*
- 3D *Code C sets out the procedures to be followed when a person's attention is drawn after charge, to a statement made by another person. One method of bringing the content of an interview with another person to the notice of a suspect may be to play them a recording of that interview.*
- 3E *Not used.*
- 3F *A decision not to record an interview visually for any reason may be the subject of comment in court. The authorising officer should therefore be prepared to justify their decision in each case.*

## **4 The Interview**

### **(a) General**

- 4.1 The provisions of Code C in relation to cautions and interviews and the *Notes for Guidance* applicable to those provisions equally apply to the conduct of interviews to which this Code applies.
- 4.2 Particular attention is drawn to those parts of Code C that describe the restrictions on drawing adverse inferences from an arrested suspect's failure or refusal to say anything about their involvement in the offence when interviewed, or after being charged or informed they may be prosecuted and how those restrictions affect the terms of the caution and determine whether a special warning under sections 72 and 73 of the Police Powers and Procedures Act 1998 can be given.

### **(b) Commencement of interviews**

- 4.3 When the suspect is brought into the interview room the interviewer shall without delay, but in sight of the suspect, load the recording equipment and set it to record. The recording media must be unwrapped or otherwise opened in the presence of the suspect. (See *Note 4A.*)
- 4.4 The interviewer shall then tell the suspect formally about the visual recording and point out the sign or indicator which shows that the recording equipment is activated and recording (see *paragraph 3.6*). The interviewer shall:
- (a) explain that the interview is being visually recorded;
  - (b) subject to paragraph 2.5, give their name and rank, and that of any other interviewer present;

- (c) ask the suspect and any other party present (e.g. the appropriate adult, an advocate or interpreter) to identify themselves;
- (d) state the date, time of commencement and place of the interview, and
- (e) state that the suspect will be given a notice about what will happen to the recording.

See *Note 4AA*.

4.4A Any person entering the interview room after the interview has commenced shall be invited by the interviewer to identify themselves for the purpose of the recording and state the reason why they have entered the interview room.

4.5 The interviewer shall then caution the suspect, see Code C, section 10 and:

- if they are detained, remind them of their entitlement to free legal advice, see Code C *paragraph 11.2*, or
- if they are not detained under arrest, explain this and their entitlement to free legal advice, see Code C *paragraph 3.21*.

4.6 The interviewer shall then put to the suspect any significant statement or silence, see Code C, *paragraph 11.4*.

(c) ***Interviews with suspects who appear to require an interpreter***

4.7 The provisions of Code C on interpreters for suspects who do not appear to speak or understand English, or who appear to have a hearing or speech impediment, continue to apply.

(d) ***Objections and complaints by the suspect***

4.8 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 interview is being visually recorded and that this Code requires that 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, the interviewer shall say that they are turning off the visual recording, give their reasons and turn it off. If a separate audio recording is being maintained, the interviewer shall ask the person to record the reasons for refusing to agree to the interview being visually recorded. *Paragraph 4.8* of Code E will apply if the person also objects to the interview being audio recorded. If the interviewer reasonably considers they may proceed to question the suspect with the visual recording still on, the interviewer may do so. (See *Note 4G*.)

4.9 If in the course of an interview a complaint is made by the person being questioned, or on their behalf, concerning the provisions of this or any other Code, or it comes to the interviewer's notice that the person may have been treated improperly, then the interviewer shall act as in Code C, *paragraph 12.9*. (See *Notes 4B* and *4C*.)

4.10 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.

**(e) *Changing the recording media***

4.11 In instances where the recording medium is not of sufficient length to record all of the interview with the suspect, further certified recording medium will be used. When the recording equipment indicates that the recording medium has only a short time left to run, the interviewer shall advise the suspect and round off that part of the interview. If the interviewer wishes to continue the interview but does not already have further certified recording media with him or her, the interviewer shall obtain a set. The suspect should not be left unattended in the interview room. The interviewer must remove the recording media from the recording equipment and insert the new ones which have been unwrapped or otherwise opened in the suspect's presence. The recording equipment shall then be set to record. Care must be taken, particularly when a number of sets of recording media have been used, to ensure that there is no confusion between them. This could be achieved by marking the sets of recording media with consecutive identification numbers.

**(f) *Taking a break during the interview***

4.12 When a break is taken, the fact that a break is to be taken, the reason for it and the time shall be recorded on the visual record.

4.12A When the break is taken and the interview room vacated by the suspect, the recording media shall be removed from the recorder and the procedures for the conclusion of an interview followed. (See *paragraph 4.18.*)

4.13 When a break is a short one and both the suspect and an interviewer remain in the interview room, the recording may be stopped. There is no need to remove the recording media and when the interview recommences the recording should continue on the same recording media. The time at which the interview recommences shall be recorded.

4.14 After any break in the interview the interviewer must, before resuming the interview, remind the person being questioned of their right to legal advice if they have not exercised it and that they remain under caution or, if there is any doubt, give the caution in full again. (See *Notes 4D and 4E.*)

**(g) *Failure of recording equipment***

4.15 If there is a failure of equipment which can be rectified quickly, the appropriate procedures set out in paragraph 4.12 shall be followed. When the recording is resumed the interviewer shall explain what has happened and record the time the interview recommences. If, however, it is not possible to continue recording on that particular recorder and no alternative equipment is readily available, the interview may continue without being recorded visually. In such circumstances, the

procedures set out in paragraph 3.3 of this code for seeking the authority of the custody officer will be followed. (See *Note 4F.*)

**(h) *Removing used recording media from recording equipment***

4.16 Where used recording media are removed from the recording equipment during the course of an interview, they shall be retained and the procedures set out in paragraph 4.18 below followed.

**(i) *Conclusion of interview***

4.17 Before the conclusion of the interview, the suspect shall be offered the opportunity to clarify anything he or she has said and asked if there is anything that they wish to add.

4.18 At the conclusion of the interview, including the taking and reading back of any written statement, the time shall be recorded and the recording equipment switched off. The master recording shall be removed from the recording equipment, sealed with a master recording label and treated as an exhibit in accordance with the force standing orders. The interviewer shall sign the label and also ask the suspect and any third party present during the interview to sign it. If the suspect or third party refuses to sign the label the custody officer shall be called into the interview room and asked, subject to *paragraph 2.5*, to sign it.

4.19 The suspect shall be handed a notice which explains the use which will be made of the recording and the arrangements for access to it. The notice will also advise the suspect that a copy of the tape shall be supplied as soon as practicable if the person is charged or informed that he will be prosecuted.

*Notes for Guidance*

4AA *For the purpose of voice identification the interviewer should ask the suspect and any other people present to identify themselves.*

4A *The interviewer should attempt to estimate the likely length of the interview and ensure that an appropriate quantity of certified recording media and labels with which to seal the master copies are available in the interview room.*

4B *Where the custody officer, is called to deal with the complaint, wherever possible the recorder should be left to run until the officer has entered the interview room and spoken to the person being interviewed. Continuation or termination of the interview should be at the discretion of the interviewer pending action by an inspector under Code C paragraph 9.2.*

4C *Where the complaint is about a matter not connected with this Code or Code C, the decision to continue with the interview is at the interviewer's discretion. Where the interviewer decides to continue with the interview, the person being interviewed shall be told that at the conclusion of the interview, the complaint will be brought to the attention of the custody officer, or in the case of a person who has not been arrested, a sergeant. When the interview is concluded, the interviewer must, as soon as practicable, inform the custody officer of the existence and nature of the complaint made.*



- 4D *In considering whether to caution again after a break, the interviewer should bear in mind that they may have to satisfy a court that the person understood that they were still under caution when the interview resumed.*
- 4E *The officer should bear in mind that it may be necessary to satisfy the court that nothing occurred during a break in an interview or between interviews which influenced the suspect's recorded evidence. On the re-commencement of an interview, the interviewer should consider summarising on the record the reason for the break and confirming this with the suspect.*
- 4F *Where the interview is being recorded and the media or the recording equipment 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, that part shall be copied and sealed in the suspect's presence as a master copy and the interview recommenced using new equipment/media as required. Where the 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 recording equipment cannot be fixed or no replacement is immediately available, the interview should be audio recorded in accordance with Code E.*
- 4G *The interviewer should be aware that a decision to continue recording against the wishes of the suspect may be the subject of comment in court.*

## **5 After the Interview**

- 5.1 The interviewer shall make a note in his or her pocket book of the fact that the interview has taken place and has been recorded, its time, duration and date and the identification number of the master copy of the recording media.
- 5.2 Where no proceedings follow in respect of the person whose interview was recorded, the recording media must nevertheless be kept securely in accordance with paragraph 6.1 and *Note 6A*.

### *Note for Guidance*

- 5A *Any written record of a recorded interview shall be made in accordance with current national guidelines for police officers, police staff and prosecutors concerned with the preparation, processing and submission of files.*

## **6 Master Recording Security**

### **(a) General**

- 6.1 The officer in charge of the police station:

- (a) at which interviews with suspects are recorded; or
- (b) where recordings of interviews carried out elsewhere than at a police station are stored;

shall make arrangements for the master copies to be kept securely and their movements accounted for on the same basis as other material which may be used for evidential purposes, in accordance with force standing orders. (See *Note 6A*.)

**(b) Breaking master recording seal for criminal proceedings**

6.2 A police officer has no authority to break the seal on a master copy which is required for criminal trial or appeal proceedings. If it is necessary to gain access to the master copy, the police officer shall arrange for its seal to be broken in the presence of a representative of the Attorney General's Chambers. The defendant or their legal adviser shall be informed and given a reasonable opportunity to be present. If the defendant or their legal representative is present they shall be invited to reseal and sign the master copy. If either refuses or neither is present, this shall be done by the representative of the Attorney General's Chambers. (See *Notes 6B* and *6C*.)

**(c) Breaking master recording seal: other cases**

6.3 The Chief Constable is responsible for establishing arrangements for breaking the seal of the master copy where no criminal proceedings result, or the criminal proceedings to which the interview relates, have been concluded and it becomes necessary to break the seal. These arrangements should be those which the Chief Constable considers are reasonably necessary to demonstrate to the person interviewed and any other party who may wish to use or refer to the interview record that the master copy has not been tampered with and that the interview record remains accurate. (See *Note 6D*.)

6.4 Subject to paragraph 6.6, a representative of each party must be given a reasonable opportunity to be present when the seal is broken and the master recording copied and re-sealed.

6.5 If one or more of the parties is not present when the master copy seal is broken because they cannot be contacted or refuse to attend or paragraph 6.6 applies, arrangements should be made for an independent person such as a custody visitor, to be present. Alternatively, or as an additional safeguard, arrangement should be made for a film or photographs to be taken of the procedure.

6.6 Paragraph 6.4 does not require a person to be given an opportunity to be present when:

- (a) it is necessary to break the master copy seal for the proper and effective further investigation of the original offence or the investigation of some other offence; and
- (b) the officer in charge of the investigation has reasonable grounds to suspect that allowing an opportunity might prejudice any such an investigation or criminal proceedings which may be brought as a result or endanger any person. (See *Note 6E*.)

**(d) Documentation**

6.7 When the master copy seal is broken, copied and re-sealed, a record must be made of the procedure followed, including the date time and place and persons present.

*Notes for Guidance*

- 6A *This section is concerned with the security of the master recordings which will have been sealed at the conclusion of the interview. Care should, however, be taken of working recordings since their loss or destruction may lead unnecessarily to the need to have access to master copies.*
- 6B *If the master recording has been delivered to the General Registry for their keeping after committal for trial, the prosecutor will apply to the Chief Registrar for its release for unsealing by the prosecutor.*
- 6C *Reference to the Attorney General's Chambers or to the prosecutor in this part of the code is to be taken to include any other body or person with a statutory responsibility for prosecution for whom the police conduct any recorded interviews.*
- 6D *The most common reasons for needing access to master recordings that are not required for criminal proceedings arise from civil actions and complaints against police and civil actions between individuals arising out of allegations of crime investigated by police.*
- 6E *Paragraph 6.6 could apply, for example, when one or more of the outcomes or likely outcomes of the investigation might be:*
- (i) the prosecution of one or more of the original suspects;*
  - (ii) the prosecution of someone previously not suspected, including someone who was originally a witness; and*
  - (iii) any original suspect being treated as a prosecution witness and when premature disclosure of any police action, particularly through contact with any parties involved, could lead to a real risk of compromising the investigation and endangering witnesses.*

## **7 Visual Recording of Interviews by Secure Digital Network**

- 7.1 This section applies if an officer wishes to make a visual recording with sound of an interview mentioned in section 3 of this Code using a secure digital network (see *paragraph 1.6(c)* above).
- 7.3 The provisions of sections 1 to 6 of this Code which relate or apply only to removable media will not apply to a secure digital network recording.
- 7.4 The statutory requirement and provisions for the audio recording of interviews using a secure digital network set out in section 7 of Code E should be applied to the visual recording with sound of interviews mentioned in section 3 of this code as if references to audio recordings of interviews include visual recordings with sound.