

CONSULTATION RESPONSE

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| TO | Home Office |
| FROM | The Independent Police Complaints Commission (IPCC) |
| REGARDING | Consultation on revised PACE Codes of Practice (C & H) |

The Independent Police Complaints Commission (IPCC)

1. The IPCC was established by the Police Reform Act 2002 (PRA) and became operational in April 2004. Its primary statutory function is to secure and maintain public confidence in the police complaints system in England and Wales. It acts as an appeal body for some locally handled complaints and issues statutory guidance on complaints handling to police forces. It undertakes independent investigations into the most serious cases; and has the power to manage or supervise police investigations. It has a statutory obligation to measure, monitor and where necessary, seek to improve the current complaints system. The IPCC is independent and makes its decisions independently of the police, government and interest groups.
2. The IPCC was created following both public and political concerns about the lack of an independent system to deal with complaints and conduct matters within the police service. Since 2004, the organisation's remit has been extended to include serious complaints and conduct matters relating to staff at the Serious Organised Crime Agency (and soon the National Crime Agency), Her Majesty's Revenue and Customs and the UK Border Agency.
3. The Police Reform and Social Responsibility Act 2011 extended the IPCC's remit further. Since January 2012, the IPCC has been responsible for deciding whether any criminal allegations relating to the occupant of the Mayor's Office for Policing and Crime (MOPAC) or his Deputy should be investigated. Since November 2012, the IPCC has had a similar remit over all Police and Crime Commissioners and their deputies.
4. The IPCC is run by a Chair, two Deputy Chairs, eight operational Commissioners and two non-executive Commissioners. Together they make up the Commission. Commissioners (other than the two non-executive Commissioners and the Chair) have an operational role and all Commissioners have responsibility for governance of the organisation. Commissioners are appointed by the Home Secretary and by law they must

never have served in the police service. The Commission is supported by a Chief Executive, a small management team and a staff of about 400. In 2011/12, the IPCC received an annual budget of £34.3m.

General comments

6. The IPCC welcomes the opportunity to comment on the changes to PACE Code C (Detention) and Code H (Detention – Terrorism), made as a result of the judgment in the case of R(C) v. SSHD and Metropolitan Police and the introduction of the EU directive on the right to interpretation and translation in criminal proceedings in the codes.
7. In a recent submission to the All Party Parliamentary Group for Children we stressed the importance of the PACE Codes being changed to reflect the issues arising from the judgment in the case of R(C) v. SSHD and Metropolitan Police. We welcome the fact that the Codes are now being changed to provide 17 year olds with access to parents, carers or other appropriate adults, to provide them with support when they come into contact with the police. However we would like to see an amendment to the Police and Criminal Evidence Act 1984 to ensure that all the provisions that apply to an arrested juvenile (currently defined in the Act as a person arrested with or without a warrant who appears to be under the age of 17) also apply to those who are under the age of 18. For example, under current practice appropriate adults have to provide their consent for someone aged 16 or under to be subjected to an intimate search, strip search, x ray or ultrasound, but this does not apply to 17 year olds.

Comments on Code C (Detention)

Custody Records (2)

8. Under “Notes for Guidance” (below paragraph 1.17) we suggest that it may also be useful to add a paragraph to say that the young person should be given the right to object to the appropriate adult put forward to support them. This would provide an additional safeguard for the young person, particularly if there are reasons unknown to the officers why he or she may feel uncomfortable with the individual acting in this role. The same comment also applies to “Notes for Guidance” (below paragraph 1.21) in Code H.
9. Paragraph 2.4 states that “A solicitor or appropriate adult must be permitted to inspect a detainee’s custody record as soon as practicable after their arrival at the station and at any other time whilst the person is detained.” Although this is not a new addition to Code C, we feel that it is important that additional text is added to emphasise the importance of making appropriate adults aware of their right to inspect the custody record. This would be particularly significant where the person acting as an appropriate adult is a parent or carer and may not be aware of their rights in this regard. We have seen a number of cases where officers have failed to communicate effectively with those performing this role.

Such action will ensure that appropriate adults are able to effectively discharge their responsibilities, and that young people detained in custody are properly supported. This point could also be extended to ensure that appropriate adults are made aware of all their rights in this context. The same comment also applies to paragraph 2.5 of Code H.

Initial action (3)

10. Paragraph 3.2 states that the detainee must also be given “an additional written notice briefly setting out their entitlements while in custody.” The IPCC has dealt with a small number of cases where issues have been identified about the treatment of young persons or people with learning disabilities who have been brought into police custody. As well as providing written information to detainees, we suggest that an amendment should be made to encourage custody officers to bring this information verbally to the detainee’s attention if they believe that the detainee may have difficulty understanding the written information they have been given. This is particularly important for young people who are likely to be less aware of their rights when in custody. This comment also applies to paragraph 3.2 of Code H.

Interpreters (13)

11. We welcome the additional clarification around interpretation and translation. This will help to safeguard fairness, by ensuring that individuals are able to understand and engage fully in proceedings, if their first language is not English or they have a hearing or speech impediment. These new provisions will also help ensure that custody officers are able to engage with the detainee in a meaningful way to conduct risk assessments and monitoring to help safeguard their wellbeing whilst in custody. This comment also applies to the same section in Code H.

Comments on Code H (Detention – Terrorism)

General (1)

1. Paragraph 1.2 sets out the powers to which provisions under PACE Code C apply. Following concerns expressed by stakeholders, from 01 July 2012 all Chief Officers have been required to refer all complaints and conduct matters arising from the use of powers under Schedule 7 of the Terrorism Act 2000 to the IPCC, for us to determine how they should be investigated. Although not directly related to the consultation on Code H, in light of our experience in handling these issues, we recommend that provisions under PACE Code C should also be extended to include persons detained for examination under Schedule 7 to ensure effective monitoring of the experience of people detained under this power.

Independent Police Complaints Commission (IPCC)

25 September 2013.