



Custody Procedures

Owner:

Department Responsible:

Chief Officer Approval:

Date of next review:

Security Marking:

**This policy and procedure has been reviewed against APP and all relevant procedures.**

Moved to APP:

Rationale:

**This document has been produced in conjunction with the Leicestershire Police Legislative Compliance Pack**

**Review log**

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**Note: Authorised Professional Practice (APP) has been checked.**

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# Introduction

Updated Custody Policy August 2023

This document has been comprehensively reviewed and updated across all areas and is up-to-date as of this time.

It should be borne in mind that the information and guidance in this document can become out of date in a very short period of time particularly in relation to numerous individual force local policies in use and the numbers of diverse organisations used across the four forces examples being medical providers and appropriate adults.

Should there be any doubt then the overarching legal guidance which should be followed is contained in APP in relation to Custody Procedures.

Likewise PNC should be consulted in relation to the accurate recording of offences for example transaction code #QO ( Query Offence ) will identify recordable offences more accurately than reference to PNLD.

In relation to PACE matters numerous Hyperlinks have been created to the latest PACE codes, Recommendation from Michael Zander QC, “The quickest way to access the latest version of the PACE codes is to use Google” “PACE Codes of Practice”

## 1 Custody Management and Planning

### 1.1 Legal Framework and Policy Statement

This document is intended to provide detailed guidance to custody staff in relation to their duties and responsibilities within the custody environment ensuring compliance with relevant legislation and best practice including the [Police and Criminal Evidence Act 1984](#) (PACE) and [Code C](#), the associated Codes of Practice and the relevant [College of Policing APP](#). Any deviation from this guidance must be lawful and be as a result of the decision maker reacting to the particular circumstances of the situation, acting in the best interests of the detainee and/or for the safety of other custody users or staff. The rationale and driving factors behind any departure from this procedural guide must be clearly documented.

### 1.2 Principles of Safer Detention

Officers and staff working within custody must maintain the highest standards of professionalism in line with legislation, best practice and the [Code of Ethics for Police Officers](#). Officers should address any issues that come to their attention without delay, either by reporting the matter or proactively resolving the issue themselves, as appropriate, for example, in ensuring that persons in custody receive any medical care required, that the environment is clean, safe and in good repair and that detainee’s rights and entitlements are upheld. Any Use of Force, Near Miss or Successful



Intervention must be accurately recorded on the appropriate documentation and reviewed and monitored.

### 1.2.1 Information Sharing In Custody

The [Independent Advisory Panel on Deaths in Custody \(IAP\) Information Sharing Statement](#) has been agreed by the Ministerial Board on Deaths in Custody and the General Medical Council and those working in custody, and within the wider police area where appropriate, should pay due regard to the statement where there is a potential conflict between confidentiality and preventing harm.

All staff dealing with a detainee (whether employed in custody or outside) are under a positive obligation to protect the detainee from the risk of suicide or self-harm. There must be an effective information exchange, in accordance with privacy rights, between the police, prisons, immigration services and health services, on the vulnerability of a detainee to suicide/self-harm or mental illness, or the threat which they may pose to others.

[Person Escort Record](#) (PER) Forms (and any supplementary supporting documentation) must be completed in sufficient detail and with up to date information to ensure that this obligation is met when a detainee is being transferred. Custody records, medical forms and risk assessments (including the rationale behind the setting of observation levels and any particular requirements of care) must be completed in sufficient detail both to enable the detainee to be cared for safely and appropriately whilst in custody and also, in line with the obligation to share information, to enable their safe transfer to another service or location (See also section [4.1.7 – PER](#) below).

## 1.3 Senior Management Considerations

Force obligations are to be met using an effective management structure to ensure a focus up to and including at Chief Officer Level on custody issues.

Effective and proactive oversight at an operational level will be achieved through adequate supervision within the organisation, scrutiny by external organisations (including Custody Visitors, the office of the Police and Crime Commissioner) and suitable internal audits and monitoring of working practices, performance and compliance.

## 1.4 Designation of a Police Station

The designated custody suites (per [PACE, Section 35](#)) within the region.

<b>Leicestershire</b>	Euston Street Custody Suite Keyham Lane Custody Suite Beaumont Leys Custody Suite
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### **1.4.1 Custody Resources (Custody Personnel)**

In the absence of a national definitive staffing model (there being too many variables) it will fall to the Head of Custody to ensure that staffing levels, shift patterns and support services in each suite are fit for purpose. This will require account being taken of current and projected demand, staff depletion, seasonal fluctuations, and legislative responsibilities both to those detained in custody and to the staff and other service users. Leicestershire are in consultation with the resource cell as they assist in the management for deployment of staff into custody.

### **1.4.2 Roles and Responsibilities – Police & Contracted Staff**

Custody officers and support staff must be clear about their individual roles and responsibilities in the custody suite.

Staff should refer to their individual force HR or contractor to ensure that there is clarity, and that ambiguity and confusion are avoided.

All staff should be aware of:

- Their responsibilities.
- Their obligations under PACE and the [College of Policing APP](#)
- Organisational expectations.

### **1.4.3 Custody Site Manager**

The custody Site Manager's role is covered within 2 support Inspectors. They provide a single point of contact with responsibility for the smooth running and functionality of the custody suite and incorporates responsibility for ensuring that the organisation's duty of care in relation to Health and Safety regulations and legislation are complied with. This includes the provision and maintenance of equipment such as fire extinguishers and first aid kits.

They will be responsible for ensuring that appropriate processes and plans are in place to meet the organisation's obligations in relation to contingency planning, fire and evacuation plans, equipment checks and that proper records are kept and also are involved in covering PACE duties within their shifts.

Their role will also include a responsibility for ensure that the buildings and infrastructure are fit for purpose and properly maintained (including communications, CCTV and interview room equipment).

Additional responsibilities, including supervisory duties, will be undertaken in accordance with local arrangements as directed by Head of Custody described in the post holder's job description.

### **1.4.4 Duty Inspectors and Superintendents**

Each force in the region will ensure that there are sufficient inspectors and superintendents available to meet the obligations and to exercise the powers under PACE that require officers of those ranks or above.

### **1.4.5 Custody Officers**

Custody officers and staff must be clear about their individual roles and responsibilities within the custody suite. The custody officer must be of at least the rank of sergeant except in those unusual circumstances permitted by PACE. They have specific responsibility and authority for the custody and protection of the detainee and for ensuring that they are dealt with expeditiously.

It is the responsibility of the custody officer to direct resources within custody to ensure the safety and welfare of the detainee and, where necessary, to call on resources outside of custody to meet this responsibility. The individual custody officer responsible for each detainee must be clearly identifiable. Where there is more than one custody officer on duty at a suite the officer responsible for each detainee must be identified and the responsibility cannot be jointly held.

The custody officer's in-depth knowledge of the circumstances of a person's detention, the state of the enquiry and their welfare needs is paramount to ensuring that they are able to carry out their duties and responsibilities effectively and in accordance with their statutory and professional obligations.

A custody officer or other officer who, in accordance with PACE, other relevant legislation, or approved working practices, allows or directs the carrying out of any task or action relating to a detainee's care, treatment, rights and entitlements to another officer or any police staff must be satisfied that the officer or police staff concerned are suitable, trained and competent to carry out the task or action in question ([PACE Code C](#) Note 3F). The custody officer retains responsibility for ensuring that tasks carried out on their behalf are completed to the accepted standards.

Where a member of staff conducts the booking in process on behalf of the custody officer (or any other similar task) the custody officer will remain personally responsible for the process and must ensure that they are fully aware of all of the circumstances and risks when authorising detention, setting observation levels and stipulating any control measures. Any staff member acting on behalf of a custody officer must record the details of the authorising officer on the custody record.

Where a custody officer hands over responsibility for a detainee (because they have booked them in on another officer's behalf, during welfare breaks or because the detainee care is being transferred to another) they must ensure that the receiving officer is fully briefed and an entry by both officers must be made on the custody record.

### **1.4.6 Detention Officers**

The role of a detention officer is to support the custody officer by carrying out tasks on their behalf and under their supervision. Where they perform a function which requires the authority of a custody officer they must ensure that the custody officer is fully appraised to enable the authorisation of the action since the custody officer retains responsibility for any

action carried out on their behalf (for example, when booking suspects in to custody, they must ensure that the custody officer is fully aware of all of the circumstances relating to the detainee's arrest, the factors relating to the necessity to detain and all known risks so that they can authorise detention and set observation levels/control measures as appropriate). The custody officer must be satisfied that any member of support staff (including staff employed through a contractor) or other officer acting on their behalf is competent, trained and suitable for the task being undertaken.

## 1.5 Healthcare Professionals

Persons in custody must have access to medical support as appropriate. Health care professional services in Leicestershire are provided by specialist contractors who will provide staff who are suitable and qualified for the role. The custody officer retains overall responsibility for the safety and welfare of any person detained in custody and should consider any advice being offered by a HCP within the context of force policies and their responsibilities and duties under [PACE Code C](#) paragraph 9 (Care and treatment of detained persons) and [Health and Safety Legislation](#). Any information which is necessary for custody staff to ensure the effective on going care and wellbeing of the detainee must be recorded openly in the custody record by the HCP (paragraph 3.8 and Annex G, paragraph 7 of [Code C](#)) and also given verbally to the custody officer who will record that they have received the advice and the advice given on the custody record. Custody officers and staff will ensure that any relevant information they possess is shared with the HCP when they are assessing the detainee.

## 1.6 Independent Custody Visitors

Independent Custody Visitors have the right to visit custody suites at any time without prior notice. They should be permitted access to the custody suite area immediately, unless to do so would expose them to danger. The custody officer must be alert to any specific health or safety risks that custody visitors might face and must advise them appropriately. Custody staff being busy is not in itself a good enough reason to delay/deny access. Nevertheless, Custody Visitors will be expected to wait for reasonable periods if this is the case. In these circumstances Custody Visitors should be allowed access to the general custody area but should keep a discrete distance. They should be invited, without any delay, to wait behind the custody desk (if appropriate) where they can observe the general custody area whilst arrangements are made for them to be escorted around the suite. In exceptional circumstances, for example, in a medical emergency, a delay might be unavoidable. On those occasions the custody officer (or inspector if at the suite) should speak with the Custody Visitors in person to discuss the matter. Whenever this occurs the site manager for the area must be informed about the circumstances that led to the delay and what actions were taken to minimise it so that this can be brought to the attention of the ICV Coordinator. Where a custody officer reasonably believes the visitor may be in danger, or that access could interfere with the process of justice, an inspector (or higher ranked officer) may legally limit or deny the ICV access to a specific detainee. Any such decision must be recorded in the detainee's custody record and reported to the site manager for the relevant suite. (See also [relevant force ICV Policy](#))

### Further information

[PACE Code C, Notes for Guidance 1F](#)

## 1.7 Training and Learning

Officers and staff employed within the custody environment are expected to maintain their professional knowledge and skills by attending relevant training when provided, by completing distance learning packages as directed, by ensuring that they take note of (and act upon) information provided by emails/updates/newsletters and similar in relation to best practice, changes to working procedures and that identify performance issues and solutions and by reference to relevant policies and procedural guides including the Authorised Professional Practice produced by the College of Policing and the Police and Criminal Evidence Act 1984 and associated Codes of Practice.

Bespoke training will be provided to all staff to cover their role to National Custody Officer Learning Programme standard, First Aid and Officer Safety Training with appropriate refresher training.

Attendance at refresher training for all the above is mandatory for custody staff. Any member of staff whose certification is due to expire must alert their line manager immediately so that they can be re-certified as a matter of urgency.

Staff will not be moved from training days to backfill shortages within suites. Such shortages will be covered by shift changes or other methods. Attendance at training is essential given the reduction in the number of training days.

In the event a member of staff is unable to attend a planned training event, including OST and First Aid, for any reason it is their responsibility to arrange and attend a suitable alternative training event.

### 1.7.1 Contracted Staff Training

Contracted staff must be trained to at least the same standard as police employees with bespoke training to meet their contractual obligations. This includes First Aid Training to Custody Standards. Where a custody officer becomes aware of a training deficiency, they must escalate this to their senior management and the appropriate Contractor management contact.

## 1.8 Contingency Planning

Business continuity and contingency plans should be maintained for all suites dealing with:

- Major incidents resulting in a high volume of arrests (refer to local Business continuity plans)
- Activation of [Operation Safeguard](#) (use of police cells to hold Home Office prisoners), or a dramatic increase in prison 'lock-outs'
- [Death in Custody](#)
- Bomb threat (refer to local Business continuity plans)
- [Terrorist detainees](#)
- High-profile detainees likely to attract media and public attention

- Other sensitive detainees
- Fires (site specific Fire Evacuation Plans should be held at each site and regular exercises undertaken)
- Chemical, biological, radiological or nuclear (CBRN)

## **1.9 Health and Safety Equipment**

Custody officers and staff will be trained in the use of and provided with Personal Protective Equipment appropriate to their role and as permitted by law. Where such equipment is provided it must be worn so that it is readily available if needed. Failure to wear the equipment provided could, potentially, constitute a breach of Health and Safety Legislation and could amount to a misconduct matter. Adequate firefighting and first aid equipment will be provided at all sites and its maintenance and provision will be overseen by the Site Manager. Any equipment used must be replaced immediately from stock or by placing the appropriate request requisition.

### **1.9.1 Health and Safety Responsibilities**

It is the responsibility of all staff to ensure a safe working environment for themselves and those around them. Where possible, they should take immediate action to reduce potential dangers and should report any incidents to their line manager. All staff and visitors must be aware of and be briefed regarding evacuation and emergency procedures relevant to that site.

Every custody suite has a designated 'waiting area' for visitors (including legal representatives and Appropriate Adults). All visitors must be required to wait in the designated area at all times when not personally accompanied by a member of staff or engaged in activities related to their role (for example, private consultations). This will ensure their safe evacuation in an emergency and minimise the risk of their suffering harm in the event of an adverse incident.

### **1.9.2 Recording Accidents, Injury and Near Misses**

If any member of staff has an accident or injury whilst on duty, or a near miss occurs, the matter must be reported to a line manager and recorded via the appropriate force system.

All Adverse incidents and use of force MUST be entered by each person involved by making their own report detailing their individual involvement.

It is not acceptable to submit one entry on behalf of those involved in an incident.

### **1.9.3 Smoking and E-Cigarettes (Vaping)**

Detained persons will not be allowed to smoke at any time whilst in police custody. The use of e-cigarettes is also prohibited. Nicotine replacements may be provided.

(new OPS custody document to link in)

## 1.10 Cell and Suite Closures

### 1.10.1 Cell Closure

Where a cell is taken out of service for any reason the whiteboard of the custody computer system must immediately be updated to that effect to prevent accidental use of the cell.

Cells which have been taken out of use for cleanliness or hygiene reasons must be inspected by a Detention Officer before being returned to use.

Cells which have been taken out of use for safety/remedial/maintenance work should be brought back into use in consultation with the duty custody inspector. This includes cells taken out of service after ligature points have been found.

All maintenance issues must be reported to Admin department.

### 1.10.2 Suite Closure

Cell capacity is based on single cell occupancy in accordance with [PACE Code C](#) paragraph 8.1. The safe operating capacity of a custody suite depends on a number of factors:

- the number of detainees currently being held
- the level of monitoring required for those detainees being held
- identified risks
- the number of trained and competent staff available on duty
- operational commitments of the area
- the actual number of cells in operation

Where the custody officer determines that level of risk within the custody suite cannot be sufficiently reduced and/or mitigated to a safe operating level, then the custody officer may decide not to accept any further detainees. This is to avoid compromising the safety and welfare of the detainees and staff, in accord with their legislative responsibilities under PACE.

### 1.10.3 Closure Due To Capacity Being Reached

Where a suite closes because all available cells are in use or closure is imminent due to capacity nearing its limit, authorisation by an officer of ACC rank or above would be required before more than one person could be lodged in a cell. Such action would only be appropriate in exceptional circumstances and where alternative arrangements, such as transferring detainees or redirecting new arrests to another suite (in or out of the force area), would not alleviate the situation or it is impractical. In such an event, any detainees lodged together will, without exception, be subject to close proximity observations however there is currently a 5 force agreement being published shortly which allows the use of cell space between the forces to alleviate the need for lodging detainees.

Closure due to maximum occupancy being reached will not preclude detainees being brought to the suite when it is anticipated that a cell will not be required or where the detainee will be transferred to another suite if their continued detention is required, for example, to conduct a station procedure where the roadside sample is so low that, if the evidential sample is similar, the detainee will be charged and released or to search a detainee or establish/confirm their identity (where, if they are found to be in possession of prohibited items or they are circulated for an offence/warrant, they can be transported to another suite following their arrest).



#### **1.10.4 Emergency / Temporary Closure (Custody Officer Decision)**

Where, the Custody Officer believes it is unsafe to accept further detainees for a short period (less than 30 minutes) they should communicate their decision to the Inspector responsible for the suite, any other inspector responsible for the area served by the suite and the Force Control Room (requesting that a message be broadcast indicating that the suite is temporarily closed). Such a closure does not require the creation of an incident or policy log.

The Inspector having been informed should look to find suitable resolutions to the situation both Custody officers and wider force management (ie Duty Superintendent)

#### **1.10.5 Partial or Full Closure**

Where the Custody Officer believes that, all things considered, the suite has either reached or is nearing its physical or practical capacity they shall immediately inform the inspector responsible for the suite. The Inspector will then review the situation and look for suitable resolutions including the relocation of staff, supplementing custody staff with divisional officers (in consultation with any relevant colleagues) and the transfer of detainees to other suites to create capacity. They will immediately notify the On-call Superintendent of the outcome.

#### **1.10.6 PACE Superintendent**

The Superintendent who is made aware of a full or partial closure will, in discussion with the inspector and Custody Officer, review the necessity for the closure and either support or suggest an alternative. They must record the rationale for their decision and any representations made and any directions that they have given for actions to be taken to alleviate the situation.

### **1.11 MOPI / Data Protection**

The [MOPI](#) (Management of Police Information) Programme is designed to improve the process of managing and sharing information within the police service. This and [Data Protection Legislation](#) apply to information gained and recorded within the custody environment including on the custody record. Officers must ensure that they are up to date with their training in relation to data handling and that they only share information lawfully and in accordance with force policies and procedures.

### **1.12 Prisoner Intelligence/Voluntary Disclosures**

A member of custody staff that becomes aware of information which is relevant to an investigation or which may be of value as intelligence must ensure that the investigating officer and custody sergeant are made aware. It will be the investigating officer's and custody sergeant's responsibility to deal with the information appropriately.

Where a detainee makes a voluntary disclosure/unsolicited statement relevant to the matter being investigated, either whilst being booked in or subsequently during their detention, this should be



recorded on the custody record in the presence of the detainee (unless this is impractical due to the conduct of the detainee) and they should be invited to read and sign the entry. Such disclosures made prior to arrival at the suite should be recorded by the officer to whom the comment was made in their pocket book and the suspect invited to read the entry and to sign confirming that the entry is correct.

### **1.13 PNC**

All persons brought into custody will be checked on PNC once their identity is known and any warning markers used to assist in the completion of the risk assessment. The officer presenting the detainee to the custody officer (or, if the PNC check is delayed for any reason, the officer in the case) is to be made aware of any circulations, locate/trace and information markers and whether the detainee is currently on bail for other matters or holds a firearms certificate so that the appropriate action can be taken.

The custody officer will be responsible for ensuring that all relevant staff are made aware of any risks highlighted on PNC (or through the risk assessment or from other sources) that are relevant to the detainee's safe detention or the safety of others.

Appropriate custody log entries should record any actions taken. Any additional risks identified in custody that are not already subject to PNC Warning Markers (or where a repeat of an existing warning marker, for example, that the detainee was violent towards staff, is warranted) must be updated on PNC via the custody system (for NON PACE detainees via the PNC Bureau).

## 2 Response, Arrest and Detention

### 2.1 Arrest Process and Necessity Criteria

Officers exercising a power of arrest should always consider whether the necessity objectives could be met by other less intrusive means ([PACE Code G](#)).

Where an arrest is not necessary then the suspect should be dealt with as a voluntary attendee in accordance with local procedures. If, during the course of the investigation, the situation changes it may become necessary to arrest the suspect, however, the necessity test must be met for this to occur. If a person who is not under arrest attends a suite for samples to be taken they are a voluntary attendee.

#### 2.1.1 Lawful Arrest

**A LAWFUL arrest requires two elements:**

- A person's involvement or suspected involvement or attempted involvement in the commission of a criminal offence; and
- Reasonable grounds for believing that the person's arrest is necessary

Note: Both elements must be satisfied.

Officers must always consider whether a person's arrest for an offence is necessary and proportionate, in accordance with [PACE s. 24](#).

#### 2.1.2 Necessity Criteria

The power of arrest is only exercisable if the constable has reasonable grounds for believing that it is necessary to arrest the person ([PACE Code G](#) paragraph 2.9).

INVESTIGATION	Offence or conduct needs to be prompt and effective
DISAPPEARANCE	Of the person will hinder the investigation
CHILD	Or other Vulnerable person to protect
OBSTRUCTION	Prevent unlawful obstruction of Highway.
PHYSICAL HARM	Prevent being caused by any person.
PUBLIC DECENCY	Prevent offence only if public cannot be reasonably expected to avoid
LOSS OR DAMAGE	To Prevent
ADDRESS	Not provided or cannot be ascertained or reasonable grounds to doubt
NAME	Not provided or cannot be ascertained or reasonable grounds to

Detailed guidance on the Necessity to Arrest can be found in the [ACPO Position Statement](#) on the subject.

The revised [PACE Code G](#) (implementation date 12th November 2012) demanded more detailed consideration by arresting officers of the necessity to arrest than has previously been the case.

The reasonable grounds for believing that an arrest is necessary must amount to more than a theoretical possibility that, for example, a person **might** interfere with or destroy evidence. Similarly, an arrest made in order to exercise police powers to search ([Section 18](#) or [32 PACE](#)) is not a reasonable ground to arrest where a warrant could have been obtained prior to a planned arrest (unless other factors make the arrest necessary). ([Lord Hanningfield v Essex Police](#) [2013] EWHC 243 (QB)) Similarly, an arrest effected to carry out part of an investigation where the suspect is willing to assist with the investigation (for example, where a suspect has attended a police station by arrangement to be interviewed or to take part in [ID Procedures](#)) will not usually meet the Necessity Test.

The need to impose police bail conditions does not fulfil any of the necessity criteria set out in [PACE s. 24](#) (5) of PACE. Consideration of bail, with or without conditions, can only occur at the point in the investigation where the evidence is reviewed and it is either decided that there is sufficient evidence to charge, or that the necessity to detain a person in custody has ceased but there are outstanding enquiries or that the person under investigation is to be released without charge and no further action taken. The decision to impose bail with conditions and the decision whether it is necessary to arrest a person are two different decisions and have to be made separately and independently.

## 2.2 Risk Assessment on Arrest

Any person who has been arrested should, at the point of arrest, be the subject of an immediate risk assessment and, in a planned arrest, consideration of a suspect's welfare, known risks and medical needs should form part of the planning process (See section 4 – [Risk Assessment](#)).

## 2.3 Searches on Arrest and handing over to the Custody Officer

Officers should search any person they arrest using powers provided by [PACE s.32](#). It is important that vehicles used for transportation are searched prior to and following the transfer of the detainee and, similarly, any holding cell used prior to the detainee being placed before the Custody Officer. All detainees should be searched by Custody staff or Police Officer unless prevented from doing so, for example, due to gender issues, in which case a full entry on the custody record is required recording why the search was not done.

## 2.4 Arrival at the Station

Officers arriving with a detainee arrested on PACE matters will accurately note the time they arrive at the police station, this generally being the Relevant Time ([PACE s.41](#)) unless one of the other provisions contained in s.41 apply (relating to the passage of 24 hours from arrest, arrests in other force areas etc.)

Should a detainee requiring hospital treatment (see Risk Assessment on Arrest above) arrive in custody, or it become apparent to any officer or staff member (whatever their role or involvement) that a person in custody (and not yet booked in) requires hospital treatment, they must be transported to hospital. Irrespective of any other commitments, the custody officer to be made aware (and a Custody Record opened) (PACE) any time that they spent in the suite must be deducted from their PACE Clock when they return from hospital or when a custody record is opened. The custody clock will be suspended whilst a detainee is at hospital (unless detained under the [Terrorism Act 2000](#) and other relevant legislation).

Officers transporting a detainee to custody should consider which entry method, where alternatives exist, is most appropriate taking into account the demeanour of the detainee and any needs or vulnerabilities that they may have.

Detainees remain the responsibility of the escorting officer(s) until accepted by the custody officer. If appropriate, detainees may be placed in a holding cell but must remain under the constant supervision of the escorting officer(s). The decision to place a detainee in a holding cell must take into account the demeanour of the detainee, any welfare, health or other needs the escorting officer is aware of, whether they have been searched and any potential risks of harm to the detainee or others. Under no circumstances is a detainee to be taken directly to a cell unless directed by the custody officer.

## 2.5 Handover to Custody Officer

The detainee must be presented to the custody officer as soon as practicable after arrival at the station. The custody officer must be briefed as to the full circumstances and necessity for the arrest (per [PACE s.24](#) and [Code G](#)) so as to enable them to judge whether there is sufficient evidence to charge the suspect or, alternatively, whether their detention is necessary ([PACE s.37](#)). This information will be recorded on the custody record. The custody officer's decision to authorise detention is a separate and independent decision to that of the arresting officer's decision that the necessity to arrest is met. The custody officer need solely concern themselves with the necessity to detain the suspect. This must be done in the presence of the detainee. Only once the detainee has been informed of the grounds for detention should the custody record be started\*. The necessity to continue a person's detention must be kept under constant review. If at any point the necessity to detain a person in custody is no longer valid, the person must be released (on bail with or without conditions or without charge). A person held to prevent a breach of the peace must be released as soon as the likelihood of a further breach of the peace has ceased. The decision to authorise or refuse detention is that of the custody officer and cannot be delegated.

\* The detainee should be informed of the grounds for their detention and they should be recorded on the custody record in the person's presence unless ([PACE s.37](#) (6) and [Code C](#) paragraph 1.8) they are incapable of understanding, violent or likely to become violent or are in need of urgent medical attention. The custody officer should record any comment made in reply but should not invite a comment ([PACE Code C](#) paragraph 3.4)

The escorting officer(s) must also fully disclose any information that they have which will assist the custody officer when they conduct their risk assessment. This will include any PNC warning markers, statements that the detainee has been made regarding their health or welfare, any knowledge the officers have in relation to injuries that the detainee may have suffered (including any use of force, any involvement in an RTC, potential or actual injuries as a result of involvement in the matter being investigated or through their attempting to avoid arrest) and any medical conditions.

If the detainee has been transported to a custody suite after having been involved in a Road Traffic Collision reference should be made to the Leicestershire Police Road Traffic Collision - Medical Intervention Policy ([link here](#)) to support the health and well-being of the detainee more effectively.

### **2.5.1 Action to be taken by the Custody Officer if overruled.**

If an officer of a higher rank gives a direction in relation to a detainee and this is at variance to a decision made or action taken by the custody officer in the performance of their duties under PACE (or a decision that they would have made or action they would have taken in the performance of their duties) they will refer the matter to a superintendent or above for a decision to be made ([Section 39 \(6\) PACE](#)). This process is not applicable where an officer of a higher rank conducts a review of a detainee's detention and that review's conclusion is at variance to the custody officer's view. In those circumstances the reviewing officer's decision is not a direction to the custody officer that is at variance to a decision or action they have or would have taken in the performance of their duty since the reviewing officer's review is a performance of that officer's duty and not that of the custody officer. Consequently, the reviewing officer's decision cannot be challenged by the custody officer using this provision of PACE.

## **2.6 Placement of Detainees**

Local arrangements and protocols should be followed when deciding to which suite a detainee is to be taken. Where a suite is closed, officers should be directed to an alternative suite by the control room. Officers are required to use the talkgroup 03 hailing channel to request cell space, and the custody inspector will direct them accordingly.

## **2.7 Requirement for a Custody Record**

Every person who has been detained and brought into custody will have a custody record either opened or reopened (answering bail/breach of bail) as appropriate. This includes situations where a person is not detained because they have been sent to hospital or to another suite or detention is not authorised. In the latter case, the person should be asked to assist with completing as much of the record as is necessary to record their details, the details of their arrest, arrival at the station and reasons why they were not detained (this must be recorded in detail and not in general terms such as "insufficient evidence" as this information may be needed in the future, for example as part of a CRB check, should legal action be taken against the force or at a trial).

Where a person is de-arrested before arriving at the suite, a custody record will not be created. The arresting officer will record all of the relevant information in their pocket book. This applies across all four forces.

Records will not be created for Voluntary Attendees, persons brought into custody solely for the purposes of a drugs search or persons attending for Sex Offender Registration purposes.

All Custody Records and associated documentation will be recorded using the Leicestershire Police Niche system. All staff will use version 5 of the Niche system (Niche 5) to safeguard the detainee, the user and the organisation.

### **2.7.1 Police Employees**

Police officers or member of police staff who are arrested will be booked into custody on the electronic custody system. When using NICHE, care is to be taken not to link the record to the officer or staff member's employment record per current protocols. In extraordinary circumstances a hard copy record may be used if authorised by an inspector or above. In these circumstances the responsibility for the care and retention of the record and for updating any necessary systems (including PNC) will rest with the SIO for the investigation.

## **2.8 Business Continuity**

In order to ensure business continuity in the event of a systems failure or outage, a hard copy of the custody front sheet, up to date risk assessment and medical forms must be maintained. Local arrangements will ensure that sufficient quantities of custody records and forms are available to allow the records of those in custody to be manually updated. New arrivals will be booked in on paper records. If PNC is available (through the control room or on other systems) then a manual check must be conducted to ensure that risks, warnings, markers and circulations are identified at an early stage.

Once systems are restored the new and existing records must be restored to the system. The hard copies used during the period whilst the custody system was unavailable must be retained as per local arrangements as the contemporaneous record of the detainees' detention during the system outage.

If only the [PNC](#) interface is lost the electronic custody system must continue to be used but records should not be finalised until the link is restored. It is, however, imperative that the arrest/summons details are obtained to allow a full and effective update of PNC even after the suspect may have been released. In the event of a custody system failure, samples should still be taken and held until the system has been restored so that a Niche Arrest/Summons Number (ASN) can be generated. All Non-PACE detainees' records can be disposed of as normal during a loss of the PNC link.

## **2.9 Detainees with Caring Responsibilities**

Any person who comes into custody may have caring responsibilities for another person, an animal or some other commitment on which others depend. Staff must be aware of the potential implications



of detention for each detainee. All detainees must be asked, when being booked in, if they have any commitments that will be affected by their being in custody (for example, collecting children from school or looking after any other dependents) and all reasonable efforts should be made to address these needs. Should circumstances change during a person's detention, the custody officer must be made aware (for example, a person arrested during the evening might believe that they will be dealt with overnight and not disclose any needs. When they are not a commitment in the morning might become relevant). Any such needs, and the actions taken to address them, must be recorded on the custody record.

## **2.10 Fitness to Detain and Fitness to Interview**

The custody officer must decide whether a person is fit to detain and to interview. They may decide that a medical assessment and/or treatment is needed before an informed decision can be made as to whether or not a person should be detained (see Section 4 – [Risk Assessment](#))

## **2.11 Detention Not Authorised**

In the event a custody officer comes to a decision on grounds for a right to refuse detention they are bound to consult with a duty inspector first. The final decision lays with the duty inspector.

See 2.5 [Handover to Custody Officer](#) and 2.7 [Requirements for a Custody Record](#)

## **2.12 Booking into Custody**

Where a custody record is created (see 2.7 [Requirements for a Custody Record](#)) it will be the responsibility of the custody officer to confirm the identity of the detainee and the investigating officer to confirm the detainee's address (and its suitability as a bail address if appropriate). Every care is to be taken to ensure that details and spellings are correct. Addresses are to be entered using the post code and, where the detainee cannot supply this, the custody officer will be responsible for ascertaining the code by the appropriate means. Descriptive, occupation or school details must be recorded in accordance with force standards.

A PNC check will be conducted in every instance where a person is booked into custody (as per 1.13 [PNC](#) and 2.8 [Business Continuity](#) and 1.8 [Contingency Planning](#) sections above).

Where a detainee's name is not known "Refused" should be used in its place and the appropriate Niche process followed. If the detainee does not have an address then No Fixed Abode should be typed into the "common name" and then the appropriate Force Region should be selected.

A detainee's place of birth should be recorded as the town in which they were born (e.g. Leicester). This includes those born abroad (it is unacceptable to only record the country of their birth).

## **2.13 Production Prisoners**

Serving prisoners brought into police detention should be held under PACE conditions and as far as possible be treated as though they were detained in prison. Local force policies relating to the handling of production prisoners must be followed. The prisoner should arrive with a current PER



Form. Additional entries must be made on the [PER form](#) and returned with the prisoner when they leave police detention (for information regarding the PER, see [section 4](#)).

## 2.14 Initial Custody Risk Assessment Process

The risk assessment process begins with the arresting and escorting officers who must fully brief the custody officer when presenting the detainee (see 2.2 [Risk Assessment on Arrest](#) and 2.5 [Handover to Custody Officer](#) and Section 4 – [Risk Assessment](#)).

The officer conducting the risk assessment must ensure that those who will be managing and coming into contact with the detainee whilst in custody are briefed as necessary ([PACE Code C](#) paragraph 3.8).

### Further Information

[College of Policing APP – Detention and Custody – Risk Assessment](#)

### 2.14.1 On-going Risk Assessment

All staff engaged in the supervision or control of the detainee must continually review the risk posed by/to that detainee and bring any change of circumstances to the attention of custody officer (see Section 4 – [Risk Assessment](#)).

## 2.15 CCTV

Many communal areas of custody suites and a number of cells (in some suites all cells) within the Leicestershire are covered by internal force CCTV systems. The placing and use of these systems is covered by legislation and force policies. CCTV can be used both for the monitoring of detainees and for the prevention and detection of crime. The legislative requirements and an over view of the use of CCTV in custody can be seen in detail in the [College of Policing APP – Detention and Custody – Buildings and Facilities](#):

CCTV can be used to monitor the welfare and of all detainees and not just those with specific risks. CCTV cannot be used in place of physical visits and, where a detainee is to be kept under constant observation as a result of their risk assessment, officers must record the purpose of this control on the custody record along with the name of the officer responsible for monitoring the detainee.

**For Strip Searches – CCTV see 5.12 [Intimate and Strip Searches](#)**

### 2.15.1 Archived / Recorded CCTV

CCTV must not be retained for longer than is necessary for its intended purpose. Requests for disclosure of CCTV material must be processed in accordance with the requirements of the [Criminal Procedures and Investigations Act 1996](#) and the related codes of practice and retention periods are, in those circumstances, as for all unused material.

[Independent Custody Visitors](#) (ICV) should only usually be allowed to view CCTV for the

purposes of testing the equipment. If a specific incident has been raised by the detainee the ICV might be allowed to view the CCTV with the consent of the detainee and police. Detainees, legal representatives and appropriate adults do not have the right to routinely inspect CCTV recordings ([PACE Code C](#), paragraph 2.1). However, people whose images are recorded on custody CCTV systems are entitled, under [The Data Protection Act 1998](#), to request access to the CCTV by contacting the force Data Protection officer.

Live images from cells must not be seen by anyone who is not directly involved in monitoring the detainee's welfare or the management of that detainee. The CCTV monitoring area should itself be covered by CCTV and staff made aware that they are being recorded while performing this function. Monitors for communal areas can be displayed anywhere in the custody suite.

When any viewing / burning of CCTV material takes place the following must be recorded as per local force arrangements:

- Date / Time CCTV accessed.
- Full details of officer making the request.
- Date and time viewed.
- Camera(s) / area(s) viewed.
- Whether the copy was burned to DVD.
- Reasons for request e.g. evidence of an offence, health & safety investigation, misconduct matter. If the request does not fall within these parameters then the authority of an inspector is required together with their details.

## 2.16 Rights and Entitlements

[PACE Code C](#), paragraph 3.1 states that when a person is brought to a police station under arrest or arrested at the station having gone there voluntarily, the custody officer must make sure the person is told clearly about their continuing rights. These rights may be exercised at any stage during the period in custody and comprise the following:

- the right to have someone informed of their arrest
  - the right to consult privately with a solicitor and have access to free independent legal advice
  - the right to consult the PACE codes of practice
  - where applicable, the right to interpretation and translation
  - where applicable, the right to communicate with their high commission, embassy or consulate
1. the right to be informed about the offence and (as the case may be) any further offences for which they are arrested while in custody and why they have been arrested and detained

Under [PACE Code C](#), paragraph 3.2, the detainee, and appropriate adult if applicable, must be given a written [notice of rights and entitlements](#) which is available in 54 translations, in addition to the English language version. This written notice contains information on:

- their rights under [PACE Code C](#), paragraphs 3.1, 3.12 and 3.12A
- obtaining legal advice

- obtaining a copy of the custody record
  - their right to remain silent
  - their right to materials and documents to challenge the lawfulness of the arrest and detention
  - their right to medical assistance
  - if prosecuted, their right to have access to evidence in the case before the trial
- 
- provisions relating to the conduct of interviews while in custody
  - circumstances in which an appropriate adult should be available
  - their right to make representations whenever their detention is reviewed
  - reasonable standards of physical comfort, e.g., food, drink, ablutions, clothing etc

The detainee must be given an opportunity to read the notice and should be asked to sign the custody record to acknowledge its receipt. Any refusal must be recorded on the custody record.

Forces are required to facilitate the communication of a detainee's rights and entitlements under PACE to each detainee in a way that allows them to understand. Examples of methods of communication include audio recording or verbal explanation, use of a hearing loop, provision of foreign language or easy-read versions of the notice, or use of a two-way handset for translation.

#### **Further Information**

[College of Policing APP – Detention and Custody – Response, Arrest and Detention](#)

### **2.16.1 Right not to be held incommunicado**

Any person arrested and held in custody at a police station or other premises may, on request, have one person known to them or likely to take an interest in their welfare informed at public expense of their whereabouts as soon as practicable subject to the provisions and limitations described in [PACE Code C](#) paragraph 5. This right can only be delayed by an officer of inspector rank or above in accordance with [PACE Code C](#) Annex B.

### **2.16.2 The Right to Legal Advice**

Any person arrested and held in custody at a police station or other premises is entitled to free and independent legal advice in accordance with the provisions and limitations described in [PACE Code C](#) paragraph 6.

- **Posters indicating this right should be displayed in the charging area in English and any other language appropriate for the area.**
- **To ensure compliance to Government Guidelines around COVID-19 all efforts should be made to inform the detainee that legal advice can still be provided in a remote capacity to accommodate social distancing.**

This right can only be delayed by an officer of superintendent rank or above in accordance with [PACE Code C](#) Annex B.

#### **2.16.2.1 Legal Change of Mind**

Where a detainee has asked for legal advice but changes their mind or (as the case may be) about wanting a solicitor present at the interview, an inspector may authorise

that an interview proceed provided that the requirements of [PACE Code C](#) paragraph 6.6(d) are met.

Before authorising the interview to proceed, attempts should be made to contact the [Solicitor](#) requested to ascertain how long it would be likely to take for them to attend and, if possible, they should be given the opportunity to speak to the detainee. The detainee must be reminded that they still have the right to free and independent legal advice at any time whilst they are in custody should they wish to change their mind again.

The custody record must record the details of who has authorised the interview to proceed without a solicitor being present, the reason for the change of mind (if given), the detainee's signed confirmation of their change of mind and what (and by whom) efforts were made to contact the solicitor and the outcome.

At the commencement of the interview the detainee must be reminded that their rights to legal advice are on-going and confirmation obtained that they have changed their mind and the reason for this (if one has been given). The interviewer should also confirm on whose authority the interview has been allowed to take place, that the interview will be interrupted if the solicitor attends before it is completed and that they will have an opportunity to consult with the solicitor.

## **2.17 Fingerprints, Photo and DNA - Recordable Offences/European Arrest Warrants**

Fingerprints, photographs and DNA samples will be taken in accordance with [PACE Code D](#).

A further DNA sample will always be required if a previous sample was taken pre 1996. PNC will indicate whether or not a further sample is required. When samples are taken from a person who requires an appropriate adult one must be present.

PNC should be checked to confirm if the offence is recordable. Use transaction code #QO (Query offence) to confirm the most up to date information

Fingerprints will be taken electronically and used to confirm the identity of the suspect prior to their release (where they are previously recorded). All descriptive details must be completed on the system including addresses details etc. In the event that prints cannot be electronically obtained before the detainee is released, wet prints should be considered and taken in line with local force procedures. If PNC is unavailable the process in section 2.8 [Business Continuity](#) is to be followed.

An arrest/summons number must be provided by the force on whose area the relevant offence was committed before samples are taken.

Fingerprints, photographs and DNA samples may be taken by support staff trained in the procedure except in the case of a European Arrest Warrant. In this case the procedure of a European Arrest Warrant is-

- All trained Officers including Support Staff can take the samples for these detainees
- Non PACE offence Samples taken only to verify ID with the authority of an inspector or with consent of the detainee.
- Contact PNC Bureau for A/S number on every occasion.
- The detainee has been asked to provide their name and date of birth prior to the taking of samples.
- Disposal - 'To Court on Warrant'

The following offences have a DNA sample taken regardless of whether profiled/confirmed and date of the sample.

- Homicide
- Manslaughter
- Sexual Offences
- Firearms
- Knife Crime (Notts only)

## 2.18 Drug Testing on Arrest

Any Drugs testing should take place as soon as is practicable after the detainee arrival and not necessarily at the same time as fingerprints etc. are taken. Early sampling increases the likelihood of a positive result whereas delaying the process until the detainee is fit to be fingerprinted etc. (often not until the following day) significantly reduces the tests effectiveness.

Leicestershire now test under an inspector's authority where the presence of a drug is believed to have contributed to the commission of the offence. Drug Treatment workers are readily available within the custody suites and are employed by Turning point to assist when required.

Leicestershire test for trigger offences and test all that fall within the criteria as this forms part of the current Drugs strategy and there is funding in place to carry out such tests although this is currently under review.

Local force policies and procedures in relation to drugs testing should be adhered to.

## 2.19 Detainee Support

### 2.19.1 Solicitors

The Law Society indicates that the role of the legal adviser is to:

- investigate the police case, the prosecution evidence, the police investigation and all police contact with, and conduct towards, the client
- act in their client's best interest, providing best advice
- assess the extent of the client's vulnerability and ability to comprehend, cope and communicate to best effect in any police interview
- identify the safest responses by the client, for example, to remain silent, provide a written statement or to answer police questions
- influence the police to accept their client is not guilty
- influence the police not to charge their client

- influence the police to make the most favourable case disposal decision for their client, implementing the most constructive alternative to charging relative to the circumstances of the case and the client
- create the most favourable position for the client if they are charged

Where an officer believes that the conduct of a solicitor or their representative is outside their role and that it should be brought to the attention of the [Legal Complaints Service](#), the matter should initially be brought to the attention of the inspector responsible for the suite. It will be for them to decide if the matter needs to be escalated to the Head of Custody for further action.

When requesting a duty solicitor thought should be given to the offence location as well as to where the suspect is being held. If a suspect is to be transferred to another force the call centre should be told so that the appropriate solicitor is contacted.

Defence solicitors must be allowed to consult with and advise their clients in private and to be present at interviews, at the charge desk when their client is being charged, bailed or returned from interview and to make representations to the custody officer or inspector or superintendent as appropriate. When not engaged in representing their client they should be required to wait in an appropriate waiting area or to leave the suite.

#### **2.19.1.1 Solicitor's use of Mobile Phones and other Mobile Devices**

Solicitors may retain their mobile phones and other electronic devices whilst in custody unless there is good reason for preventing them from doing so. It will be for the custody officer to decide whether to restrict a solicitor from bringing a device into the suite or taking

one into a private consultation. The custody officer must have reasonable grounds for believing that the restriction is necessary to prevent unauthorised communications being made by or on behalf of a detainee and the solicitor must be informed of the grounds. This must also be recorded on the custody record.

The solicitor may make representations as to why the device should not be surrendered and, if allowed to retain the device, do so on the understanding that it will not be used to communicate with anyone on behalf of a detainee or to make any visual or sound recording within the suite. Any breach should be reported to the custody officer.

Breaches would include attempts not to disclose possession of a telephone or communication or recording device and any false declarations to the custody officer should be reported to the Solicitors Regulation Authority and the Regional Office of the Legal Services.

If the solicitor refuses to accept this condition of entry and decides not to visit their client, the custody officer must inform the [Defence Solicitor Call Centre](#) (DSCC) of the circumstances so that alternative arrangements can be made to secure legal advice for the detainee.



### **2.19.2 Appropriate Adults**

The Police and Criminal Evidence Act 1984 (PACE) Codes of Practice provide for an appropriate adult to be called to the police station whenever a juvenile or vulnerable person has been detained in police custody. Appropriate adults have an important role to play in the custody environment by ensuring that the detained person whom they are assisting understands what is happening to them and why.

#### **[GUIDANCE FOR APPROPRIATE ADULTS](#)**

PACE Code C paragraph 1.7 defines the meaning of appropriate adult in relation to people who require one. An appropriate adult will be required to support juveniles (see section 8 – [Children and Young People](#)), any person who is a vulnerable person (see section 9 – [Mental Ill Health and Learning Disability](#) and PACE [Code C](#) Annex E) or any person who appears to fall into one of these groups, unless there is clear evidence to the contrary ([PACE Code C](#) paragraphs 1.4, 1.5, 1.5A).

[PACE Code C](#) Notes For Guidance 1B to 1G provides guidance as to circumstances where a person cannot act as an appropriate adult (for example, where the suspect has made admissions to them), the suitability of persons to be appropriate adults and explanations of the terms used in the Code.

An appropriate adult who attends the suite must be given access to the detainee if they request it. All contact with the appropriate adult, including requests to attend the suite (and their attendance), should be logged on the record.

The custody officer must brief the appropriate adult (unless they are part of the appropriate adult scheme) regarding their role and responsibilities and hand them a copy of the [Notice to Appropriate Adult](#) form (a trained appropriate adult must be offered a copy). This must be recorded on the custody record. The appropriate adult should be given time to read the notice and be told that the custody officer will be available to answer any questions about the notice or their role. The appropriate adult may request a solicitor on behalf of the detainee but the detainee cannot be forced to see one.

Where PACE provides that an appropriate adult should be present when the person that they are supporting is charged or bailed with conditions but does not provide a power for the action to be delayed for them to attend. Consequently, custody officers should, where possible, give advance notice of when reviews, charging decisions and superintendents' extensions are likely to take place ([PACE Code C](#) 15.3(b) and (c), Note 15C and Note16C).

#### **2.19.2.1 Appropriate Adult's Role**

The use of [Appropriate Adults](#) are overseen by NAAN ( National Appropriate adult network) is a registered charity aiming to ensure the rights and welfare of the most vulnerable people in our society by developing effective appropriate adults. They are a membership



organisation open to organisations and individuals. They do not provide appropriate adults but many of their member organisations do.

**Appropriate Adults are there to:**

- Advise the detained person.
- Facilitate communication with the person.
- Observe whether the detainee is dealt with in a fair and proper fashion.

**The appropriate adult can:**

- inspect the detainee's custody record and have a copy of the record made
- consult with a detainee in private
- request legal advice on the detainee's behalf to advise and assist them
- be asked to assist with a further risk assessment of the detainee

**The appropriate adult must:**

- be present for the purposes of taking fingerprints and samples etc.
- be present if the detainee is to be strip searched\*
- be present in interview (but not during consultation with legal advisers)\*
- be present at the time of charge, caution, bail (with conditions) etc.\*
- \* except under certain circumstances as allowed by PACE.

**2.19.2.2 Appropriate Adult Services**

Each force area has local arrangements whereby an appropriate adult can be sourced where it has proved impossible to obtain the assistance of a person who meets the profile described in [PACE Code C](#) paragraph 1.7.

TAAS No. 03332 424999

Youth justice team - City: 0116 4544600 / County: 0116 3050030

[The Appropriate Adult Service Limited](#)

**2.19.3 Interpreters**

[PACE Code C](#) paragraph 13 and Annex M describe the requirement and purpose of interpreters. Suitably qualified [interpreters](#) are required for detained persons

- Who are deaf or have speech difficulties
- Who have difficulty understanding English
- Where the appropriate adult acting for a detainee appears to be, or there is doubt about, their hearing or speaking ability or understanding of English

Interpreters should be sourced as per local force arrangements. Arrangements for interpreters and their use should be recorded on the custody record.

[PACE Code C](#) paragraph 1.6 provides that where a person is or appears to be blind, seriously visually impaired, is deaf, is unable to read or speak or has difficulty orally because of a

speech impediment they should be treated as such unless there is clear evidence to the contrary. People within this group must be supported in accordance with the Code by the provision of someone to read documents on their behalf or an interpreter to assist with communication etc. as per [PACE Code C](#) paragraph 13.1

In circumstances where the defendant is charged and held in police custody or where they are held under a warrant or breach of bail etc. for appearance at the next court, Police officers are required to ensure that an interpreter is arranged for court. Failure to do so has a highly detrimental effect on the smooth running of the courts.

#### **2.19.4 Vulnerable Person (PACE Code C July 2018)**

Applies to any person who, because of a mental health condition or mental disorder may have difficulty understanding or communicating effectively about the full implications for them of any procedures and processes connected with:

- Their arrest and detention; or (as the case may be)
- Their voluntary attendance at a police station or their presence elsewhere
- For the purpose of a voluntary interview
- The exercise of their rights and entitlements.

Does not appear to understand the significance of what they are told, of questions they are asked or of their replies appears to be particularly prone to:

- becoming confused and unclear about their position;
- providing unreliable, misleading or incriminating information without knowing or wishing to do so
- accepting or acting on suggestions from others without consciously knowing or wishing to do so; or
- readily agreeing to suggestions or proposals without any protest or question.
- 

## **2.20 Investigation**

### **2.20.1 Role of the Custody Officer**

The duties of the custody officer before charge are outlined in [PACE s.37](#). They are required to determine whether or not there is sufficient evidence to charge the detainee. If they determine that they do not have sufficient evidence, the person arrested shall be released either on bail or Released under Investigation, unless the custody officer has reasonable grounds for believing that their detention without being charged is necessary to secure or preserve evidence relating to an offence for which he is under arrest or to obtain such evidence by questioning him.

The requirement to keep a person in custody must be kept under constant review. It follows, therefore, that the custody officer must be made fully aware of the evidence available and

kept up to date in respect of the progress of the investigation and any changing circumstances.

[PACE Code C](#) paragraph 16 establishes the duty of the officer in charge of the case to inform the custody officer when they believe that there is sufficient evidence to charge the suspect and that it is the custody officers responsibility to decide if the detainee is to be charged (in line with [The Director's Guidance on Charging 5th Edition: May 2013](#)) or if some other disposal is appropriate.

It is clear, therefore, that the custody officer, whilst remaining independent of the investigation, plays an integral part. In applying the evidential test they should identify evidential weaknesses and outstanding enquiries that need to be done to comply with the requirement of the [Full Code Test](#) that the enquiry is complete (or, on the [Threshold Test](#),

that all those enquiries that can be done during the period of detention have been done) and to comply with force policies and procedures. They should not, however, perform any investigatory functions themselves. The management and supervision of the investigation remains the responsibility of the investigator's line managers.

The custody officer must also ensure that the detainee is being dealt with in accordance with the Police and Criminal Evidence Act and Codes of Practice and ensure that the detainee's rights and entitlements are met, even where this might appear to be in conflict with those responsible for dealing with the detainee and the investigation. The custody officer's role is therefore a complex and difficult one and, where they find themselves being directed to act in a way that they believe is in conflict with their duties under PACE they should refer the matter to an officer of superintendent rank or above for arbitration (see 2.5.1 - [Action to be taken by the Custody Officer if overruled](#)).

### **2.20.2 Disclosure**

The detainee's solicitor is entitled to a copy of the custody record front sheet and to read the custody record (but not any medical records). Custody staff should advise the solicitor of any risks posed by their client but only in so far as the solicitor needs to be aware for their safety. Custody staff should not make any further disclosure in relation to the investigation (this is the responsibility of the investigator). The solicitor's arrival and access to the custody record should be recorded.

### **2.20.3 Consultation**

Consultations between detainees and their legal representatives should take place in private and in appropriate screened booths. Under normal circumstances, interview rooms should not be used but, if for any reason the solicitor and detainee's consultation takes place in one (or elsewhere where there is no partition between the solicitor and detainee) the detainee must be searched immediately following the consultation. Consideration should be given to the safety of the solicitor and any other person present (interpreter, appropriate adult etc.) and the potential for the detainee to obtain items that they should not have or access a phone. If the solicitor needs documentation to be signed this should take place in the custody area with custody staff present.

#### **2.20.4 Section 18 Searches**

Under [Section 18](#)(1) PACE an inspector or above may authorise a search of premises occupied or controlled by a person is under arrest for an indictable offence. An officer can search premises (under 18(1)) without the authority of an inspector or above provided that the presence of the person under arrest at a place (other than a police station) is necessary for the effective investigation of the offence (Section 18(5)). An inspector must be informed that the search has taken place as soon as practicable after it has been done.

The authority (or, where 18(5) applies, the fact the search has taken place) must be recorded in writing. If the person is in police detention at the time, the officer shall make the record of the grounds for the search and nature of the evidence sought as part of the

detainee's custody record (Section 18(8)). There is no legal requirement to record the results of the search on the custody record. The recording of this information will be as per force local arrangements.

#### **2.20.5 Interviews**

Details of officers conducting interviews and other persons present must be recorded on the custody record. On completion of the interview the custody officer must establish that PACE and Codes of Practice were complied with and review any evidence gathered during interview before considering and documenting grounds for further action; continued detention/release/charge RUI or bail etc. The interviewing officer must advise custody staff of any change in demeanour, incident, concerns or other information that may require a revision of the risk assessment concerning the detainee. This must be recorded on the custody record.

#### **2.20.6 Complaints**

If a complaint is made by, or on behalf of, a detainee about their treatment since their arrest, or it comes to notice that a detainee may have been treated improperly, a report must be made as soon as practicable to an officer of inspector rank or above not connected with the investigation. If the matter concerns a possible assault or the possibility of the unnecessary or unreasonable use of force, an appropriate healthcare professional must also be called as soon as practicable ([PACE Code C](#) paragraph 9.2).

Local force policy regarding recording complaints and referrals to the Force Professional Standards Directorate and IOPC must also be followed.

An entry must be made on the custody record to include the nature of the complaint and who it has been passed to. The early recording of the complaint allows for evidence to be collated and retained. It is never appropriate to inform the complainant that they should make their complaint after being released from custody to a police station or by other means.

## 2.21 Charging Decisions and Out of Court Disposals

### 2.21.1 Diversion and Referral

The custody officer must take into account alternatives to prosecution under the [Crime and Disorder Act 1998](#) ([PACE Code C](#) notes for guidance 16A). A person should not be prosecuted simply because there is sufficient evidence to do so; it must also be in the public interest for a prosecution to take place ([The Director's Guidance on Charging 5th Edition: May 2013](#))

#### Further Information

[College of Policing APP – Detention and Custody – Detainee Care](#)

### 2.21.2 Statutory Charging

[The Director's Guidance on Charging 5th Edition: May 2013](#). This remains current as of October 2018.

This provides Guidance to Police Officers and Crown Prosecutors Issued by the Director of Public Prosecution under [PACE s. 37A](#). It directs which offences can be charged by the police and which should be referred to the CPS for a charging decision. The guidance also sets out the processes that are to be followed when authorising a charge or out of court disposal. Custody officers are responsible for making the decision ([PACE Code C](#) paragraph 16.1) as to whether or not a person in custody should be charged and the officer in charge of the investigation (or Dedicated Decision Maker/Police Decision Maker where used) must, without delay, refer an offence to the custody officer where they reasonably believe that there is sufficient evidence to provide a realistic prospect of conviction (unless other offences are also being considered in which case the referral can be delayed until the evidential test is believed to have been met in relation to those other matters as well or the matters are otherwise concluded). Custody officers must therefore be familiar with the guidance. See above Hyperlink for Directors guidance. In particular, they must ensure that CPS advice is sought in those cases that need to be referred to them.

The police should discontinue cases without referral to the CPS where the evidential test is not met. All cases relating to Domestic Abuse or Hate Crime must be reviewed by the CPS before charge, irrespective of whether the offence is admitted or the mode of trial. The CPS and Courts have established courts for dealing with Domestic Abuse cases in many areas and these must be used for all DA cases in accordance with local arrangements.

#### Further Information

[College of Policing APP Prosecution and Case Management – Charging and Case Preparation](#)

### 2.21.3 The Full Code Test

The [Full Code Test](#) the evidential and public interest test that must be met for a prosecution to take place. In brief, the enquiry should be complete and a review of the evidence should

conclude that there is a realistic prospect of conviction and that it is in the public interest to prosecute. If there is insufficient evidence to provide a realistic prospect of conviction then a prosecution cannot proceed no matter how pressing the public interest factors.

#### **2.21.4 The Threshold Test**

The [Threshold Test](#) may be applied where there is insufficient evidence to apply the evidential stage of the Full Code Test but there are reasonable grounds for believing that further evidence will become available within a reasonable period of time that will meet the necessary standard, that the seriousness or circumstances of the case justifies the making of an immediate decision and that there are continuing substantial grounds to object to bail in accordance with the Bail Act 2017.

See [Changes to Police Bail 2017](#) where any of these conditions are not met, the Threshold Test cannot be applied and the suspect cannot be charged. The custody officer must then determine whether the person may continue to be detained or should be (released) Released Under Investigation or on bail, with or without conditions.

#### **2.21.5 Out of Court Disposals**

Custody officers should consider whether or not an alternative to prosecution would be more appropriate. This requires a careful assessment of the gravity of the offence being investigated. In order to ensure consistency it is imperative that the offence is assessed against the appropriate Gravity Matrix:

- [Adult Gravity Factor Matrix](#)
- [Youth Gravity Factor Matrix](#)

The appropriate matrix will allocate a gravity factor to the offence. Consideration of the offence specific mitigating and aggravating factors and then the general mitigating and aggravating factors will produce a final score which, when compared to the final score table, will guide the user to the disposals available and which is appropriate. Officers must be aware of local schemes and arrangements that may be available, for example, Alcohol Awareness Schemes that can be used in conjunction with FPN.

The full scope of out of court disposals is explored in detail in the [College of Policing APP – Prosecution and Case Management – Justice Outcomes](#) although not all force areas are able to deploy the full range.

#### **2.21.6 Cautions and Conditional Cautions**

Cautions should be authorised by an officer of the appropriate rank in line with national guidance or local force policy, whichever is higher. The officer making the decision should consider the following key factors and record their conclusions either within the text of the custody record or on the crime recording system. The key factors which will be relevant in deciding whether to charge, caution or conditionally caution an offender for an offence are:

- (a) Do they admit the offence?
- (b) The seriousness of the offence (using the Gravity Matrix\*)
- (c) The previous offending history of the offender and



- (d) Does the disposal adequately address, support and reduce the risk of reoffending?
- (e) Where the Full Code Test is met, would the public interest be properly served by issuing a Simple or Conditional Caution?
- (f) Views of the victim

It is important for decision makers to ensure that both the 'offence specific gravity factors' and the 'general factors for all offences' are considered for each offence for which a decision is made. In every case the consideration given to aggravating and mitigating factors must be noted within the decision recorded on the Custody Record and/or crime recording system.

Local force policies and procedures should be followed in relation to cautioning and breaches of conditional cautions.

### **2.21.7 Crime Recording, Building and Accepting Charges**

Where a person has been detained on suspicion that they have committed an offence it will be the responsibility of the arresting officer (unless one of the conditions exist that allows for a delay) to ensure that the offence is recorded in accordance with the current [National Crime Recording Standards](#). All of the offences for which a person is under arrest should be constructed on the custody system and disposed of appropriately. The arresting officer is responsible for constructing the offence on the system, the custody officer for ensuring that offences are built, meet force standards and are disposed of correctly when accepting a charge or finalising a record. The data contained on the custody system will update PNC. It is important that the principles of [MOPI](#) and [Data Protection Legislation](#) are complied with. The impact of inaccurate or incomplete information on PNC could potentially be catastrophic. Future investigations (and DBS Checks) could be seriously impeded and even fail entirely, if crimes are not properly recorded and PNC properly updated and cross referenced correctly. It could result in offenders escaping justice or engaging in inappropriate employment or, alternatively, a person who was cleared of any wrong doing being unable to take employment because of an inaccurate or incomplete record.

## **2.22 Reviews**

The custody officer must maintain a continuous review of a detainee's detention to ensure that it is still necessary (see 1.4.5 [Role of the Custody Officer](#)). The reviewing officer (an inspector or above before charge and the custody officer post charge) must, in addition, conduct and document periodic and reviews ([PACE s.40](#) and [PACE Code C](#) Paragraph 15).

- The first review shall be not later than six hours after the detention was first authorised;
- The second review shall be not later than nine hours after the first;
- Subsequent reviews shall be at intervals of not more than nine hours.

A review may be postponed, ([PACE s. 40\(4\)](#)) if, in the circumstances, it is not practicable to carry out the review when due, if the detainee is in interview and the review officer is satisfied that an interruption for the purposes of conducting a review would prejudice the investigation or no review officer is available. The detainee cannot be reviewed whilst in interview in their absence, and informed of the review later. Before conducting the review, the detainee must (unless asleep) be



reminded of their right to free, independent legal advice and they, or their solicitor if available at the review, be given the opportunity to make any representations before the review takes place. If reviewed whilst asleep, the detainee must be informed about the decision and reason their continued detention was authorised as soon as practicable after waking.

The custody officer is responsible for ensuring that the inspector who is to conduct the review of a detainee is contacted in sufficient time for them to attend the station and to allow them to review the circumstances of the detainee's detention. They should ensure that they have an up to date overview of the investigation and understanding of the necessity to detain the suspect or, if the grounds have ceased to exist, they should take the appropriate action without waiting for the reviewing officer to attend (see 2.5 [Handover to the Custody Officer](#)). The custody officer should also, whenever practicable, avoid booking a detainee out to interview or to some other location (for example, to the custody of officers to assist with enquiries elsewhere) when the detainee's review is likely to become due when they will not be available. Instead, the reviewing officer should be contacted so that the review can be brought forward.

The decision on whether the review takes place in person or by telephone or by video conferencing (see [PACE Code C](#) Note 15G) is a matter for the review officer ([PACE Code C](#) 15.3.C). In determining the form the review may take, the review officer must always take full account of the needs of the person in custody. The benefits of carrying out a review in person should always be considered, based on the individual circumstances of each case with specific additional consideration if the person is: [a juvenile](#) (and the age of the juvenile) or a [17-year-old](#), (b) suspected of being [mentally vulnerable](#); or (c) in need of medical attention for other than routine minor ailments; or (d) subject to presentational or community issues around their detention. Code C 15.3.C

### **2.22.1 Action to be taken by the Review Officer if overruled**

If an officer of a higher rank gives a direction in relation to a detainee and this is at variance to a decision made or action taken by the reviewing officer in the performance of their duties under PACE (or a decision that they would have made or action they would have taken in the performance of their duties) they will refer the matter to a superintendent or above for a decision to be made ([PACE s. 40](#) (11)).

### **2.22.2 Extensions to Detention**

Under [PACE s. 42](#), an officer of superintendent rank or above who is responsible for the station holding the detainee may give authority any time after the second review to extend the maximum period the person may be detained without charge by up to 12 hours (to a total of 36 hours). Further detention without charge may be authorised only by a magistrates' court in accordance with [PACE s. 43](#) and [44](#). A person's detention cannot be authorised after the expiry of 24 hours from the relevant time (PACE s42 (4) (A)).

## **2.23 Bail Management**

The Policing and Crime Act 2017 was introduced to address concerns that individuals were being kept on pre-charge bail (PCB) for long periods. This introduced the presumption against pre-charge bail, unless necessary and proportionate, as well as stricter controls on bail periods and raised

authority levels. This legislation substantially reduced the number of individuals released on bail, as was intended, and increased the number of suspects released under investigation.

The Police, Crime, Sentencing and Courts Act 2022 (PCSC) was introduced to rebalance the use of pre-charge bail. It removed the presumption against bail, replacing it with a neutral position to encourage the use of pre-charge bail where it is necessary and proportionate in all of the circumstances of the case. It amended the levels of authority and changed the duration of the applicable bail periods (ABP), including extending the initial ABP to three months in standard cases. To provide further protection for victims, the PCSC introduced a duty to seek the views of victims when imposing or varying bail conditions. It provided for a three-hour pause to the detention clock so that arrests for breach of bail conditions, or failing to answer bail, do not negatively affect the original Police and Criminal Evidence Act 1984 (PACE) clock.

Please see the below link to our current bail procedure document:

[Team Leicestershire Academy - Bail & RUI Procedure.pdf - Tiles \(sharepoint.com\)](#)

### **2.23.1 Pre-charge Bail**

Under S50A PACE the custody officer must decide if the application for bail is necessary and proportionate under the circumstances and that the pre-conditions for bail, with or without conditions, are met.

The authorisation may be considered necessary by the custody officer if it is:

- For the purpose of preventing that person from failing to surrender to custody.
- For the purpose of preventing that person from committing an offence while on bail.
- For the purpose of preventing that person from interfering with witnesses or otherwise obstructing the course of justice, whether in relation to him or herself or any other person.
- For that person's own protection or, if he is a child or young person, for his own welfare or in his own interests.

The authorisation may be considered proportionate by the custody officer if it is:

- Unarbitrary and fair.
- The restriction is strictly limited to what is required to achieve a desired outcome, and the severity of the effect of the restriction does not outweigh the benefits of the restriction.
- Any restriction must be proportionate to the legitimate aim being pursued and must be specific to the case in question.

Applicable bail periods which require a police authority last for 3 months at a time.

From 0 to 3 months – authorised by the Custody Officer.

From 3 to 6 months - Inspector responsible for line management of the investigator (for live cases out of hours the duty operational/custody inspector/on-call detective inspector as applicable).

From 6 to 9 months – Superintendent (PACE cadre).

9 months onwards – Magistrates Court (the national process for this remains unchanged)

However, an earlier time and date to answer bail within the authorised ABP can be agreed in the following circumstances:

- To align with another bail return date if the person is already on bail for another offence (PACE 47ZA (3)).
- If a custody officer feels an earlier charging decision is likely (PACE 47ZA (4)). This option allows the custody officer to set bespoke timeframes based on the needs of the investigation and to prevent all suspects being bailed to the same timescales regardless of case complexity.
- 47(4A) to (4D) PACE - The bail return date can be varied to an earlier date to accommodate any requests from the suspect or their legal representative or to accommodate any policing requirements such as demands on shift patterns or bail diaries.

New levels of authority apply to the application of pre-charge bail. The following structure must be followed:

- Initial bail will always be authorised by the custody officer (SGT) although investigators must review the decision to bail with their SGT who should include this as part of the investigation and bail management plan.
- The first extension should be reviewed by the investigators own line manager i.e., Inspector or Detective Inspector. If they are not available, another Inspector or Detective Inspector from that department or directorate. Outside of normal operating hours, the duty Inspector or Detective Inspector should be contacted. This can include the Custody Inspector or the on-call Detective Inspector.
- The second extension should be reviewed by the on-call PACE Superintendent.
- The third extension will be considered by the Magistrate.

### **2.23.2 Breach of pre-charge bail conditions**

Any breach of bail reported needs to be assessed in relation to the threat, harm and risk posed by the suspect at that time. Arrest is encouraged where it will enable better suspect management through seeking a charge or more robust bail conditions. Where the risk posed is low, the arrest of the suspect can be delayed in order to conduct outstanding enquiries and obtain a charging decision. You must record and rationalise this decision on a case-by-case basis and discuss this reasoning with any victims in the case. In all cases the fact that a breach has occurred must be recorded. If the breach results in arrest, this can be recorded on the custody record. If no arrest is made, this will need to be recorded on the occurrence. Please see [breach of pre-charge bail conditions](#). **NB:** See below (16) where a breach of bail occurs at the same time as a new substantive offence.

### 2.23.3 Post Charge Bail

Following charge a suspect may either be kept in custody (remanded) or, where this is not justified, bailed to court with or without conditions ([PACE s. 47\(1A\)](#)). A breach of a condition or reasonable grounds for believing that a condition will be breached (whether imposed by the police or court) will result in the suspect being arrested and placed before the first available court.

Under s. 7(4) of the [Bail Act 1976](#), a person so arrested must be brought as soon as practicable, and in any event within 24 hours of his arrest, before the magistrates court for the area in which he was arrested. The arrested person must be dealt with within that 24 hour period; bringing him before the court is insufficient - *R v Culley* [2007] EWHC 109 (Admin). Although a contrary view was expressed by the Divisional Court in the case of *McElkerney v Highbury Corner Magistrates' Court* [2009] EWHC 2621 (Admin), it is submitted that prosecutors should take care to ensure that the court is aware of the 24 hour limit and try and have the case disposed of within that time, or risk the defendant's release. To avoid the potential release of the suspect, every effort should be made to place the suspect before the court in sufficient time for them to be dealt with.

A person in breach of Crown Court bail conditions who is arrested less than 24 hours before the time they were due to attend the court will be placed before the Crown Court where they were expected. On all other occasions they will be placed before the Magistrates' Court.

### 2.23.4 Street Bail:

[PACE s. 30](#)(a) to (d) allows Police Officers to make a discretionary decision to grant bail to an arrested person without taking them to a Police Station on the condition that the person attends at a later date.

There is still a presumption that the person will be released without bail unless;

- Officer granting believes it is necessary and proportionate.
- An Inspector authorizes the bail after considering any representations by arrested person.
- A written notice of the bail decision and the requirement to attend a station at a later time must be given to the arrested person which should state
  - That they are required to attend a Police station
  - The address of the station
  - The time and date of return
- Officers should notify the detained person of any conditions placed on the bail including the requirements imposed by the conditions and an explanation of opportunities to vary conditions via magistrate.

Bail will end 28 days after arrest therefore this period counts as the initial applicable period. Officers should record the rationale for their decision making

### 2.23.5 Re-Bails/Variation of Bail/Cancellation of Bail

The investigative officer's Inspector is likely to be in the best position to provide the relevant ABP first extension authority, because they will be able to provide the below in addition to the 4-code test as outlined above: -

- ascertain that the investigation is being conducted diligently and expeditiously.
- hold the investigative officer to account.
- ensure that victim and suspect contact has been completed correctly.
- manage performance issues and identify any relevant trends.

Variations in bail conditions must be authorised. Requests from suspects or their legal representatives can be reviewed and authorised without the need to attend the station.

Requests by the police or from other connected persons can only be granted where the suspect answers their bail at the police station and is in front of the custody officer (bail can be brought forward to allow this). Variation of conditions of bail of this type only apply to suspects under an Applicable Bail Period under S34(5) PACE and not those on S37(7) CPS Bail. To alter conditions of those on CPS bail the investigator would have to ask the CPS to attend court to make an application and a Magistrate would have to authorise the change.

Variation of non-protective conditions can be submitted to the custody officer or the bail management sergeant. If practicable, the views of the victim must be sought. If this is not possible, they should be told of the variation as soon as is practicable. Variation of protective conditions must be authorised in line with the next level of authority for that ABP. For example, if an officer wishes to vary protective conditions for an initial period of bail, the authorising officer must be an Inspector. In the case of high harm offences, the Inspector must be a Detective Inspector. In all cases the custody officer must be satisfied that the request is necessary and proportionate.

Non-extension of bail occurs when the period of bail is coming to an end, a disposal hasn't been reached, and there is no plan to apply for a bail extension. In this scenario the only other alternative is to release the suspect under investigation. Non-extension of bail must be authorised in line with the next level of authority for that ABP. For example, if an officer wishes to not extend an initial period of bail, the authorising officer must be an Inspector. Not extending the first extension of bail must be authorised by a Superintendent. Where bail is not extended, the suspect will be released under investigation in the absence of a charge or decision to NFA. Any protective conditions will cease to apply at this point, hence the need for review and authorisation. An out of custody or out of court disposal should not be used when a suspect is on a period of bail unless authorised. This must be in line with non-extension of bail i.e., the suspect should be released from bail under investigation and then an alternative disposal agreed. The authorising officer must be in line with the next level of authority for that ABP. There might be many reasons for non-extension of bail, for example the victim has left the country and will remain out of the country for 6 months. In this scenario, the risk to the victim is mitigated and it might not be proportionate to continue to keep the suspect on bail.

Officers seeking to make an application to not extend the ABP can do so by completing one of the below forms. These can be found in Niche in documents under the person record: -

Non-Extension – INSP Authority - ABP

Non-Extension – SUPT Authority – ABP

### **2.23.6 Adult Remand**

The decision to remand a suspect to court is the custody officer's ([PACE s. 38\(6\)](#)). Only where a remand is proposed can the Threshold Test be applied. The custody officer can only authorise a charge on the [Threshold Test](#) where the offence is summary only and Imprisonable. Decisions to charge on the Threshold Test for either way or indictable only offences must be referred to the CPS even where, in the case of an either way offence, the custody officer could authorise a charge on the [Full Code Test](#) (for example, an admitted fraud). Where the Full Code Test is met, only those cases that would need to be referred to the CPS under the [The Director's Guidance on Charging 5th Edition: May 2013](#) need to be referred. Where a case is referred to the CPS and the Threshold Test is to be applied, the lawyer will consider whether the CPS would support a remand at court. If they would not then it would be inappropriate to apply the Threshold Test and the matter would be referred back for the custody officer to decide if the suspect should be bailed for the outstanding enquiries or kept in custody. If the grounds to remand are satisfied then the Threshold Test can be applied.

### **2.23.7 Juvenile Remand**

[PACE section 38\(6\)](#) requires that, where a juvenile (up to and including 17 years old – [Section 42 Criminal Justice Act 2015](#)) is to be remanded, they be moved to Local Authority care until their appearance at court unless the custody officer certifies that it is impractical to do so (for reasons outlined in the certificate) or that, where the juvenile has reached the age of 12 years, there is no secure accommodation is available and that other forms of accommodation would not adequately protect the public from serious harm.

This obligation exists day and night so, where a juvenile is charged and remanded during the day the local authority must accommodate them unless one of the two exceptions applies. The local authority's obligation to provide accommodation is absolute ([section 21\(2\)\(b\) of the Children Act 1989](#)) and the accommodation does not need to be secure except where the police request secure accommodation as below. The impracticality to transfer relates only to the actual transport and travel arrangements. A lack of secure accommodation is only a factor where the child is aged 12 or over and there is no local authority accommodation that would adequately protect the public from serious harm [PACE Code C Note 16D](#). Serious harm is defined in [PACE section 38\(6A\)](#) as "death or serious injury, whether physical or psychological". The likelihood that the juvenile will abscond is not a factor that can be used by the custody officer to request secure accommodation.

On every occasion attempts must be made, in line with local joint protocols between the police and the local authority, or other strategic agreements, for the local authority to accommodate the juvenile. There can never be an assumption that suitable accommodation



is not available. Details of attempts to lodge the juvenile with the local authority (including the details of those spoken to) must be recorded on the custody record. Any failure by the Local Authority to provide accommodation should be brought to the attention of the duty inspector and steps taken to resolve the matter. Reimbursement for accommodation costs can be recouped from the Local Authority when accommodation is not provided.

It is for the local authority to determine where to place the child in accordance with their own procedures. The custody officer must provide any information that may assist in deciding what type of accommodation is appropriate including;

- Why bail has been refused and the rationale behind the decision
- The perceived risk of absconding
- Details of the detainee's offending history
- Details of any mental health or medical issues
- Details of the detainee's familial circumstances
- And any other information that they believe will assist

Where a juvenile is transferred to the local authorities care a [PER Form](#) must be provided. Where the detainee remains in police custody, a completed certificate ([PACE section 38\(7\)](#)) must be provided to the court.

#### [Youth Justice Board management of Bail](#)

## **2.24 Armed Forces: Absent without Leave / Deserters / Service Offences**

Armed Forces Act 2016 is up to date to 22 October 2018 and includes Armed Forces (Evidence of Illegal Absence and Transfer to Service Custody) Regulations, 2009 and deals with service personnel who are wanted in relation to service offences

In all cases initial contact should be made with [Services Police Crime Bureau 02392 285170](#)  
Any service personal arrested for AWOL with a warrant (circulated on PNC Police will have been contacted with view to arrest) Services Police contacted and will arrange transport.

Without warrant MUST be placed in front of next available magistrate forces will arrange transport  
If surrenders voluntarily need not be arrested may wait in police station voluntarily is a power of arrest if attempts to leave.

Under NO CIRCUMSTANCES should the detainees Service unit be contacted. All contact should be via SPCB who are available 24/7 365 days a year.

Leicestershire are now signed up to be part of [Operation NOVA](#), this has been done to provide support to veterans going through the CJ system enabling them to access the services they need to reduce risk of reoffending.

See [Op NOVA partner referral form | Forces Employment Charity](#) for more information

## Further Information

[Armed Forces Act 2006](#)

PNLD under D25496/7/8/9, D25500/1/2/3, D20285/6, D20488/9/, D20490/1

The [Services Police Crime Bureau](#) (SPCB maintains an up-to-date register of personnel who are deserters or absent without leave and can provide advice regarding the actions required in relation to the Act.

### 2.24.1 Armed Forces: Warrants

A military judge advocate may issue a warrant to police force for the arrest of service personnel reasonably suspected of having committed service offences. The arrested person must be transferred into service custody as soon as possible. The relevant military unit must be contacted as soon as possible to arrange collection or a travel warrant. [Regulation 4 of the Armed Forces Regulations 2009](#) refers to the requirements of a certificate relating to the transfer of the detainee into service custody. Where a civilian police officer has arrested service personnel for AWOL/Desertion under warrant, or on suspicion or because they have surrendered to custody - a certificate containing the required information must be handed over to the person/s receiving, together with a copy of the custody record.

### 2.24.2 Arrested without Warrant

[Section 314](#)(1) of the [Armed Forces Act 2016](#) permits an officer of a UK police force to arrest without warrant a person reasonably suspected of being a person subject to service law who has deserted or is absent without leave. The detainee must, as soon as is practicable, be placed before a judge or magistrate in the relevant area where the arrest was made.

### 2.24.3 Arrested on Other Matters

If a person wanted for desertion, or being AWOL or for a service offence is also under arrest for another offence, the PACE investigation will continue and the service matters dealt with afterwards as would be the case if an offence on another force area was to be investigated.

## Further Information

[Armed Forces Act 2006 – Chapter 3](#) – Arrest and Detention by Civil Authorities

## 3 Moving and Transporting Detainees

## Further Information

[College of Police APP - Detention and Custody - Moving and Transporting Detainees](#)

### 3.1 Supervision and Escort

Only police officers and escort officers designated under [s. 38](#) (police employees) or [s. 39](#) (contracted staff) of the [Police Reform Act 2002](#) should be used to escort detainees in transit. Once the custody officer transfers the detainee to the custody of a police officer or escort officer, the duties and responsibilities imposed by PACE and the associated Codes passes to them. Local

arrangements should be followed where a private contractor is unable to transport a detainee. This will normally revert to divisional officers' dependant on availability.

### 3.2 Checklist: [Transfer of Detention](#)

#### **Prior to transferring the detainee, the custody officer must:**

Review the risk assessment, custody record and attachments

Review medical notes

Complete a PER form which should be accompanied as a minimum by the medical examination records (if not confidential), risk assessment form and confidential medical information sent in a sealed envelope if the detainee is being transferred to hospital and the PER should be endorsed by the HCP.

Prepare the detainee

Check the detainee's property and consider authorising an additional search where necessary

Ensure the detainee has appropriate clothing

Check that the detainee has access to sufficient medication for their transfer

Consider whether restraint is necessary and the appropriate level of restraint

Consider the number of detainees being transferred.

### 3.3 Detainee's property

Where appropriate, the detainee's property (including medication) should be transferred to the escorting officers with an appropriate custody entry made. This will include where a detainee is being transferred to hospital and might be admitted. Where property is not transferred with the detainee it will be the responsibility of the officer in the case/arresting officer to make such arrangements as are necessary to reunite the detainee with their property.

## 4 Risk Assessment

#### **Further Information**

[College of Policing APP – Detention and Custody – Risk Assessment](#)

### 4.1 Risk Assessment on Arrest

Any person who has been arrested should, at the point of arrest, be the subject of an immediate risk assessment (and, in a planned arrest, consideration of a suspects welfare, known risks and medical needs (using sources such as PNC, intelligence systems and earlier custody records) should form a part of the planning process). A detainee must be transported directly to hospital (without being taken to a custody suite) if they:

- Are showing any symptoms of head injuries
- Are, or have been, unconscious
- Have suffered serious injury

- Are drunk and incapable and treatment centres are not available
- Are believed to have swallowed or packed drugs
- Are believed to have taken a drugs overdose
- Appear to be suffering from ABD
- Have been bitten by a dog or another person
- Are suffering from chest pains
- Have been detained under [s.136 of the Mental Health Act 1983](#) are suffering from any other medical condition requiring urgent attention Updated to October 2018
- Are suffering from any condition that the arresting officer or transporting staff believes requires treatment prior to detention in custody

Persons detained under section 136 of the Mental Health Act must be taken directly to a suitable hospital/place of safety as per local arrangements. The means of transportation to hospital will depend on local force policy and the nature and circumstances of the medical emergency. Expert advice should be sought where available (for example, from mobile Mental Health Teams if available).

#### **4.1.1 Initial Custody Risk Assessment**

The custody officer conducting the initial risk assessment must have been trained in the process and is responsible for documenting and recording the risk assessment for every detainee for whom they are responsible on their custody record in accordance with [PACE Code C](#) paragraphs 3.6 to 3.10. The risk assessment process begins [with the arresting and escorting officers](#) who must fully brief the custody officer when presenting the detainee and include details of any force used at arrest. The detainee should be asked appropriate questions about their health and welfare and the custody system risk assessment completed in detail. Any risks identified should be explored to ensure that appropriate control measures and observation levels are set. The use of a HCP might be appropriate in establishing the detainee's care needs.

In addition to information provided by the detainee, consideration should be given to any other sources of information that might assist the assessor in accurately establishing the detainee's welfare needs and the support measures required. This might include items in their possession (medical bracelets, prescription drugs and drugs paraphernalia, information offered by friends/relatives of the detainee or others with knowledge of them (drugs workers, legal representatives), historic custody records and PNC (see 1.13 [PNC](#)).

The officer conducting the risk assessment must ensure that those who will be managing and coming into contact with the detainee are briefed as necessary ([PACE Code C](#) paragraph 3.8).

#### **4.1.2 Fitness to Detain**

Further to earlier guidance on risk assessing persons brought into custody, the custody officer may decide that a medical assessment and/or treatment is needed before an informed decision can be made as to whether or not a person should be detained, irrespective of

whether a person has received treatment elsewhere (for example, from a paramedic or ambulance crew). Detainees who have been treated at hospital should be seen and assessed by a Health Care Professional (HCP) to assess their welfare needs in custody. Persons who are found to be unfit to detain (by the custody officer or HCP) should be conveyed to hospital for treatment if required.

The custody officer must ([PACE Code C](#) s.9.5 and the [MHA 1983](#)) ensure that appropriate medical treatment is provided to any detainee who:

- Appears to be physically ill or injured
- Appears, or may be suffering from, mental ill health (whether through observation or by being informed) or a disablement or difficulty that means that the detainee is likely to be vulnerable or require additional support
- Appears to be dependent on drugs or alcohol or suffering from withdrawal likely to affect their safety
- Appears to need medical attention
- Or where medical attention is requested by the detainee.

The [British Medical Association \(2009\) Healthcare of Detainees in Police Stations, Third Edition, \(para.1.4\)](#) specifies the issues to be addressed when assessing fitness for detention.

Where a decision is made to refuse detention on medical grounds (whether or not the detainee is bailed in order that they can be treated), the custody officer must ensure that arrangements are made to transfer the detainee to a place where their medical needs can be met.

Officers completing risk assessments and medical forms must ensure that they record sufficient information to inform the HCP and also their colleagues, particularly at handovers, about the needs and issues of the detainee.

HCP professionals must fully record their assessment and advice on the appropriate forms and brief the custody officer as to the welfare needs of the detainee. The custody officer must ensure that they fully understand the HCP advice and record the advice that they have been given on the custody record

#### **4.1.3 Fitness to Interview**

It is for the custody officer to decide whether a detainee is fit for interview and whether an appropriate adult is required to support them per [PACE Code C](#) s.1.4 – 1.7. Any considerations relating to fitness to interview etc. should be recorded on the custody record. They should consider the use of a HCP where they believe this will assist them and any advice by the HCP must be recorded on the appropriate medical form.

A detainee who requires an [appropriate adult](#)'s support but one is not available, or who is not fit for interview due to the effects of drink, drugs or illness, ailment or other condition or who requires an [Interpreter](#) and one is not available must not be interviewed regarding their involvement or suspected involvement in a criminal offence or offences, or asked to provide

or sign a written statement under caution or record of interview unless authorised by a superintendent in circumstances where [PACE Code C](#) paragraphs 11.1 or 11.18 to 11.20 apply.

#### **4.1.4 On-going Risk Assessment**

All staff engaged in the supervision or control of the detainee must continually review the risk posed by/to that detainee and bring any change of circumstances to the attention of custody officer. The risk that a detainee may pose to themselves and others may alter when a detainee is charged, refused bail or released on bail. Therefore, the custody officer must review the risk assessment at these stages and prior to release or transfer and a record kept in the custody record of each time that a risk assessment is carried out. A risk assessment should be as objective as possible, and assumptions should never be made. The assessment must be on-going and be reviewed throughout the period of detention ([PACE Code C](#) paragraph 10).

The custody officer must (in line with guidance contained later in this document) either transfer or consider immediate transfer to hospital any detainee if they:

- Are unconsciousness or lack of full consciousness (e.g. problems keeping their eyes open)
- Any confusion (not knowing where they are, getting things muddled up)
- Any apparent drowsiness or sleepiness which goes on for more than one hour when the detainee would normally be wide awake
- Difficulty waking
- Any problems understanding or speaking
- Any loss of balance or problems walking
- Any weakness in one or more arms or legs
- Any problems with vision
- Very painful headache that does not go away
- Any vomiting (unexplained)
- Any fits (collapsing or losing consciousness suddenly)
- Clear fluid coming out of their ear or nose
- Bleeding from one or both ears
- New deafness in one or both ears
- Abnormal breathing
- Chest pain

As a minimum the advice of a HCP must be sought in all cases where a detainee has any of the above symptoms or conditions or any other medical condition of a physical or mental nature other than a minor ailment ([PACE Code C](#) paragraph 9.5 and Notes for Guidance, Note 9C).

The content of any risk assessment is not required to be shown or provided to the detainee or any person acting on behalf of the detainee. However, information should not be withheld from any person acting on the detainee's behalf, for example, an [appropriate adult](#), [Solicitor](#) or [Interpreter](#), if to do so might put that person at risk ([PACE Code C](#) paragraph 3.8A).



## Further Information

[Home Office \(034/2007\) Safety of Solicitors and Accredited and Probationary Representatives Working in Custody Suites at Police Stations](#)

### 4.1.5 Pre-release Risk Assessments/Detention Beyond PACE Clock

When making the decision to release or transfer a detainee, it is essential that custody officers are familiar with the [NDM](#) and are able to carry out and justify their decision making. All detainees must be risk assessed prior to release/transfer and be provided with a copy of the appropriate Detainee Release Leaflet. Those who have been detained in relation to suspected sexual offences should be provided with the additional advice sheets required. Any issues that have been identified (either when first risk assessed or subsequently) should be addressed and any actions/responses and decision making recorded on the custody record.

The custody officer should attempt to ensure that, where a detainee is vulnerable (including a risk of suicide or self-harm after release), where possible, measures are put in place at an early stage to negate or reduce this risk (including arranging for the detainee to be seen by a HCP and, if appropriate, that they undertake a full mental health assessment). This is particularly the case with persons who are suspected of being perpetrators of child sexual exploitation (CSE) or of possessing indecent images of children (IIOC).

They should also ensure, when handing on responsibility for a detainee, even temporarily, that the custody officer taking over responsibility is fully aware of not only those risks identified initially or that are current but also of any changes in risk levels or occurrences that have taken place during the detainee's detention. A heightened risk of self-harm, for example, following an interview, no matter how brief, would need to be considered before the detainee is released Under investigation bailed, charged or remanded.

It may only become apparent, through the pre-release risk assessment, that a detainee is extremely vulnerable leaving the custody officer very little time to make an urgent referral.

An adult charged with an offence can be refused bail and kept under [PACE section 38](#)(1) (a) (vi) for their own protection, a juvenile by virtue of [section 38](#)(1) (b) (ii) (in their own interest).

The custody officer has no explicit powers to detain a high-risk detainee before/without charge once their detention can no longer be justified under PACE. They may consider using [section 5](#) of the [Mental Capacity Act 2005](#) or, in the case of children, the powers of a [police protection order](#).

The custody officer responsible for the duty of care for that detainee has to make a decision on the best course of action for the detainee on release and, under exceptional circumstances, the safest course of action to protect the life of that individual. The police have a common law duty of care to the detainee and to ensure that they are released into a safe environment and a person may be detained if they are in need of a mental health assessment after the criminal matter has been dealt with ([Webley v St Georges Hospital NHS Trust & MPS](#) [2014] EWHC 299 (QB) and [MS v UK](#) (2012) 55 EHRR 23). There is additional legal provision within the [Mental Capacity Act 2005](#) for the police to intervene to administer

or assist with medical treatment of a person who lacks the mental capacity to know what they need.

#### **Further information**

[The Mental Capacity Act 2005 Code of Practice](#)

[R \(on the application of Sessay\) v South London and Maudsley NHS Foundation Trust \[2011\] EWHC 2617 \(QB\) MOJ \(2008\) The Mental Capacity Act 2005: Deprivation of Liberty Safeguards; Code of Practice to Supplement the Main Mental Capacity Act 2005 Code of Practice](#)

Custody officers should take into consideration the duty of a police officer to preserve life. Under [section 6](#) of the [Human Rights Act 1998](#), the police service is prohibited from acting in a manner incompatible with the [European Convention on Human Rights](#) (ECHR). One of the obligations under the ECHR is to take feasible operational steps (within the lawful power of the officer) to avert any real or immediate risk of death of which the officer is aware or should have been aware. As such, it may be appropriate in some circumstances to extend the detention period of the detainee for a minimal and limited period.

The inspector responsible for the custody suite should be informed where a person is being detained beyond the provisions of PACE. The inspector should review the circumstances and actions being taken and, if necessary, escalate the matter to the on call superintendent.

A person may also be kept for a minimal and limited period to allow for the transfer of care to other appropriate care services, for example, transfer into social services or local hospital care facilities.

It is unlikely that a referral will be legally permitted without the explicit consent of the detainee unless there is a legal obligation to inform others. Where there is a legal requirement to make a referral but the referral has been made without the consent of the individual, officers should record the reason and justifications for this in the custody record.

When releasing a vulnerable person and handing care to someone else, e.g. a family member, friend, health professional etc, the custody officer must explain fully their observations and any concerns that may be relevant to the continuing care of the released individual. It is important that the person to whom care is transferred fully understands the information being shared. A detailed record of this information should also be fully recorded in the custody record.

#### **4.1.6 Person Escort Record Form (See also APP PER)**

The PER Form is intended to ensure that persons being transferred between locations or to the care of others (for example, for transport to hospital, another custody suite, court or a non-police facility or into the care of police officers or others) are kept safe during and after the process and that those responsible for their care are adequately briefed regarding any risks or welfare needs.

The form may be completed by any trained and competent member of staff but responsibility for ensuring the form is correctly completed and its' sign off is retained by the Custody Sergeant. The first Custody Detention Officer who becomes aware of the transfer should initiate the PER form. If a detainee who has been examined by a HCP is being transferred to hospital the HCP should also sign the PER Form.

The Custody Detention Officer who transfers the detainee to the escort officers shall:

- Ensure that the form is up to date and complete (including any care requirements)
- Provide supporting information in the “further information about risk” section whenever a warning marker has been checked
- Include all information regarding self-harm/suicide risks none of which is to be treated as confidential
- Include copies of risk assessments and medical forms that are not confidential (and include this information of the PER in case the documents are separated)
- Attach confidential medical information in a sealed envelope
- List all attachments on the PER
  
- Complete all sections including details of those searching, accepting custody, detail property and cash if appropriate
- Include contact details and direct telephone numbers to allow prompt contact to be made

The escorting staff must maintain the record and include details of any occurrences or changes to risk during transit. Police copies of the form must be retained after transfer and filed electronically using DPERS; then hard copies retained, if required, according to local arrangements.

## **4.2 Do Not Resuscitate Orders & Do Not Attempt Resuscitation Orders**

Do Not Resuscitate (DNR) orders and Do Not Attempt Resuscitation (DNAR) orders may be presented by people with terminal illnesses to police and custody officers. A custody officer should carefully consider the necessity to detain someone with a DNR or DNAR and in all cases they should call a medical practitioner. The prevailing responsibility of the custody officer and staff is to keep the detainee alive and safe while in custody

## **4.3 First Aid and Other Training**

All custody officers and staff must ensure that they remain up to date with their training and professional knowledge. The training provided is bespoke to their role and is designed to ensure both their safety and the safety of others, including detainees, in custody.

## **4.4 Violent Detainees**

Custody suites should be made aware of when a violent or other detainee likely to require special reception measures is on route to them and they should be prioritised in any queuing situation and all non-essential persons, such as visitors and other prisoners removed from reception areas to prevent them from coming into contact with the violent detainee and thereby being subjected to

additional risk. Consideration should always be given to the possibility that there may be an underlying medical reason causing the violent behaviour. If this is suspected the detainee should be treated as a medical emergency and medical assistance sought.

If the detainee is too violent or uncooperative to be booked in they may be taken directly to a cell but only on the instruction of the custody officer who must accompany the detainee to supervise the process rather than engage in it. The custody officer should conduct an initial risk assessment, assisted by a HCP if necessary (see section 2.10 [Fitness to Detain](#)) to establish the control measures necessary to ensure the safety and welfare of the detainee and others. Their assessment must be recorded on the custody record. A detainee placed directly in a cell must be kept under close proximity observations until an effective risk assessment can be conducted.

## 4.5 Acute Behavioural Disturbance

Where there is any suspicion that violent or agitated behaviour is caused by an underlying medical condition the detainee must be treated as a medical emergency (see section 6.16 - [Medical Emergencies](#)).. Whenever possible, the person should be contained rather than restrained until medical assistance can be obtained.

Certain medical conditions may cause violent, aggressive or changing behaviour and confusion:

- [Excited Delirium](#)
- [Diabetes](#)
- [Head Injuries](#)
- [Epilepsy](#)
- [Stroke](#)
- [Infections](#)
- [Angina and Heart Conditions](#)
- [Dehydration](#)
- [Sickle Cell Crisis](#)
- [Mental Illness](#)
- [Neurological Disease such as Dementia and Historic Brain Injury](#)
- [Learning Difficulties](#)

## Autism and Asperger Syndrome

Autism is a life-long condition that affects social communication and interaction with other people. Sensory processing difficulties (e.g. over-sensitivities to light, sound, touch, smell) are also found to be present within the majority of autistic individuals. As autism is a spectrum condition, some individuals may present with significant social and sensory difficulties, whereas these symptoms may be more subtle and harder to detect in other autistic people. Different diagnostic labels used over the last few decades to identify autism include: Autism Spectrum Disorder, Autism Spectrum Condition, Asperger's syndrome, High-functioning autism.

Around 75% of autistic individuals also have associated learning difficulties which means they may require extra time to process information and could have memory issues. Some individuals have severe learning difficulties and require greater support while others may have moderate or only mild learning needs.

Around 75-80% of autistic individuals also have co-occurring mental health issues such as anxiety or depression, therefore may be at greater risk of self—harming.

How best to support an autistic individual in custody:

Don't expect eye contact as some autistic people find it distracting or even aversive. Looking away from a person's face may help an autistic individual to process what is being said to them better.

Don't use ambiguous language (e.g. sarcasm/jokes) or open-ended questions as some autistic people may interpret language literally. Ask direct questions which require a yes/no response or are very specific (e.g. what is your address? not where do you live?).

Don't assume an autistic person with good verbal speaking ability is able to easily understand the meaning of what is being said to them. Allow extra time for the individual to process verbal information and support communication with visual aids and diagrams when possible.

Don't assume an autistic person is trying to be difficult or obstructive because they are asking a lot of questions. Asking questions to get a sense of what is happening or going to happen is a way for autistic individuals to cope with uncertain and stressful situations.

Don't expect an autistic person to understand or express emotions in the same way as non-autistic people do. Autistic people can have difficulties reading other people's emotional expressions. They may also fail to express their own emotions in a way one would expect (e.g. appearing very calm or indifferent when very frightened).

Don't assume an autistic person's behaviour is solely due to factors such drug and alcohol abuse. Be open-minded to other potential causes and seek medical assistance where appropriate.

Do consider the provision of intermediaries or appropriate adults who have a good knowledge about autism or specific knowledge about the detainee to help facilitate communication.

Do try and give clear explanations of processes and procedures ahead of time to help reduce anxiety and sensory issues (e.g. telling someone you are going to pat them down prior to searching them can help ease over-sensitivity to touch.)

Do consider how the environment could be adapted to meet the sensory needs of an autistic individual: lights - adjusting the lighting; noise - using a quieter area; touch - avoid touching unless absolutely necessary.

[autism.org.uk](https://www.autism.org.uk)

Officers must avoid making assumptions that a suspect's behaviour is due solely to known factors such as drug or alcohol abuse, particularly where the detainee is known to them. They should be open minded to other potential causes and seek medical assistance where appropriate.

#### **Further information**

Faculty of Forensic and Legal Medicine (FFLM) [guidance on managing acute behavioural disturbance](#)

### **4.6 Care of detainees' subjected to TASER or other Conducted Electrical Device**

Conducted electrical devices (often colloquially referred to as "TASERS" although this is a specific brand) are in use and are also (illegally) in circulation in the general population. The subject is incapacitated either through the discharge of electricity through barbs attached to wires and fired at them or through direct application of the device to the skin/clothing (drive stun). The devices may be deployed against violent/potentially violent subjects by police officers but, possibly, a person may arrive in custody that has been "stunned" by someone other than the police. Where a detainee reports that the latter is the case it should be assumed that this is the case and this procedure followed.

#### **Removal of Barbs (if present)**

Barbs that are lodged in the detainee's skin should be removed by a HCP to reduce the risk of infection, additional trauma and self-harm. If no HCP is available and it's in the best interest of the detainee, or for other operational reasons, appropriately trained officers may remove the barbs unless their location (for example, in an eye) prevents this. Once the barbs are removed they must be examined to ensure that they are complete and they should be retained as evidence and any injury to the detainee or damage to their clothing noted/photographed in line with local force policy. The barbs must be treated as biohazards. The detainee must be kept under close proximity observations within the suite (and not usually placed in a cell) until the barbs have been removed and the custody officer has decided that they are fit to detain.

#### **Immediate referral to hospital**

National Guidance on the medical care of detained persons who have been subjected to a Conducted Electrical device discharge was changed in 2021. Prior to this date it was customary practice for the majority of these individuals to be conveyed to hospital before arriving at a custody suite for detention. All custody suites should now be staffed with Health Care Professionals (HCP) who have been appropriately trained to assess such detainees and confirm their fitness to detain or refer them to hospital as necessary. It is probable, therefore, that such detainees will arrive at a custody suite from an incident scene without having first attended hospital and a HCP must assess the individual as soon as practicable and confirm their fitness to detain. If, for any reason, this is not possible the custody officer should consider referring the detainee to hospital for this assessment.

APP requires that if officers, at the scene:



- Believes or is told that a person on whom CED discharge has been applied has a cardiac pacemaker, vagus nerve stimulator or other electronic implanted device, immediate referral should be made to hospital as should injuries to face or genital areas
- Similarly, if the subject is found to have any other pre-existing medical condition that could be considered to increase their risk of a serious adverse medical event, immediate referral to a hospital should be considered

In the absence of a suitably trained HCP custody staff should also bear in mind these considerations and take action as appropriate.

## Medical assessment

All arrested persons who have been subjected to CED discharge must be examined by an appropriately trained Health Care Professional as soon as practicable after arrival at the custody suite.

## National Policy

Below link includes a number of advice leaflets.

[APP Conducted Energy Devices](#)

## Risk Assessment

The custody officer, when conducting the initial risk assessment, must give special consideration to the possibility that the detainee is suffering from a form of [Acute Behavioural Disturbance](#) (4.5 above) and the risks associated with this. They should also consider the possibility of secondary injuries (including head/neck injuries, injuries to the shoulders, back and joints) that may have occurred as a result of the detainee's collapse. Special consideration of the effect of the discharge must be also given to those detainees with [diabetes](#), [epilepsy](#), [heart disease](#), [asthma](#) or similar diseases or who are affected by [drink or drugs](#) as they are at increased risk of suffering an adverse reaction and consideration should be given to transferring them to hospital or raising the observation level until the medical assessment can inform them more clearly. As a minimum, a detainee who is placed in a cell must be kept under constant observations ([Level 3](#) or [Level 4](#) as appropriate) until assessed by the HCP.

## Medical Assessment

The detainee in custody must be seen by an appropriately trained Health Care Professional as soon as is practicable after they arrive at the custody suite. The HCP should assess the detainee's fitness to detain and agree a care plan with custody staff.

## Provide Information Leaflet

The detainee should be provided with an information leaflet applicable to their force area as soon as practicable after their arrival in custody and the contents of the leaflet explained.

### Further Information

[The College of Policing APP on Armed Policing – Use Of Conducted Electrical Devices \(Taser\)](#)  
[DOMILL, Statement on the Medical Implications of Use of the TASER X26 and M26 Less-Lethal Systems on Children and Vulnerable Adults](#)  
[Faculty of Forensic and Legal Medicine \(2013\) Taser: Clinical Effects and Management of Those Subjected to Taser Discharge](#) (provides advice to the detainee and also information for GP's and hospital clinicians).

## 4.7 Care of detainees' subjected to Incapacitant Spray

Officers are now routinely issued with CS/PAVA/Captor and similar aerosols and these are also (illegally) in circulation in the general population. Officers transporting detainees who have been sprayed should notify the custody suite. Exposure to fresh air normally results in a full recovery from the main symptoms within 45/60 minutes. Where possible, the detainee should have been allowed a period of recovery in the open air prior to transport but, with violent detainees, this isn't always the case. Where a detainee arrives in custody still affected by spray, they should:

- If possible, be given the opportunity to use the exercise yard or specialist areas/equipment provided at some suites to assist with decontamination.
- Be advised to keep their hands away from their face and eyes as rubbing the skin will increase the burning sensation.
- Be allowed to wash and dry their hands (particularly before using the toilet or attempting to remove contact lenses)
- Be informed that irrigating the eyes will most likely aggravate the symptoms (if a suspect is placed in a cell where they have access to water and they apply water to their face they should be advised that this will have a negative effect but they should not be physically prevented from continuing).
- Be advised that, where they wear contact lenses, the spray will make removal difficult and they should, where possible, allow their tears to irrigate their eyes until they can remove them. If they require assistance, only a HCP can help them to remove them.

Staff dealing with the detainee, or who are present when the spray is deployed, may also be affected. Aftercare is as above. Staff should:

- Engage with the detainee and offer reassurance that the effects are temporary and recovery will be quick
- Wear clinical gloves when dealing with the detainee
- Place any contaminated clothing in a sealed bag to prevent gassing off
- Be aware that the removal of clothing may result in them being contaminated and therefore should endeavour to do so in a well-ventilated area if appropriate

Detainees should be continuously monitored until they recover from the most extreme symptoms and then in accordance with local policies and procedures.

The custody officer should record the fact that Incapacitant spray has been used as part of the booking in process and risk assessment. There is no need for the detainee to be seen by a HCP unless they display any unexpected reactions, prolonged distress or because of other medical issues they may have or if requested by the detainee. The custody officer should arrange transfer to hospital if they believe that it is necessary.

#### **4.8 Use of Restraints (physical and mechanical - handcuffs/leg restraints) in Cells**

The decision to physically restrain a detainee in a cell is must be as a result of the custody officer concluding that this is absolutely necessary to maximise the safety of the detainee or others ([PACE Code C](#) paragraphs 8 and 11). Where a detainee is restrained in a cell, additional control measures, as outlined below, are required. These are the minimum steps and actions that are to be taken in these circumstances.

##### **The custody officer will:**

- Give consideration to alternative control measures before authorising the use/continued use of restraints and will record their decision and reasoning.
- Ensure the restraints are removed as soon as it is considered safe to do so and ensure that the necessary care is in place to prevent positional asphyxia.
- Ensure that the detainee is kept under close proximity observations at all times.
- Brief every officer conducting observations in an area that is recorded on CCTV and audio.
- Arrange for a HCP to examine the detainee as soon as is practicable and ensure that the results of the examination and any advice are recorded on the custody system.
- Ensure that the inspector responsible for PACE cover at the suite is made aware that a detainee is being restrained in leg restraints and or handcuffs in a cell.
- Visit the detainee at least every 30 minutes to ensure that the detainee is being adequately supervised and to personally assess the impact and necessity of the on-going use of restraints.
- Ensure that a “use of force forms” is completed by all of those involved in restraining the detainee in line with force policy.

##### **The officer(s) conducting [close proximity observations](#) will:**

- Maintain an observation log which will record contemporaneously the date and time of observations of the detainee’s behaviour (demeanour, actions, movements, conversation, threats to self-harm etc.). The log will also record the details of persons entering the cell and their purpose in so doing. All entries are to be signed and handovers between officers conducting the observations recorded.
- Safeguard the detainee and ensure that the custody officer is informed of any change in their behaviour or condition. A radio or affray alarm should be used to summon immediate support if required.
- Provide the custody officer with a verbal debrief when they finish any period of constant observations.

### **The inspector with responsibility for PACE cover at the suite will:**

- Ensure that the custody officer is afforded the time to effectively manage the detainee.
- Consider the continued necessity of restraints when they undertake a review, recording their thought process and decision on the custody record.

## **4.9 The Prone Position and Positional Asphyxia**

Positional Asphyxia is defined as occurring when "the position of the body interferes with breathing, resulting in asphyxia". Factors that can contribute to death during restraint include:

- The body position of a person results in a partial or complete obstruction of the airway and the subject is unable to escape from that position
- Pressure is applied to the back of the neck, torso or abdomen of a person held in the prone position
- Pressure is applied which restricts the shoulder girdle or accessory muscles of respiration while the person is lying down in any position
- The person is obese (particularly those with large stomachs and abdomens)
- The person is of small or light build
- Alcohol or drug intoxication (especially stimulants, e.g. cocaine, being on antipsychotic medication – some medications under certain conditions can cause abnormal heart rhythms)
- The person has a heightened level of stress
- Officers should note that the effects of a violent struggle or restraint and build-up of lactic acid can exacerbate the effects of drugs, alcohol or medication

### **Further information**

[Personal Safety Manual of Guidance](#) (available via NCALT to registered users only) and the [Independent Advisory Panel \(IAP\) on Deaths in Custody](#) has published [common principles for safer restraint](#) and the [College of Policing APP Detention and Custody – Control, Restraint and Searches](#).

## **4.10 Reducing the Risk**

All staff working in custody must be trained in managing violence and in recognising [positional asphyxia](#) and acute behavioural disturbance ([ABD](#)).

When restraining a detainee in a prone position, one member of staff should undertake the role of a safety officer who will be responsible for monitoring the detainee's condition, particularly the airway and responses, protecting the head and neck.

Usually there are no outward signs or symptoms of positional asphyxia. A person may be overtaken so quickly that there is no indication of distress or time to communicate a need for help. The assistance of a HCP should be sought where there are any concerns regarding the wellbeing of the detainee.

## 4.11 Acute Behavioral Disorder (ABD)

Acute behavioural disorder, is potentially life threatening and can be caused by the heavy use of certain drugs, particularly stimulants, of which cocaine is the most common but, may also be caused by psychiatric illness or alcohol or a combination of these. As well as being more prone to positional asphyxia, persons suffering from the condition may suffer cardiac arrest.

### Further information

[Personal Safety Manual of Guidance](#) (available via NCALT to registered users only) and the [Independent Advisory Panel \(IAP\) on Deaths in Custody](#) has published [common principles for safer restraint](#) and the [College of Policing APP- Detention and Custody – Risk Assessment – Excited Delirium](#)

### 4.11.1 Restraining a person with ABD

A detainee who appears to be suffering from ABD should only be restrained if there is no alternative method of control. They must be taken to hospital as soon as the condition is suspected and treated for their physical health needs before any further mental health assessment. In exceptional circumstances, [a police vehicle may be used](#).

## 4.12 Pre-existing Medical Conditions and Medical Emergencies

The advice from the HCP should be sought where detainees have pre-existing medical conditions that might impact on their welfare (such as [drug and alcohol dependency](#), [diabetes](#), [epilepsy](#) and [heart conditions](#)) particularly where the detainee is in possession of medication that they may need or where there is a likelihood that they will need medication that they do not have.

Custody staff must receive First Aid training to an appropriate level to equip them to deal with medical emergencies such as collapses (including CPR), wounds and injuries (self-inflicted or otherwise) and other situations that they are likely to encounter in the custody environment and in the use of the First Aid equipment that is provided. Officers have a personal responsibility to maintain their knowledge to an effective level and should supplement their training by refreshing their familiarity with equipment and techniques as needed.

Full details of any medical condition or medical emergency relating the detainee should be recorded on their risk assessment, medical forms and, where applicable, [PER Forms](#). Risk assessments and PER Forms must be maintained as contemporaneous records and updated with any developments even if the occurrence has passed.

## 4.13 Infectious and Communicable Diseases

If the custody officer believes that a detainee is suffering from an infectious or communicable disease and that it might represent a serious risk to other custody users or they are unsure of what control measures are required the advice of a HCP should be sought and, if necessary, the detainee and their property may be isolated ([PACE Code C](#) paragraph 9.7). Any advice regarding the wearing of protective clothing, decontamination or disposal of blankets etc. provided by the HCP should be followed.

## Further information

[FFLM guidance on managing blood-borne virus exposures in custody](#)

For up-to-date information on infectious diseases [NHS Choices](#) and [Public Health England](#)

### 4.13.1 Procedure following Exposure to Potential Infection

In cases of sharps or needle stick injuries or bites, scratches or contamination with bodily fluids (including saliva) that have led to broken skin or entered the eye or mouth or an open wound, the victim should:

- Wash site of injury with soap and water but do not scrub.
- Encourage free bleeding from the puncture wound – **DO NOT SUCK THE WOUND.**
- Cover with waterproof dressing.
- For splashes to eyes or mouth, irrigate rapidly with water.
- Note the details of the person/detainee with whom you have been involved (if known).
- Report injury or incident to your senior officer.
- Complete an injury on duty report
- Go to the A and E or other appropriate centre for treatment and provide the following information:
  - Details of any infection or disease that the detainee is known/suspected to have
  - Any knowledge of the detainee's use of intravenous drugs
  - Any knowledge of the detainee's medical history (including haemophilia or multiple blood transfusions pre 1985)
  - Any knowledge of the detainees historical movements or origin, for example, that they are from sub-Saharan Africa (for example, a detainee seeking asylum may come from a region where there is currently an outbreak of infectious disease).
  - How the injury was sustained (bite, scratch, sharps wound or exposure of an open wound, mouth or eyes to bodily fluids)
  - Details of the current status of any vaccinations

### 4.13.2 Universal Precautions

Staff should take the following precautions:

- Cover all cuts, grazes or abrasions with a waterproof dressing or plaster whilst on duty
- Wash off blood which is splashed onto the skin with plenty of hot water as soon as possible
- Wear disposable gloves when there is a risk of contact with blood or bodily fluids
- Dispose of used gloves, used dressings and soiled material/items (for example, tooth brushes and toothpaste) into the Yellow Bags provided
- Wash soiled handcuffs in hot soapy water whilst wearing disposable gloves and dry using paper towels
- Place contaminated clothing and blankets in sealed yellow 'biohazard' bags and arrange collection by the cleaning contractor.
- Place any soiled clothing belonging to the detainee in sealed bags and return to them for laundering



- Dispose of sharps in the sharps containers provided without re-sheathing needles and ensuring that boxes are not overfilled or left without a lid.
- Ensure that bedding is laundered after use and never reused
- Clean and disinfect mattresses and pillows between each occupancy with the equipment provided
- Custody staff should deal with minor spillages promptly using spillage kits/materials in accordance with manufacturer's instructions
- Use a specialist contractor to clean cells that have been heavily contaminated with bodily fluids in line with local arrangements.

Staff should follow a routine of washing their hands frequently and especially before handling food or drinks or smoking. Anti-septic/bacterial/alcohol hand rubs and lotions are a supplement and not a substitute for effectively washing hands in hot soapy water.

Action to be taken if exposed to Blood/Bodily fluids.

### [Occupational Health Advice](#)

Outside OHU opening hours-attend the nearest large A&E Dept. giving a full explanation of the nature of your injury or contamination. **Do not ignore this incident!**

## 4.14 Head Injuries

A detainee who has a head injury (any trauma to the head other than superficial facial injuries) must be transferred to hospital. Symptoms might include one or more of the following:

- unconsciousness or lack of full consciousness (e.g. problems keeping their eyes open)
- confusion (not knowing where they are, getting things muddled up)
- apparent drowsiness or sleepiness which goes on for more than one hour when the detainee would normally be wide awake
- difficulty waking
- unaccounted for problems understanding or speaking
- unaccounted for loss of balance or problems walking
- weakness in one or more arms or legs
- unexplained problems with vision
- very painful headache that does not go away (unless accounted for – migraine)
- vomiting (unexplained)
- fits (collapsing or losing consciousness suddenly) without an underlying reason
- clear fluid coming out of their ear or nose
- bleeding from one or both ears
- new deafness in one or both ears
- “panda” eyes

The custody officer must be mindful that intoxication can mask symptoms of a head injury or they can wrongly be attributed to the detainee being affected by alcohol or drugs.

## Further information

[Faculty of Forensic and Legal Medicine \(2010\) Head Injury Advice Leaflet for custody officers, gaolers and detention officers](#)

[College of Policing APP – Detention and Custody – Risk Assessment](#)

### 4.15 Seizures/Epilepsy

If a person suffers a seizure:

- Do not restrain them
- Once the seizure has passed, place them in the recovery position and consider providing oxygen in line with First Aid training
- Transfer to hospital if the seizure is protracted or repeated, they do not become lucid within 10 minutes, if they do not have a history of fits or they have suffered a head injury
- Talk to and reassure the person and do not leave them unattended before they fully recover
- Following an episode, observations levels and then risk assessment should be reviewed in light of the new information

Where a detainee is known to suffer from epilepsy, they should be asked to provide information regarding medication, its location/availability, frequency and circumstances surrounding seizures (warning signs, self-awareness etc.) and any other information that would assist with their care. They should be assessed by the HCP.

If a detainee indicates that they feel unwell and are potentially going to suffer an episode, they should be placed under constant observations and a HCP requested to attend without delay.

### 4.16 Diabetes

Detainees who are known to or indicate that they suffer from diabetes should

- Be seen by a HCP as soon as practicable after arrival, particularly if they appear intoxicated, to be assessed and to obtain advice to assist with managing the detainee's welfare
- Be asked to provide information regarding medication, its location/availability, the management and effectiveness of their control of the condition and any other information that would assist with their care. They should be assessed by a HCP.
- Be provided with food/drinks as necessary to manage their condition
- Be visited at least every 30 minutes

Insulin pens have the potential to be used as weapons or to self-harm and insulin overdose are potentially extremely serious. Insulin should only be given under the supervision of a HCP. If it is established that a detainee is using an infusion pump it must be left in situ and a doctor requested to attend to see the detainee. Appropriate observation levels and control measures should be applied. If a detainee refuses to take insulin whilst in custody the advice of a HCP must be sought to establish what, if any, control measures should be put in place.

### 4.17 Claustrophobia

If a detainee displays [symptoms](#) of claustrophobia (even if they have not indicated any previous occurrences) they should

- Be removed from the cell and taken to (as far as is practical) an open quiet area (for example, the exercise yard)
- Be accompanied by a member of staff who should try to calm them, offer reassurances and stay with them until they recover
- Be seen by a HCP

#### 4.18 Asthma

A person suffering an asthma attack should

- Be provided with an inhaler if they have one or one has been provided by a HCP (risk assessment permitting, the detainee may be permitted to retain the inhaler)
- Be accompanied by a member of staff who should try to calm them, offer reassurances and stay with them until they recover
- Be seen by a HCP in cases where the attack was mild and advice sought about appropriate control measures
- Be conveyed to hospital if the attack is severe, prolonged or is not alleviated by medication or is becoming worse (an ambulance should be called and the assistance of the HCP sought)

#### 4.19 Sickle Cell Crisis

Sickle cell anaemia is a serious inherited blood disorder where the red blood cells, which carry oxygen around the body, develop abnormally and mainly affects people of African, Caribbean, Middle Eastern, Eastern Mediterranean and Asian origin. In the UK, sickle cell disorders are most commonly seen in African and Caribbean people.

Symptoms of crisis may include:

- Fever (high temperature) of 38C (100.4F) or above
- Severe pain that develops during a sickle cell crisis that can't be controlled using over-the-counter painkillers
- Breathing difficulties
- Severe abdominal pain or swelling
- Severe headache, stiff neck or dizziness
- Changes in mental state, such as appearing confused or drowsy
- Episodes of priapism (see above) that last longer than two hours
- Seizures (fits)
- 

A HCP should be consulted immediately if symptoms occur and, in severe cases, an ambulance called and the detainee taken to hospital as a [medical emergency](#).

#### 4.20 Heart Disease

A HCP will be required to see

- A detainee known to have heart disease if they are to be in custody for more than 6 hours/overnight despite their not currently having any symptoms
- Where they require medication

- Any detainee reporting chest pains even with no history of heart disease
- Any detainee who reports that they are currently being examined/have seen a doctor in relation to possible heart disease, but the diagnosis has not yet been made

Consideration should be given to allowing angina sufferers to retain medication sprays.

A HCP should be requested to see a detainee and an ambulance should be called if a detainee known or suspected to have heart disease:

- Reports chest pains lasting more than 15 minutes or they appear to have severe symptoms
- They report feeling sick/vomiting
- Are unconscious or semi-conscious

## 5 Control, Restraint and Searches

### 5.1 Use of Force in Custody

All custody officers and staff must ensure that they are current in their Unarmed Defence Training (UDT) in line with their force guidelines, wear the Personal Protective Equipment (PPE) mandated by their force area at all times whilst operational and are up to date in their Safer Detention Training. They must be aware of the dangers of positional asphyxia and the risks of restraining people experiencing acute behavioural disturbance ([ABD](#)). The custody suite is a controlled environment where the overriding objective should be to avoid the use of force. Any use of force must be proportionate, lawful and necessary in the circumstances. Any member of staff using force within custody must inform the custody officer and the custody officer must record such in the custody record. Officers will be held accountable for all instances where force is used. The custody officer must assess if, as a result of the use of force, medical attention is required (see also sections 4.8 [Use of Restraints](#) regarding actions to be taken to reduce the risk to detainees whilst being restrained).

The arresting/escorting officers must make the custody officer aware of any force that was used prior to their arrival at the station (2.5 [Handover to Custody Officer](#) and 2.14 [Initial Custody Risk Assessment Process](#)) and ensure that they are alert to the possibility that medical attention may be required.

#### Further Information

[College of Policing APP – Public Order – Core Principles and Legislation – Police Use of Force](#)

## 5.2 Use of Force – Reporting to Senior Management

In addition the requirements to record the use of force, including completion of electronic use of force forms and entries on custody records, where the use of force at arrest or in custody:

- Results in the detainee requiring significant medical attention (including being taken to hospital)
- Causes an injury that would amount to actual bodily harm under [s. 47 of the Offences Against the Person Act 1861](#) (under CPS charging guidelines relating to the severity of injury)
- Or where there are any other significant features relating to the use of force would be of management interest (for example, where it may be damaging to the reputation of the service or likely to attract high media interest)

In the case of occurrences outside custody, the supervisor of the officer using the force, and in custody, the custody officer, will submit a narrative report to the senior management team via their inspector.

## 5.3 Restraint after Arrival in Custody

The custody officer has primacy where it comes to handcuffs and other restraints being removed from a detainee in custody although arresting/escorting officers may remove restraints without being told to do so.

Where a violent detainee is taken directly to a cell on the instructions of a custody officer, they should ensure that only approved techniques and methods are used. This will generally require the use custody staff who have had bespoke training for placing violent detainees in cells. Where the underlying reason for the detainee's behaviour is not apparent, a HCP should assess and monitor the detainee. The custody officer should review the detainee's risk assessment and apply any control measures that are required. The risk assessment should be further reviewed when the detainee has calmed down (see Section 4 [Risk Assessment](#) and, in particular, 4.8 – [Use of Restraints](#) (handcuffs/leg restraints in Cells).

## 5.4 Use of Restraint (handcuffs/leg restraints) in Cells

Detainees who are to be physical restrained in a cell, with or without mechanical restraints, are to be considered as vulnerable and potentially a medical emergency. These, and the risks associated with such action, are dealt with in detail in Section 4.5 - [ABD](#) to 4.11 - [excited delirium](#) and, specifically, Section 4.8 - [Use of Restraints \(physical and mechanical - handcuffs/leg restraints\) in Cells](#).

## 5.5 Moving Violent Detainees

Whenever possible, violent detainees should not be moved from one cell to another due to the elevated risk to all involved.

The transfer should be supervised by the custody officer who, as far as is practicable, should avoid being physically involved. Whilst the custody officer has overall responsibility for the move, all

officers should be mindful of signs of distress or trauma, in particular, the underlying factors that might be behind the behaviour including [Acute Behavioural Disturbance](#), the risks of [Positional Asphyxiation](#) and the guidance on [Excited Delirium](#).

Ideally, moves should be planned and the custody officer should consider the number of staff required for the move, whether specialist teams should be deployed and whether any PPE beyond that normally carried needs to be available (for example, shields/pads). Specialist teams (for example, PSU/TSG or TST's) will operate under the supervision of their supervisor whilst the custody officer will retain responsibility for the detainee's welfare.

#### **Further Information**

[ACPO \(2012\) Personal Safety Manual of Guidance](#) (available via NCALT to registered users only)

## **5.6 Use of Taser in Custody**

Officers trained and authorised to carry Taser devices may do so in custody except where they are working as custody staff.

The deployment and use of the device must be in compliance with local force policies and procedures and [national guidance](#).

If deployment is pre-planned, for example, by a specialist cell extraction team, the risk assessment and decision making, guided by the [NDM](#), should be recorded on the record prior to deployment, if time and circumstances permit. The planned deployment of Taser must be authorised by the Nominated Force Incident Manager ITFC or TFC as decreed by local Force policy and the custody officer should liaise with them if they believe that deployment is necessary and proportionate. The Force Incident Manager, and the officers being deployed, must be fully briefed about the circumstances of the situation and any medical and other risks (including intoxication) associated with the detainee. An officer's decision to discharge a Taser is theirs alone. At a spontaneous incident, an equipped and trained officer who is present must make their decision to deploy the device based on the facts as known or believed by them at the time. In those force areas where CS spray is issued, officers considering the option of deploying their Taser must consider the possibility that the subject has been sprayed with CS and the associated flammability risks. Any use of a Taser in custody will be recorded on the custody record by the custody officer. It is the carrying officers' responsibility to ensure all relevant documentation is submitted, including deployment, debrief and 'use of force' forms.

If practical a social worker (AMHP) or HCP should be engaged when dealing with persons with suspected mental ill health before Taser equipped officers are deployed.

Any Taser discharged in the Custody Suite will result in a mandatory referral to PSD and, in the event of complaint or serious injury, to IOPC and Taser Supervisor must attend to collate all relevant information regarding the circumstances of the discharge. The custody officer should ensure that any custody suite visual/audio recording of the incident is preserved. Where possible, body worn video should be worn by the officer(s) deploying the device.



Under no circumstances should the device be used to gain procedural compliance even where the use of force is permitted by law (for example, PACE s. 61: circumstances where taking fingerprints without consent is permitted). For aftercare procedures see [Section 4.6](#) above.

## 5.7 Use of Incapacitant Spray in Custody

Police officers trained and authorised to carry Incapacitant Spray (currently Captor) may do so whilst in the custody. Custody officers will carry a canister if required by local force policy. For aftercare procedures see [Section 4.7](#) above.

## 5.8 Searching Detainees

As per the guidance from [College Police website](#) (24.08.2023) the following guidance states:

Searching detainees is important as it reduces the risk of harm to staff, protects the safety of detainees and allows material to be seized that may be subject to legal proceedings.

Section 54 of PACE provides a power to search an arrested person on arrival at a police station. There is a separate power to search at any other time, which is described in section 54 (6A) to (6C) and applies where the custody officer believes the detainee is in possession of an item which could physically injure anyone (including the detainee), damage property, interfere with evidence or help the detainee to escape. After arrival and while at a police station both powers apply, but only to constables and designated detention officers by virtue of [paragraph 26](#) of Schedule 4 to the [Police Reform Act 2002](#)

[Paragraph 35\(4\)](#) of Schedule 4 to the Police Reform Act 2002 also confers a power on designated escort officers to search persons being escorted from a police station to another station or from a police station to any place and then back to that station or onto another station.

## 5.9 Conducting Searches

The custody officer should explain to the detainee why they are being searched. Officers conducting a search should:

- Be of the same gender as the detainee - Detainees should be held under constant observations (escorting or arresting officer) until an officer(s) of the same gender is available unless an immediate search is necessary to prevent injury or damage (for example, a violent detainee who it is believed may have a weapon). Such a search and the reasons for it must be fully documented
- Treat them with respect and dignity
- Attempt, wherever possible, to conduct the search in an area where the detainee can neither be seen by anyone not needing to see the search nor by members of the opposite sex (the more intrusive the search, the more essential this is, for example, strip searches or searches where clothing is to be exchanged or seized)
- Explain what they are doing and why, for example, a particular item of clothing must be removed to facilitate the search

- Wear protective gloves

Engage with the detainee to minimise risk to themselves and the detainee (for example, by asking the detainee to disclose any information regarding sharps etc. on their person)

### **5.9.1 Consideration to those who are Trans and Non-Binary**

In law, the gender (and accordingly the sex) of an individual is their gender as registered at birth; unless they have been issued with a Gender Recognition Certificate (GRC) under the Gender Recognition Act 2004 (GRA 2004). All persons (Cis/Trans) should be treated with dignity; and afforded acknowledgement of their legal Gender.

This guidance, which refers to 'trans and non-binary' persons, is also inclusive of other Gender Identities and Gender Expressions that are not atypical of the binary genders and sex assigned at birth; this includes, but is not limited to, non-gender, gender-fluid, third gender and agender identities.

As more Gender Identities and Gender Expressions come forth in discourse this guidance would include those under the wider 'Trans umbrella' - as long as:

- The Identify and Expression can be directly correlated to Gender – and not any other protected characteristic.
- The identity or expression is in consideration and respect of others who self-identify.

Other Gender Identities and Gender Expressions that are representative of personal values, personal perspectives and/or personal variance can be discussed to determine any correlation with atypical terms detailed above to determine the most considered appropriate approach and in line with recognised terms under Law.

#### **5.9.1.1. Searches upon a Transgender, or Non-Binary Person ([PACE Code C 2018 annex L](#) [PACE Code 2019](#))**

Individuals should be respected with the Gender Identity or Gender Expression in which they initially present in the absence of information or disclosure that would require a change in the process.

Officers must never assume a person's sex or gender identity. Early sensitive conversation is encouraged where there is any doubt about presentation to avoid embarrassment. A good approach is to use broadly applicable pronouns until the Detainee discloses their Gender identity or Gender Expression; these are: They, Them, Their – this principle will accommodate a wide range of people from the Trans and Non-Binary community, and prevent offence or upset.

There are GR processes which may or may not result in the issuing of certificates which support this part of the policy, but there is no requirement to produce and it is not appropriate or lawful to ask for, expect or demand to see such documentation. This replaces and overrules the ACPO guidance of 2005 that suggested a GRC certificate was necessary before such searches could take place.

All searches involving Trans or non-binary individuals should be carried out with courtesy consideration and consider any medical treatment. The detainee must be asked about their preference about searching staff. The staff must be updated about those discussions and decisions and all comments and rationale must be recorded in the custody record and involved persons invited to sign.

Information that leads to a decision being made including any rationale should always be recorded in the custody record and all individuals concerned in the search should be invited to acknowledge their understanding, consent, or comment by signing the custody record.

#### **5.9.1.2 Searches by a Transgender, or Non-Binary Person ([PACE Code C 2018 annex L PACE Code 2019](#))**

Firstly, there is clear consensus from the collaborative Police Forces where we recognise the disclosed gender status and lived gender identity of trans and non-binary individuals.

Secondly, their transition from Trans or Non-Binary is to be recognised from the moment they transition, this being the point at which they present in the gender with which they identify. This means that an employee will then be afforded the same rights as the gender identified and therefore in the custody environment, they will then be authorised to search individuals of that same gender.

It has been held that any objection to being searched by a trans officer or staff member based solely upon their trans gender would be as unreasonable as an objection based upon race or religion. Such objections must be recorded in the custody record.

Information that leads to a decision being made including any rationale should always be recorded in the custody record and all individuals concerned in the search should be invited to acknowledge their understanding or comment by signing the custody record.

The person must not be asked whether they have a GRC. Information concerning gender is protected and it is an offence to disclose this. However, such information may be recorded in custody records and used for the prevention or investigation of crime.

Unless there is an immediate anticipated threat of harm to individuals concerned the searches will be authorised to take place as in any other circumstances.

Every scenario will be different and should be dealt with on its own merits with the rationale supporting decisions recorded in the custody record.

It is equally important to be sensitive to the dignity of all Police Officers and staff called upon to undertake searches. An officer or member of police staff can choose not to conduct the search as well as the detainee requesting a different officer. These cases must be dealt with sensitively to ensure officers and staff are appropriately supported.

Individuals may choose to opt out of certain procedures which should be discussed with their line manager. If a colleague has made the decision to transition, there may be the option of being exempt from conducting searches.

A case by case approach is required to ensure all persons are supported and the dignity and respect of all involved in the search is protected and maintained.

There may be circumstances where following objection colleagues are replaced in the search process. This will be followed by support and an assessment of any adverse impact upon persons involved.

### **5.9.1.3. Practical Application of Searches in consideration of Transgender, or Non-Binary Colleagues and/or Detainees ([PACE Code C 2018 annex L](#) [PACE Code 2019](#))**

- Decisions on searches, taking account of the unique circumstances of each case, will rest with the custody sergeant; who should ensure that all details informing the decision are outlined to those involved and then fully recorded in the custody record.
- Any search that has the potential to result in assault or injury because of the individuals concerned for any reason would not normally take place and steps would be taken where appropriate to reduce that risk by using different staff - the personal safety of all involved remains the principle objective. Any such incidences will be recorded, and an investigation will be undertaken in the normal manner.
- Objections to being searched on the sole basis of gender is likely to be based upon prejudice and discrimination and as such could potentially be seen as a hate incident and in extreme circumstances a hate crime – any such behaviour will not be tolerated and will be challenged. A robust investigation into such instances, including the supporting of the victim and challenging the offender.
- Trans and Non-Binary individuals should be provided with single occupancy cells.

#### Potential Scenarios

- **Gender is apparent** – engage with person as that gender
- **Gender is in doubt** – ask what gender the individual identifies as and treat according to their preference
- **Preference remains in doubt** – if apparent, engage with predominant expression and ask their pronouns to gain an understanding.
- **No preference indicated** – ask their pronouns to gain an understanding.

## **5.10 Property Retention**

The decision to withhold articles from the detainee should be based on a balanced risk assessment, for example, a detainee should not be deprived of their glasses or other medical aid if there is no significant indication that they may use it to self-harm. Medication should be retained until examined and approved by a HCP before administration. Property may be retained to prevent self-harm or harm to others, to prevent escape, damage, interference with evidence and for safe keeping.

Consideration should be given to the possibility that a detainee may use items in their possession to self-harm even if there are no clear indications this may happen. Items that could be used to make ligatures should be retained and if footwear is seized suitable replacements should be provided. Clothing may be seized to prevent self-harm but a detainee should not be left exposed to reduce this risk or the level of observations required. Replacement clothing (including rip resistant clothing) should be provided, and documented on the custody record, whenever clothing is seized so as to maintain the detainee's dignity.

Items of religious and cultural significance should only be removed if absolutely necessary and not solely for "safe keeping" unless requested by the detainee. Sensitivity should be shown to the detainee's needs and consideration given to where the items are to be removed from the detainee, who is present and as to how they are stored. Used needles/sharps should only be disposed of in appropriate sharps containers and should be treated as a biohazard. Unopened hypodermic needles should be stored in the detainee's property and returned on their release.

The custody officer must record in sufficient detail a description of any property the detainee has (and the grounds for seizing any item or that the detainee has retained it) on the custody record. The person should be told why property is being seized unless they are violent, potentially violent or incapable of understanding. They should then be invited to check and sign the property record to confirm that it is correct. The custody officer is responsible for the safe keeping of any of the detainee's property retained at the station. Property bags must be sealed in the presence of the detained person and the seal number and the property location recorded on the record. Property seized as evidence and its safe and correct storage is the responsibility of the officer who has seized the item and then any subsequent officer receiving possession of it. The movement and storage of evidential property must be recorded in accordance with local force policy.

Any property or food brought to the station for the detainee will only be accepted if authorised by the custody officer (see section 6.20.4 - Food and Drink below). It must be thoroughly searched in the presence of the person who has brought it and rejected if it is either inappropriate or impractical to accept it. If the person bringing the property is unwilling to allow a search or wait until one takes place, the property should not be accepted.

Whenever possible, unless the detainee is violent or in need of urgent medical attention, cash should be counted and sealed in an envelope in the presence of the detainee and the exact amount included on the property list. Large quantities of cash should be sealed in a bag bearing a unique reference number and recorded on the record as "cash sealed in bag number....." Similar care should be taken with valuable such as jewellery and watches. In any case, every effort should be made to ensure that the booking in of property is video and audio recorded.

Careful consideration should be given to requiring that a detainee remove body piercings as some of these are not designed to be removed although, potentially, they can be used to self-harm, harm others or cause damage. The custody officer should be guided by the risk assessment. Where the item can be removed by the detainee or with minimal help (preferably by a HCP) it should be treated as any other piece of jewellery. If the detainee is not willing to remove the item and the custody

officer considers that there is a high risk of self-harm, then the appropriate observation level must be set. Only in exceptional circumstances should force be used.

## 5.11 Disposal of Property

At the point where a detainee is to be released their property should be returned and the sealed bag opened in their presence. The detainee should be invited to check the property and confirm that it is all present. The return of the property should, wherever practicable, be visually and audio recorded. The detainee should then be asked to sign to confirm that their property has been returned. Any issues that they may raise should be addressed there and then by the custody officer before the detainee leaves the desk.

Where a detained person is remanded or transferred to another force/authority, all property should be handed to the escorting officers who will need to sign for the property. If they refuse then an appropriate entry will be made on the record. Bag and seal numbers must be recorded on the [PER Form](#).

## 5.12 Intimate and Strip Searches

Also section 10.10 for [Intimate and Strip Searches, X-Rays and Ultrasound](#).

The process for conducting intimate and strip searches is set out in [PACE Code C](#) Annex A. The custody officer may, at any time a person is in custody, determine that a “strip search” (the removal of more than just the detainee’s outer clothing – for the purposes of a search in custody, shoes and socks are to be treated as outer clothing) is necessary to ensure an effective search.

In the cases of a [juvenile](#) or a [vulnerable person](#), except in urgent cases, an [appropriate adult](#) must be present, unless both the detainee and the appropriate adult signify that they do not wish this to be so.

In addition, the [previous guidance](#) on conducting a search:

- There should be two persons present (more than two only in exceptional circumstances) in addition to the detained person, during a strip search; both persons should be of the same gender as the detained person
- In addition to taking place out of sight of others not needing to see the search as outlined above, strip and intimate searches should not be recorded on CCTV without justification.
- If a cell or other area covered by CCTV is used to conduct a strip search, the CCTV image must not be displayed on any monitor during the search.
- In the exceptional circumstances where a strip or intimate search is conducted on CCTV, the reasons need to be fully documented and a rationale for the recording is provided on the custody record by the authorising officer.
- All searches must be conducted in line with the guidance contained in PACE Code C. Additionally, CCTV should not be used to record consultations between detainees and their legal representatives.
- Whenever possible, the detainee should be allowed to remain partly clothed at all times



- The detainee should not be required to squat but may be required to hold their arms in the air or to stand with their legs apart and bend forward so a visual examination may be made of the genital and anal areas provided no physical contact is made with any body orifice

The grounds (including known risks and warning markers) and necessity for this must be recorded on the custody record together with object of the search, details of those present and the results of the search. In the event of a search taking place without an appropriate adult, the reason why must be documented including the efforts that were made to obtain one.

Where an intimate search (physical examination of a person's body orifices other than the mouth) is required, an inspector's authorisation is necessary.

An intimate search may be conducted to retrieve items that may be used by the detainee to harm themselves or another or where it is suspected that the detainee has Class A Drugs they intend to supply to another or export (the latter can only take place with the detainee's written consent, at a hospital, surgery or medical premises and must be conducted by a HCP). A search for items that may be used to self-harm, or harm another, can take place at a police station and may be conducted by a police officer if an inspector or above authorises it because they believe it is not practicable for a HCP to do it having weighed up the risks of not removing the item. If the inspector requested to authorise a constable to carry out an intimate search has any doubts, they must seek the advice of a superintendent or above. The numbers of persons present, gender, the location where the search takes place and CCTV is as per the guidance on strip searches above.

#### **5.12.1. Changes in APP and clarity on principles regarding strip search**

Following a recent ruling; APP will be updated on the 17th March 2022 and the changes should be visible on the College of Policing website a short while later. The ruling clarifies the orifice issue and that a foreskin is an area that can be viewed if required. Previously the concern was that this may stray into intimate search territory. The ruling in Owens makes it clear that the penis/foreskin is not a body orifice and some further commentary around extraction of items from a detainee.

Attached below is the new APP - The relevant section is here [Control, restraint and searches \(college.police.uk\)](https://college.police.uk)

#### New APP: When might a strip search become an intimate search?

The touching or applying of bodily force to any orifice (other than the mouth) or the immediate surroundings of any body orifice would constitute an 'intimate search' for the purposes of PACE. However, this position has been complicated by the 2021 ruling in [Owens v Chief Constable of Merseyside Police \[2021\] EWHC 3119 \(QB\)](#).

In this case the arrested person, Owens, having been 'asked' to remove his trousers and underwear, was then asked to separate his penis and testicles, pull his foreskin back, turn around, lean over and separate his buttocks.

In a preliminary decision on what constitutes an intimate search, it was held that an intimate search (defined by [section 65 of PACE](#) as ‘the physical examination of a person’s body orifices other than the mouth’) requires an act of physical intrusion into a body orifice.

The judge concluded: ‘Parliament was concerned with items which are concealed within – that is, inside – a relevant body orifice. Parliament was not concerned with items concealed on the body, but outside (including on the surface of) a relevant body orifice. That means, to take an example, that the police could search to ascertain the presence of (and, if present, extract) an item resting on the outside of an anus or vagina, including using physical contact and physical force. Again, the item might be Class C drugs or a plastic bag containing banknotes. There is no “intimate search”.

The ruling in this case is at variance with [PACE Code C, Annex A, paragraph 11\(e\)](#) on strip searches. Despite this ruling, care should clearly be taken in the operational context when considering such intrusive activity.

### 5.12.2 Clothing Swaps and strip search recording

As a result of [Davies v Merseyside Police & Anor | \[2015\]](#) police are now under a duty to adhere to [PACE Code C Annex A \(strip searches\)](#) when conducting a ‘clothing swap’ with a detainee in custody under S54 PACE where more than outer clothing (JOGSS) is seized. JOGSS refers to Jacket, Outer Coat, Gloves, Socks & Shoes and we are instructed to apply the ordinary meaning under [PACE Code A](#).

[APP on Searches](#) has been updated to reflect this change. Below is the NPCC guidance: -



NPCC - Strip Search -  
Recording - Final Draft

#### The documenting of strip searches in police custody

Currently a custody officer can authorise and record a search under S54(6) (strip search) where it is necessary to search the detainee to ascertain everything which a person has with them.

Custody officers also have a power under S54(4) to seize clothing and personal effects if they believe the detainee will harm themselves/others with them (i.e. removal of trousers with cords in them) and any of the other provisions under S54(4) such as seize as evidence.

As a result of the court ruling, and where clothing and personal effects are seized under S54(4) which is more than JOGSS, a strip search should be recorded. Also, PACE Code C Annex A will apply and in particular where the detainee is vulnerable or a juvenile and an appropriate adult is required - [APP on Searches](#).

This change is to ensure that the same safeguards apply to ‘clothing swaps’ under S54(4) to those which already apply for strip searches S54(6). Basically, if clothing (more than JOGSS) is removed

in custody under a police power, then it should be recorded as a strip search with the same safeguards in place.

If the detainee asks to exchange clothing voluntarily because they are soiled or wet, and the exchange is not being done under S54(4), then a strip search does not need to be recorded, because it is not a removal under police powers.

The changes to the requirement to record a strip search where clothing (more than JOGSS) is removed applies only to the custody process and S54 PACE (not to be confused with S19 PACE).

### 5.12.3 Strip Searches of a Juvenile

Strip searches of a juvenile must be authorised by an officer of the rank of inspector in Leicestershire following the recommendations of the Childrens Commissioner. By virtue of the Davies case, this should also extend to clothing swaps for Juveniles under S54 PACE.



SOP re PACE Insp  
oversight of Strip Sea

#### Further information

[FFLM guidance on intimate searches](#)

[PACE Code C Annex A](#)

## 6 Detainee Care

### 6.1 Handover of responsibility for a detainee between Custody Officers

The custody officer's knowledge of the circumstances of a person's detention, the state of the enquiry and their welfare needs is paramount to ensuring that they are able to carry out their duties and responsibilities effectively. An identifiable custody officer is to be responsible for each detainee and, although they may be assisted by another custody officer, they retain responsibility for that detainee until they are released, transferred or handed over to another custody officer.

The custody officer accepting responsibility for detainees will be briefed by the officer handing over the responsibility. Handovers should take place in an area where CCTV and audio recording takes place. Where this is not possible, a written record documenting compliance with this procedure is required. Confidentiality must be considered and, if the handover takes place in the general custody area, all detainees and others not involved should be cleared from the immediate area so as to be out of earshot. Where the custody officers are assisted by support staff, they should be present and contribute to the handover.

The handover must include:

- The grounds for the person's detention, the state of the investigation and any outstanding actions (if applicable).
- The observation level applicable to the detainee, the supporting grounds, details of any known risks, vulnerabilities (including, where applicable, the need for an appropriate adult and the reasons one is required), disabilities and welfare needs and how these are being managed and any control measures in place and any actions required.

- Any relevant information relating to review times, expiry of periods of detention, delays of rights and restrictions to apply to the detainee, for example, in relation to contact with others, the monitoring of calls, forensic issues must be explained and justified.

The briefing must also include an overview of the custody facility including:

- Any issues relating to staffing levels and detainee numbers taking into account observations levels and perceived risks and anticipated demand and
- Any issues relating to restrictions on cell use or the building infrastructure, including IT, which might impact on effective service provision or the welfare of custody staff, custody users and detainees and the actions taken to address them.

At the beginning of the shift the custody officer must visit all of detainees in their care and:

- Engage with them, waking them if necessary, and remind them of the grounds for their detention, the current status of the investigation (where applicable) and remind them of their right to free independent legal advice.
- Conduct a dynamic risk assessment and ascertain any welfare or other needs that the detainee might have.
- Check that the condition of the detainee's cell is in a satisfactory condition.

A custody log entry must be made by the officer receiving the handover confirming that the above actions have taken place (or, where they have not, the reason why, for example, where the detainee cannot be engaged with because they are in hospital). The custody officer receiving the detainee must include a synopsis of the briefing they received relating to each detainee (including the observation level that applies to the detainee following their being visited irrespective of whether or not it has changed) and details of any representations made by them when visited or changes in circumstances observed. A revised risk assessment will be required where the detainee's condition has significantly changed (for example, if they no longer need rousing).

## 6.2 Monitoring, Observation and Engagement

The custody officer is responsible for managing the supervision and level of observation of each detainee in their care. Their rationale and decision making should be recorded on the custody record. Where visits/observations and other control measures or tasks are being carried out on their behalf they must actively monitor that they are being done correctly and to the appropriate standard as they retain overall responsibility for the detainee's care per PACE Code C Note 3F:

A custody officer or other officer who, in accordance with PACE or other relevant legislation, or approved working practices, allows or directs the carrying out of any task or action relating to a detainee's care, treatment, rights and entitlements to another officer or any police staff must be satisfied that the officer or police staff concerned are suitable, trained and competent to carry out the task or action in question.

Observation levels and control measures should be set taking into account a detailed and up-to-date risk assessment (see section 4 – Risk Assessments), any HCP advice (see section 1.5 – Health Care Professionals) and any information received from other sources.

## 6.3 Cell Inspections

A trained member of custody staff must inspect a cell prior to a detainee's release and prior to lodging a new detainee to ensure, in the case of the former, that the detainee has not left anything behind and has not damaged the cell and, in the case of the latter, that the cell is fit for occupation and any defects identified. Whether vacating or lodging someone in a cell, the checks are the same. It is never acceptable to presume that someone else will or has conducted the procedure or that circumstances haven't changed whilst the cell was empty.

The inspecting officer should:

- Check from the ceiling down to floor level and work methodically through the inspection
- Check ventilation grills, light fittings, smoke detectors, CCTV units and any other ceiling/wall fixture for signs of damage or wear and to ensure that there are no potential ligature points
- Check teletronics for signs of damage, missing sealant and ligature points and functionality
- Check walls for contamination and damage
- Check any plumbing fixtures to ensure that nothing has been deposited in them, any sealant is intact, there are no ligature points and that they function
- Check the door and window frames for signs of damage or wear
- Check the cell side of the door for damage and to ensure that the hatch spy glass are intact
- Remove and inspect both sides of the mattress and pillow for damage or signs that anything might be concealed within
- Check the bunk and floor for damage or contamination
- Check blankets for cleanliness and damage and, if vacating the cell; follow the laundry process and if occupying; provide to the detainee
- Document on the custody record the details of the person inspecting the cell and findings noting any existing damage that wouldn't warrant decommissioning the cell

Should any cell be decommissioned for repair or specialist cleaning, the procedure at 1.10.1 [Cell Closure](#) should be followed. Cells with defective teletronics must be put out of use except, and only if absolutely necessary, where the detainee is subject to [Level 4 Observations](#).

In addition to inspections when a cell is first occupied or vacated, cells should be inspected:

- At shift handovers (proportionate checks should be done when visiting occupied cells with any concerns warranting an escalation in the degree of inspection)
- At such times during the shift as the custody officer deems appropriate, for example, whilst a detainee is at interview
- Periodically as part of building maintenance by adequately trained and competent staff

Cells should be checked periodically during the tour of duty.

## 6.4 Cell Visits

All visits and observations, including the detainee's behaviour and apparent state, must be recorded on the custody record and any changes or concerns reported to the custody officer to enable a review and update of the risk assessment if appropriate.

Before opening a cell hatch or door, the safety of doing so must be assessed using the "spy hole". Unless the detainee is violent or likely to become violent, they should be engaged with through an open cell hatch or door as a minimum and the cell entered if necessary. The detainee should be asked about their welfare and if they have any needs or requests (see 6.13.1 [Level 1 – General Observations](#)). Checks through "spy holes" are not acceptable unless the threat from the detainee is so great that there is no alternative. The detainee should still be engaged with verbally through the door if this is the case and the facts recorded on the custody record and the custody officer informed.

The fact that a detainee appears to be asleep does not negate the need to open the cell hatch/door. Doing so allows an auditory check to be made that might support the assumption that the detainee is asleep and breathing normally or alternatively might reveal they are having difficulty in breathing or do not appear to be breathing at all. The officer should enter the cell and conduct further checks if they have concerns. A sleeping detainee should not be woken but, if their face is obscured by a blanket it should be adjusted so as to allow an adequate welfare check.

Wherever practicable, visits should be conducted by the same officer until a natural change over occurs, for example, shift changes or meal breaks (which could result in the same officer resuming the duty afterwards). This maximises the likelihood of changes in the detainee's welfare being noticed, allows for a rapport to develop where the detainee might disclose previously unknown risks or needs, reduces the risk of a detainee becoming frustrated or aggressive through having to repeat information they have already given another visits officer and will assist in supporting the detainee's welfare, particularly those that are vulnerable and/or young.

The officer conducting the visits:

- Be briefed about the detainee's situation, risk assessment and needs. With new arrests or where the detainee's situation/risk or observation level changes, the custody officer must ensure the visits officer is briefed.
- Attempt to build a rapport with the detainee
- Be aware of emergency procedures and the availability of equipment
- Ensure accurate and detailed entries are made on the custody record rather than generic "visited, awake" (see [Observation Levels](#) below).
- Have with their PPE, per local force policy, including a ligature cutter and cell key.
- Ensure that the custody officer is appraised of any changes in the detainee's behaviour or welfare that might affect the risk assessment or observation level



## 6.5 Cell Call System

The cell call system is intended to allow detainee's a means of communicating with custody staff and is not "for emergency use only". The detainee should be told the purpose of the call system and its operation explained/demonstrated when they are placed in a cell. Where the detainee would not understand the explanation (for example, because of a language barrier) the operation of the system should be communicated as best as possible and, if a Language Line interpreter has been used when booking in, they should be asked to explain that there is cell call device in the cell and its purpose when telling the detainee that they are to be detained in a cell and why. The actions taken in relation to explaining/demonstration the use of the system and by whom must be recorded on the custody record.

### 6.5.1 Misuse of Cell Call System

Where it is being abused a particular cell's functionality may be disabled for a short, limited time. The decision must be taken by the custody officer who will record their rationale on the record and document and enact appropriate control measures (for example, placing the detainee on [Level 3 Observations](#)). Use of the call system by a particular individual should not be ignored on the basis that they have been abusing it.

## 6.6 Dirty Protests

Where a detainee fouls their own cell they should be moved to a clean cell (see section 5.5 [Moving Violent Detainees](#)) unless the custody officer determines that the level of risk to the detainee or others is such that a move would not be proportionate. They must record their considerations and decision on the custody record. Their decision should be based on the [NDM](#) and may be informed by specialist advice from a HCP and/or tactical advisor.

## 6.7 Juveniles - Cell Allocation

[Juveniles](#) should not be placed in a police cell unless there is no alternative place for them to remain. If placed in a cell, juvenile cells (were available) should be used and consideration given to wider factors such as who is located in adjoining cells and their conduct, the level of noise and footfall outside the cell. The rationale for placing them in a cell must be recorded in the custody record by the custody officer making the decision (see 2.23.7 – [Juvenile Remand](#) for further guidance on detaining juveniles post charge ([PACE s. 38\(6\)](#))).

## 6.8 Glass Fronted Cells

The use of glass fronted cells to lodge high risk detainees so that they can be monitored by custody staff engaged in their daily business does not meet the requirements of [Level 3](#) (constant observations) or [Level 4](#) (close proximity observations) unless a dedicated officer is engaged solely to observe them as per the guidance below. The cells should generally be considered for use only as temporary holding cells prior to booking in, transfer or similar reason unless exceptional circumstances dictate otherwise. The custody officer authorising the use of a glass fronted cell to

lodge a detainee must be mindful of the impact that this will have on the privacy and dignity of the detainee and must record on the custody record the reason for their decision.

## 6.9 Cell Cleaning

Cells should be cleaned regularly and, in addition, restored to a satisfactory standard after every occupation (see 4.13.2 – [Universal Precautions](#)). In particular, they must:

- Ensure that bedding is laundered after use and never reused
- Clean and disinfect mattresses and pillows between each occupancy with the equipment provided
- Deal with minor spillages promptly using spillage kits/materials in accordance with manufacturer's instructions
- Use a specialist contractor to clean cells that have been heavily contaminated with bodily fluids in line with local arrangements

Cells requiring cleaning must be taken out of use. The use of specialist cleaners must be authorised by an inspector and either referred to the local force facilities or, if out of hours and urgent, local arrangements followed (see 1.10.1 – [Cell Closure](#), for further guidance).

## 6.10 Damaged Cells

A detainee who is suspected of damaging a cell (including by way of a “dirty protest”) or other property in custody where the damage would support a criminal charge should be dealt with in the same way as they would be if they had caused the same damage elsewhere. The proper inspection of a cell when lodging the detainee and its documentation (6.3 [Cell Inspections](#)) will assist the investigation. As a minimum, the officer who located/witnessed the damage should provide a statement before retiring from duty as should the officer who lodged the detainee (if they were still on duty when the damage was discovered). CCTV should be preserved where appropriate. Failure to provide the necessary statements may result in the detainee being RUI or bailed rather than dealt with in their first period of detention. Local arrangements to identify who will investigate the damage should be followed (for example, the OIC, local Prisoner Handling Team or an officer from the Area that dealt with the detainee). The procedure at 1.10.1 – [Cell Closure](#) should be followed. It is not acceptable to continue to use a cell that has been damaged with graffiti unless absolutely necessary and, before it is, the nature of the graffiti and its potential impact on a detainee must be considered. Graffiti should be painted out as soon as is practicable.

## 6.11 Access to Exercise

All exercise yards may contain ligature points and any detainee using one may be kept under constant observations ([Level 3](#) or [Level 4](#) as appropriate). The yard must be inspected before and after use for signs of damage or anything that might be used to self-harm or harm another etc. and no more than one detainee must be allowed to exercise at a time. Requests for exercise and its provision or refusal must be recorded on the custody record.

## 6.12 Rest Periods

A detainee must be allowed a continuous 8 hour period of rest ([PACE Code C](#) paragraph 12.2) in any 24 hours (based on the PACE Clock) uninterrupted by questioning, travel or any other interruption in connection with the investigation (which includes taking fingerprints, photograph and DNA) unless there are reasonable grounds to believe that not interrupting or delaying the rest period would:

- Risk harm to people or the serious loss or, or damage to, property or
- Unnecessarily delay the detainee's release
- Otherwise prejudice the outcome of the investigation

In these circumstances a fresh 8 hour period of rest should be provided.

The rest period can also be interrupted at the request of the detainee, their appropriate adult or legal representative, to review or extend the detainee's detention ([PACE Code C](#) paragraph 15), by visits and for medical attention or other welfare to be provided ([PACE Code C](#) paragraph 9). In these circumstances no new rest period is required.

The detainee's rest period should be recorded on the custody record. It may be recorded as a single entry indicating that it has commenced and when it will finish or may be entered retrospectively after it has started or finished, for example, where the custody officer did not instigate the rest period in anticipation that officers would attend during the night to interview but an update indicates that this will not be the case or they still have not attended after 8 hours. Consideration must be given as to whether the detainee has, in fact, been able to rest.

## 6.13 Observation Levels

### 6.13.1 Level 1 - General Observations

Following full risk assessment, this is the minimum acceptable level of observation required for any detainee. It includes the following actions:

- The detainee is checked at least every hour (the risk assessment is updated where necessary)
- Checks are carried out sensitively in order to cause as little intrusion as possible
- If no reasonable foreseeable risk is identified, staff need not wake a sleeping detainee (checks of the sleeping detainee must, however, continue and if any change in the detainee's condition presents a new risk, the detainee should be roused)
- If the detainee is awake, staff should communicate with them.

The detainee should be asked about their welfare and if they have any needs or requests. Whenever possible, requests for phone calls, drinks, food, exercise or other reasonable request should be accommodated. Requests, and action taken, should be recorded on the custody record. Request to speak by telephone with a solicitor are within the detainee's rights and must be accommodated unless the detainee is too violent to bring from the cell.

### 6.13.2 Level 2 – Intermittent Observations

Subject to medical direction, this is the minimum acceptable level for detainees who are under the influence of alcohol or drugs, or whose level of consciousness causes concern. It includes the following actions:

- The detainee is visited and roused at least every 30 minutes
- Physical visits and checks must be carried out – CCTV and other technologies can be used in support of this
- The detainee is positively communicated with at frequent and irregular intervals
- Visits to the detainee are conducted in accordance with PACE Code C Annex H.

The procedure in [PACE Code C](#) Annex H is to be followed. Rousing involves interacting with the detainee to gain a response that reflects their level of awareness and only if they can give a comprehensive verbal response can they be considered to have been roused otherwise they should be treated as a medical emergency. Detainees who are awake must still be assessed as if they had been woken by the officer but the record should reflect they were awake when visited.

#### **Checklist: rousing procedure**

##### **Can they be woken? (If asleep)**

The cell must be entered and an initial attempt made to wake the detainee by voice and then, if necessary, by shaking them gently.

##### **Response to questions**

The detainee should be asked simple questions (What is your name? What is your address? Where are you?) And the questions and appropriate answers recorded on the custody record.

##### **Response to commands**

The detainee should be asked to comply with simple commands (lift your arm, hold up your hand, open your eyes) and should respond appropriately. The requests and responses should be recorded on the custody record.

### 6.13.3 Level 3 – Constant Observations

If the detainee's risk assessment indicates a heightened level of risk to the detainee (e.g., self-harm, suicide risk or other significant mental or physical vulnerability) they should be observed at this level. It includes the following actions:

- The detainee is under constant observation and accessible at all times
- Physical checks and visits must be carried out at least every 30 minutes
- CCTV is constantly monitored (other technologies can also be used)
- Any possible ligatures are removed
- The detainee is positively communicated with at frequent and irregular intervals
- Review by the HCP in accordance with the relevant service level agreement.

The purpose of CCTV (see section 2.15 – [CCTV](#)) cell monitoring should be recorded in the custody record together with the name of the designated officer or member of custody staff who is responsible for the monitoring. Officers and staff must consider issues of privacy, dignity and gender.

Constant observations must be based upon the risk assessment rather than the availability of staff and cannot be used in place of close proximity observations (see section 4 – [Risk Assessments](#)). An officer engaged in this duty must not monitor more than 4 detainees on a split screen and must not engage in any other duties or activity that might distract them from continuously viewing the CCTV. Officers must record the purpose of this control on the custody record along with the name of the officer responsible for monitoring the detainee.

#### **6.13.4 Level 4 – Close Proximity Observations**

Detainees at the highest risk of self-harm should be observed at this level. It must include the following actions:

- The detainee is physically supervised in close proximity to enable immediate physical intervention to take place if necessary
- CCTV and other technologies do not meet the criteria of close proximity observation but may complement it
- Issues of privacy, dignity and gender are taken into consideration
- Any possible ligatures are removed
- The detainee is positively communicated with at frequent and irregular intervals
- Review by the HCP in accordance the relevant with service level agreement.

Every officer or member of custody staff required to conduct close proximity supervision must be fully briefed by the custody officer with regards their role, the needs of the detainee and the risks presented by the detained person. They must be fully trained and equipped to respond accordingly. If there is a requirement to rouse, this must be done by a trained officer or member of staff. Any changes in the detainee's condition must be brought to the custody officer's attention immediately.

All briefings or handovers, provided by the custody officer to a member of custody staff or a police officer who is to be engaged in the close proximity supervision of a detainee, must be recorded on the Custody Record. The identification details of the officer or member of custody staff engaged in such roles must also be recorded at the same place in the Custody Record.

Section 4 – [Risk Assessments](#) provides further guidance of specific conditions/situations where constant observations are required and, in particular, in relation to a [restrained detainee](#) (and [positional asphyxia](#)). Officers conducting this duty must not engage in any other duties or activity that might distract them from their role.

## 6.14 Healthcare Provision

Section 4 - [Risk Assessment](#) addresses the considerations and actions required of the custody officer and others in relation to conducting risk assessments and responding to medical issues.

### Further Information

[College of Policing APP – Detention and Custody – Risk Assessment](#)

Healthcare support is provided by a private contractor with whom a Service Level Agreement has been agreed. Officers requiring a Fitness to Detain, Fitness to Interview or a Healthcare Plan for a detainee should place a request with the service provider for a HCP to attend as soon as is practicable. They should not agree to an appointment and, if the service provider indicates that the HCP cannot attend until a certain time/the next shift, it should be recorded on the custody record. A failure or inability to comply with the Service Level Agreement impacts on custody service provision and increases the risk of an adverse incident. In particular, where the request relates to a detainee affected by drugs, alcohol or a pre-existing medical condition or where the detainee is under constant observations, the risk to that detainee's welfare is greatly increased the longer the delay.

The service provider will triage requests and, where it is considered that a telephone consultation or a delayed attendance is appropriate this must be recorded on the custody record. The custody officer retains responsibility for the detainee's safety and welfare and may decline to accept the recommendation and should record their reasoning on the record. Where they believe that it is warranted, the detainee should be taken to hospital even if a HCP has indicated that they do not think that this is necessary (this is also the case where detainees arrive in custody after having been seen by ambulance crew/paramedics prior to or at the time of their arrest).

A detainee may request an independent examination at their own expense, but their doctor may decline to attend. The request, actions taken, and result must be recorded on the custody record.

## 6.15 Medication

### Further Information

[Faculty of Forensic and Legal Medicine: guidance on the safe and secure administration of medication in police custody](#)

The custody officer is responsible for:

- The safe keeping of any prescription drugs relating to a detainee in a secure store/receptacle and in the manner required (for example, refrigerated)
- Ensuring that medication is made available as directed in the correct dosage at the correct time and that they have the opportunity to self-administer as directed and under supervision. (self-administration provided that both the HCP and custody officer agree it is safe for the detainee and staff)
- Consulting an appropriate HCP before a detainee is allowed to take or use drugs prescribed for them prior to their detention (and noting this on the custody record)
- Ensuring that the detainee is allowed to use/apply the drugs as directed



- In the case of drugs listed in [Schedule 4](#) or [Schedule 5](#) of the Misuse of Drugs Regulations 2001, obtaining authorisation from an appropriate HCP (by telephone if necessary) before distributing them to the detainee for **self-administration** provided that both the HCP and custody officer agree it is safe for the detainee and staff
- Ensuring that drugs listed in [Schedule 2](#) (which includes methadone) or [Schedule 3](#) of the Act or insulin injections are only **self-administered** by the detainee under the personal supervision of an appropriate HCP who has authorised their use or other HCP
- Deciding whether, based on the risk assessment, to allow a detainee with asthma or angina to retain their inhaler for self-administration as needed (subject to checks to confirm the inhaler is genuine and does not contain contraband)
- Ensuring that adequate checks are made to ensure that the medication presented is what is claimed by the detainee or others and that it has not been tampered with and if necessary seeking the advice of a HCP.

The appropriate HCP must provide clear written instructions for the custody staff on the detainee's medical form including:

- The detainee's name
- The name of the prescribing HCP
- Medication strength and quantity (number of tablets or capsules) required at stated times
- Written instructions, for example "to be taken with" or "without food"
- Disposal of unused medication, for example, if released or transferred from custody (the collection and disposal of drugs prescribed by the service provider is their responsibility in line with local arrangements)

Where possible, two members of staff should be present when medication is dispensed to provide additional safeguards when checking that the correct medication is being given in the correct dosage to the right detainee at the appropriate time. Care must be taken to ensure that the detainee takes the medication and does not hoard it. If a detainee refuses medication, staff should inform an HCP. The dispensation of medication (or refusal) must be recorded on the custody record. Any missed dispensations should be raised with a HCP and their directions followed.

### 6.15.1 Methadone

Methadone is listed on [Schedule 2](#) of the Misuse of Drugs Regulations 2001 and consequently can only be self-administered under the personal supervision of an appropriate HCP who has authorised its use.

If a detainee requests that methadone is collected on their behalf, this should only be done where they will be in custody when they are due to take it and are not likely to be released at a time when they would be able to attend a pharmacy. Alternative treatments may be prescribed by a HCP if needed. If the detainee is required to take their methadone in the presence of a pharmacist, this level of supervision can only be replicated if they are in custody and it would be inappropriate (and potentially dangerous) to allow them to leave with it. A HCP will not be able to authorise self-administration of methadone within the first 6 hours of detention, consequently, methadone shouldn't be collected if the detainee will be released within a short period of time.

### 6.15.2 Unused Medication

When the detainee is released or transferred, custody staff should ensure any unused medication is disposed of in accordance with the instructions provided by the HCP, recording the method of disposal on either the custody record or medication form.

Local Service Level Agreements with the individual private Healthcare Provider include provision of the disposal of drugs prescribed by them including a secure suppository for storage whilst awaiting collection.

All medication should be securely stored.

Any medication that was brought in with the Detainee may be taken with them.

This includes a movement book that must be completed for all medication. The inclusion of controlled drugs that the courier is not authorised to carry could have legal consequences for the contractor and must not be allowed. In such circumstances the drugs should be returned to the detainee/placed in their property (prescription drugs lawfully possessed by them) or disposed of in accordance with local arrangements and the custody record so endorsed and the detainee informed. Where a person is transferred to another location (court, prison, immigration centre etc.) sufficient prescribed medication must be transferred with them, with clear instructions on dispensation, to meet their medical needs.

## 6.16 Medical Emergencies

Action to be taken in a medical emergency:

- Apply [First Aid](#) Training and, if appropriate, CPR supported by First Aid Equipment provided
- Call an ambulance immediately and arrange for an escort (preferably officers not involved in the incident) to accompany the casualty to hospital.
- If a [HCP is at the station](#), ask for assistance and follow their direction
- If no HCP is available, follow the directions given by the call handler/advisor handling the 999 call - consider communication needs between the location of the medical emergency and the officer on the phone: ambulance control will re-evaluate the priority of the call as the situation develops and will need to know the current state of the casualty to do this.
- Where the casualty is a detainee, the custody officer must complete a PER form to accompany them unless there is insufficient time in which case the PER form must be completed post-dispatch and forwarded to the officers at the hospital. The custody officer must also verbally brief the escorting officers to ensure that they fully understand the situation and any risks.

If a Police vehicle is used to transport a detained person to hospital because NHS professionals are unable to attend sufficiently quickly, or because an ambulance is not available within a reasonable time, then the force must conduct a full review of the circumstances.

See section 11 - [Death or Serious Injury and Successful Interventions](#) for post incident actions.

## 6.17 Return from Hospital

When a detainee returns from hospital:

- They should be searched ([PACE s. 54](#))
- The escorting officers must ensure that, when leaving the hospital, they have all relevant information (results of scans, tests etc.) relating the detainee's treatment there and any information needed on how to care for the detainee after their return to custody. This must be in writing (on the [PER form](#) or in another documented format in accordance with local protocols).
- The PER form must be returned to the custody officer and any additional risks brought to their attention.
- Any case notes or information from the hospital relevant to their on-going treatment must be passed to a HCP at the station who should examine the detainee and provide advice as to any control measures required. If a HCP is not at the station then one must be requested. Telephone advice may be given to bridge the gap between the detainee's return and their being examined.

## 6.18 Actions When Treatment Refused

The police duty of care continues irrespective of whether medical professionals refuse to treat the detainee or if they are refused admission to hospital or they refuse treatment themselves. In these circumstances, healthcare staff should be asked to provide instructions in writing about the care, treatment and, if appropriate, transportation of the detainee. An explanation of why treatment or admission was refused should be included. Violence and /or intoxication should not in themselves be a bar to admission.

If the escorting officers do not agree with a decision by hospital staff to discharge a detainee or refuse treatment or admission they should:

- Discuss their concerns with the HCP who has made the decision
- Consider requesting a second opinion or escalation to a more senior staff member
- Request that the hospital staff discuss the issues with the police HCP and/or the custody officer
- The detainee will be brought straight back to custody once discharged. If a medical concern still exists and the HCP feels this would be better managed at hospital, they should be placed on open door constant with medical supervision by the HCP, whilst the appropriate escalation procedures are put in place with the senior duty HCP or on-call consultant for Mitie. If the condition of the detainee deteriorates, an ambulance should be called.
- If returned to custody the procedures in Section 4 – [Risk Assessments](#) and at 6.17 – [Return from Hospital](#) above should be followed.

## 6.19 Bedwatch Policy & Procedure



Bedwatch Policy and  
Procedure - Review A

## 6.20 Welfare and Safety

### 6.20.1 Clothing

Detainees must be provided with suitable replacement clothing when theirs:

- Has been seized
- Is contaminated, soiled, damaged or missing
- In the current circumstances is not sufficient to ensure that their dignity is maintained
- Is considered to provide a potential a risk to their welfare by the custody officer (ligatures)

Any removal/replacement of clothing must be justified and recorded on the custody record. Increasing observation levels to constant/close proximity may be more appropriate where there is a risk of self-harm in certain circumstances, for example, where it is believed that the removal of the clothing would increase the detainee's distress and risk of self-harm.

### 6.20.2 Bedding

See section 6.3 – [Cell Inspections](#) and 4.13.2 – [Universal Precautions](#) for details on the provision of bedding, handling, and sanitary requirements

### 6.20.3 Toilet and Sanitary Facilities

Toilet paper should be provided giving several sheets to Detainee on RA basis ready for use. This follows a recent HMIC recommendation. Toilet paper has been successfully used to commit suicide and, where there is a heightened risk; extra care is required to ensure that a detainee is not requesting additional amounts with self-harm in mind. Under exceptional circumstances, subject to the custody officers risk assessment, extra control measures may be required.

Female detainees should be asked at the earliest opportunity, in private if possible, if they require or are likely to require, any menstrual products whilst they are in police custody and, if so, inform them that they will be provided free of charge including any replacements.

Detainees who request a shower should be allowed access to one whenever practicable particularly those in custody over a 24 hr period. The request and outcome (including the reasons for any refusal) must be recorded on the custody record.

### 6.20.4 Food and Drink

Custody officers should monitor detainees' food and fluid consumption to ensure that their welfare is maintained. Custody Officers and those providing meals should establish whether the detainee has any dietary requirements or allergies and provide meals accordingly. Officers conducting visits and providing meals should inform the custody officer immediately if any detainee appears to be eating or drinking so little that it may affect their wellbeing. A HCP should see the detainee in these circumstances and concerns should form part of the handover between custody officers.

Detainees should be offered at least two light meals and one main meal in any 24 hour period ([PACE Code C](#) paragraph 8.6). These should be offered at normal meal times where practicable and at other times taking into account the detainee's needs. Generally detainees should be provided with a meal when they request one unless there is good reason not to. This is particularly so when they arrive in custody – the fact that most people consume their evening meal at around 1800hrs should not preclude a person who arrives in custody later from eating.

Drinks should be offered with meals and at other times, for example, when engaging with detainees during visits (see 6.4 – [Cell Visits](#) and 6.13.1 – [Level 1 General Observations](#) above). Any offers or requests for food or drink, as well as whether food or drink was provided and the reason for refusing if applicable, must be recorded on the custody record.

An individual's religious requirements, health needs and life choices should be accommodated as far as is practicable and, if necessary, the advice of a HCP should be sought on medical and dietary matters. Local arrangements should be put in place to provide a uniform approach in custody to specific religious events that will affect a significant proportion of the population, for example, during Ramadan.

Although the custody officer has the discretion to allow meals to be supplied by a detainee's family or friends at their expense, they should only consider doing so if it is necessary to meet strict dietary or religious needs that cannot be met by the food available in custody or sourced externally by the police themselves. The risk of contraband being smuggled to the detainee in this way and the logistics of managing the food's storage and handling in accordance with legislation and effectively searching it makes this practice generally impractical. Where food is accepted it must be thoroughly checked (see section 5.10 – [Property Retention](#) above).

### **6.20.5 Choking**

A person may choke accidentally or attempt to do so to self-harm (see section 6.20.3 [Toiletry and Hygiene Facilities](#) above). Officers should ensure that they investigate any instance where a detainee uses the Cell Call System but does not speak or cannot be understood and that food, food packaging and toilet paper are not left in the cell any longer than necessary (food containers and eating utensils should be removed from the cell on the next visit or sooner after being given to the detainee and an entry made on the custody record).

#### **Further information**

[FFLM guidance on managing choking in police care and custody](#)

### **6.20.6 Cutlery and Crockery**

Eating utensils should be sourced from specialist suppliers. Despite their being designed to minimise the possibility that they can be used to self-harm, the risk cannot be completely negated.

Care should be taken to ensure that all eating utensils are accounted for when removing food containers and, in the case of high risk detainee's consideration should be given to supervising their meals. Custody staff using cups, crockery and cutlery in the custody area must ensure that detainees are not given the opportunity to access it.

The IOPC have issued a [national recommendation](#) to highlight that plastic cutlery can be used to self-harm, that cutlery and crockery should be removed from cells immediately after use.

## 6.21 Breaks from Interviews for Refreshments

Welfare breaks during interviews should be taken at recognised meal or if needed due to the detainee needing to eat and in any case, short breaks should be taken at approximately 2 hour intervals unless the interviewer delays the break believing it would:

- Involve a risk or harm to people or serious loss of, or damage to, property or
- Would unnecessarily delay the detainee's release or
- Otherwise hinder the investigation

Breaks for meals should be 45 minutes long and refreshment breaks 15 minutes. Where a break is delayed a longer break should be provided except if one or more of the reasons shown above apply.

Where a detainee is in interview (or elsewhere) when meals are being distributed, they should be offered and meal and drink at the next opportunity.

## 7. Equality and Individual Needs

### 7.1 Female Detainees

There are fundamental differences between males and females being dealt with within the criminal justice system ([The Corston Report 2007](#)) and therefore a different and distinct approach is needed when dealing with females in custody.

The custody officer must:

- Ensure that a female under the age of 18 is placed under the care of a female (see below)
- Ensure that all female detainees have access to female staff (see below)
- Consider the physical and medical welfare needs of the detainee (including the possibility of menopause (see section 7.1.2 - [Assistance with Menopause](#)) or menstruation) and ensure that a [hygiene pack](#) is offered to them and that they are aware of their availability
- Consider issues of childcare and dependents, especially in regard to lone parents and foreign nationals (see section 2.9 - [Detainees with Caring Responsibilities](#))
- Consider the effects child separation, particularly from a baby or infant, and control measures that can be put in place
- Consider [domestic and sexual abuse issues](#) and ensure that appropriate action is taken



- Consider issues of dignity and privacy when deciding the location where the detainee should be searched
- Ensure that replacement or additional suitable clothing is offered where appropriate to ensure the detainee's dignity is maintained (see section 6.20.1 – [Clothing](#))
- Ensure that, where a detainee is known to be pregnant or where it is a possibility, that they are seen by a HCP (see section 4.1.3 - [Fitness to Detain](#)) due to the possibility of heightened levels of physical and mental vulnerability and that this is taken into account when considering modes of transport, restraint and in making food and drink available and other welfare considerations such as cell selection
- Consider increased risks of self-harm and [mental health issues](#)
- Consider increased likelihood of [drug addiction and/or alcoholism](#) and ensure, where local support is available and appropriate, a referral is made

#### Further information

[Faculty of Forensic and Legal Medicine's guidance for managing of pregnant drug or alcohol-dependent patients in custody](#)

#### 7.1.1 Access to or Care by Female Staff

[Females under the age of 18](#) must be "[under the care of a woman](#)" whilst being detained, transported or in custody for any other purpose. The assigned person should be a member of the custody staff unless none are available, in which case they may be a police officer or member of support staff on duty at the station or unit where the female is detained should be used. If none are available, an officer from outside the station should be identified for the role. The role can be shared by more than one female carer. Subject to the risk assessment, the carer need not necessarily be physically present and with the detainee at all times but they must be readily available and assigned to the detainee throughout their detention unless the responsibility is handed over.

The custody officer must:

- Tell the detainee that she can speak to the carer at any time
- Ensure that the assigned officer [visits](#) the detainee to check on her welfare as soon as possible following the detainee's arrival in the suite
- Record the details of the assigned officer/staff member on the custody record

Females aged 18 and over must have access to a female member of staff who is responsible for checking on their welfare needs. The selection of the assigned person is as per that for the carer for a female under 18.

The custody officer must:

- Tell the detainee that she can speak to the staff member at any time
- Provide access to the nominated member of staff promptly and, in any case, as soon as is practicable after it is requested
- Record the details of the assigned officer/staff member on the custody record

All visits by the carer/female member of staff, the outcome of the visit and actions taken and changes to the person undertaking the role must be recorded on the custody record.

### **7.1.2 Assistance with Menopause**

Females transitioning through menopause should be offered additional support if requested including HCP screening, signposting to support services/L&D, hygiene packs, additional breaks in the exercise yard and showers.

## **7.2 Disabled Detainees**

Police forces are subject to the [Equality Act 2010](#) and custody officers and staff must facilitate any reasonable request for adjustments to accommodate a disabled person's additional needs without compromising the overall safety and security of the suite or other users. Whilst a person is under no obligation to disclose a disability, the custody officer should consider making reasonable adjustments where it appears appropriate and ask about any additional needs or requirements, if necessary, seeking additional advice from a HCP or, with the detainee's consent, family, friends or carers.

In particular, in assigning a person to a cell, consideration must be given to:

- Alternative control measures that might be more appropriate to using a cell
- Their access to the call system
- The suitability of the mattress height to facilitate ease of movement
- Access to toilets and sinks/running water
- The appropriateness of allowing a person to retain any medical appliance or equipment in the cell and the impact of this on the risk assessment and observations levels (bearing in mind that placing the detainee on [Level 3 Observations](#) may be considered a reasonable adjustment if it is necessary to accommodate a disabled person's additional needs and maintain their dignity)
- The location of the cell within the suite relative to HCP, evacuation points and other facilities

Where communication is an issue, appropriate support should be provided per [PACE Code C](#) paragraph 1.6 and 3.20 (see section 2.19.2 [Appropriate Adults](#) and provision of [Interpreters](#)).

All staff must complete the training provided and maintain their knowledge of the [Equality Act 2010](#) as directed by their local force and ensure that they are familiar with operating any equipment, such as hearing loops, specialist evacuation equipment for persons with limited mobility and other similar equipment.

## **7.3 Guide Dogs**

Whenever possible, assistance dogs should remain with their owner including when they are in a cell in which case staff should remove the harness and lead. If the dog cannot remain with the

owner, appropriate sighted or hearing support must be provided. In such cases the dog must be kept in an office or other such room (not a kennel, yard or with other dogs) and the owner informed. The dog must be provided with a blanket, water, access to an area to relieve itself and food (provided or as directed by the owner or the local [district team](#) (if available) or out of hours: National Duty Manager on 0870 609 2219. Guide dogs emergency support services

#### Further information

[Guide Dogs](#)

[Hearing Dogs for Deaf People](#)

## 7.4 Religious and Cultural Needs

Detainees should be asked if they have any religious, cultural or dietary needs during the booking in process and, wherever practicable, these should be accommodated. Where they cannot be for operational reasons, this should be explained to the detainee. The custody officer should record any religious or cultural needs on the custody record, as well as any inability to meet them (and the reason why) and include these needs in any handover process. A detainee's decision not to disclose any information must be respected and assumptions as to religious or other needs should not be made.

Detainees should have access to:

- Appropriate religious texts
- Meals that reflect their religious, cultural or life choices
- (For Muslims) information regarding the direction of Mecca
- Washing facilities to meet religious obligations
- Designated rooms for prayer or contemplation when available and subject to resources

Most religions advocate fasting at various times of the year (Sikhism being an exception) and detainees' may request custody staff wake them at a particular time, inform them when they are due to pray or provide meals at specific times of the day (see section 6.20.4 - [Food and Drink](#)). Such requests should be accommodated whenever possible and local arrangements followed to ensure a corporate approach to major religious events (for example, Ramadan).

Where items of religious significance are to be taken from the detainee under [PACE s. 54](#), the views of the detainee as to how they should be stored should be respected wherever practicable. Similarly, if a detainee is required to remove clothing (head coverings, veils etc.) this should be done in line with their religious and cultural beliefs as far as is practicable. In addition to searches in accordance with [PACE s. 54](#), a person may be required to remove such items facilitate a search where a person is brought to a police station for that purpose and not under arrest, to establish their identity and/or to take photographs of identifying marks or injuries and to take their photograph.

Such searches should be:

- Fully explained to alleviate confusion or distress
- Conducted in a private room by officers of the same gender where they won't be interrupted

- Recorded on CCTV if practicable if the search is non-compliant and the appropriate use of force records and custody entry made

Any items of religious significance removed in the course of the search should be treated with respect and stored securely if retained. If the detainee is to be left without religious or culturally required head wear or coverings (and alternative clothing or solutions cannot be provided) their views regarding persons of the opposite gender seeing them should be sought and if necessary, control measures put in place and an entry included on the custody record and the requirement included in the handover. If the detainee's wishes cannot be complied with, the reasons must be recorded on the custody record and alternatives to removing the clothing considered (including the possibility of placing them under constant observations). Prior to release the clothing must either be returned or replacement clothing provided. Where a detainee arrives and they are not observing a religious requirement regarding clothing, any request to subsequently comply with the requirement should be considered by the custody officer and the grounds and decision recorded on the custody record.

#### **Further Information**

Police and Criminal Evidence Act 1984 [Codes of Practice A, C and D](#)

## **7.5 Foreign National Detainees**

In addition to language and communication issues, foreign nationals, depending on their origins, may experience unwarranted anxiety and apprehension as a result of being in custody. Their expectation as to how matters will be progressed, and their rights honoured may also be inaccurate. Custody officers should, at an early stage, engage with the detainee to reassure them about their safety, treatment and their rights using an interpreter (Language Line) if appropriate. The interpreter should also be used to make the detainee aware of what will happen going forward, including that they may be placed in a cell, their entitlements in respect of blankets etc. the cell call system and, if appropriate, the right to speak to a female member of staff and the availability of hygiene packs. The detainee should be given an opportunity to ask questions in respect of their rights, entitlements, custody processes and any other matters of concern before any interpreter is released.

### **7.5.1 Identification**

Custody officers must ensure that all relevant foreign national data is collected during the booking in process and that appropriate steps are taken to verify the detainee's identity. Where the detainee has a passport or national ID card, the custody officer should satisfy themselves as to their authenticity. Where a detainee is in custody and it is:

- Suspected they may not be a British Citizen
- Suspected they have committed an offence and
- Believed that documentation relating to their nationality may be found at:
  - Premises occupied or controlled by them
  - Premises they were in when arrested or
  - Premises where the detainee was immediately prior to arrest

An inspector may authorise a search for the documents ([UK Borders Act s. 44](#)).

An application may be made to a JP for a warrant to search other premises ([UK Borders Act s. 45](#))

#### **Further Information**

[Home Office - Guidance on examining identity documents 2015 produced by the National Document Fraud Unit](#)  
National Document Fraud Unit (0203 51302990) or the Local UK Border Force office

### **7.5.2 Rights and Entitlements of Foreign Nationals**

In addition to the fundamental rights of all detainees (see section, 2.16 [Rights and Entitlements](#) and 2.19 [Detainee Support](#)) a foreign national must be made aware of their right to have their high commission, embassy or consulate as appropriate informed of the grounds for their detention and their whereabouts and their right to communicate with them at any time. The detainee's decision must be recorded on the custody record and, where they wish to exercise all or part of this right, their decision must be acted upon without delay. Consular visits must be facilitated and must take place in private.

Where the UK shares a bilateral consular convention or agreement with the detainee's country of origin, the high commission, embassy or consulate must be informed as soon as practicable after the detainee's arrival. Guidance is available from the United Kingdom Visas and Immigration (UKVI) service regarding which countries this is relevant to.

### **7.5.3 Right to Not Have High Commission, Embassy or Consulate Informed**

Where a detainee indicates that they are a political refugee or seeking political asylum and they do not wish to have their high commission, embassy or consulate informed of their arrest and whereabouts and a bilateral agreement exists, notification should be delayed and the UKIV Directorate must be contacted as soon as practicable. They will decide whether compliance with relevant international obligations requires notification of arrest be sent and will direct the custody officers' actions. Such directions should be recorded on the custody record and complied with. In these cases the custody officer must not share any information about the detainee with their high commission, embassy or consulate, or allow them access, without the detainee's permission. UKIV must be informed of asylum request as soon as is practicable after they are made.

### **7.5.4 Documents to be provided in Detainee's First Language**

[PACE Code C](#) paragraph 13 and Annex M provide direction on the provision of interpreters and the essential written documents that must be provided to a detainee in their own language to '*safeguard the fairness of the proceedings, in particular by ensuring that suspected or accused persons have knowledge of the cases against them and are able to exercise their right of defence*' to meet the minimum requirements of European Directive 2010/64/EU. These include the detainee's [general rights and entitlements](#) whilst in custody ([PACE Code C](#) paragraph 3.2), and the grounds for detention, detention following reviews and extensions (available on the NICHE Custody System).

### **7.5.5 Human Trafficking and Clandestine Entry into the UK**

The custody officer should be aware that foreign nationals who have entered the UK illegally may have suffered severe deprivation to do so. Such people are likely to be the victims of human traffickers who would have had little or no regard for their safety and welfare. They may be malnourished, dehydrated, and traumatised. Where the detainee has been detained trying to enter the UK or shortly after their arrival, they should be seen by a HCP to assess their medical and welfare needs. They should be provided with meals, drinks, blankets and changes of clothing and be given access to washing facilities.

Those detained in relation immigration offences are subject to the provisions of PACE and the Codes of Practice. This includes the right to free independent legal advice. Once those matters have been dealt with (or where the detainee was brought into custody only for holding purposes on behalf of UKIV) and an IS91 has been served, PACE time limits etc. will cease to apply.

### **7.5.6 Additional Actions Required**

The custody officer should:

- Ensure that all of the information required from the detainee is obtained and recorded on the custody record and submit a G961 form to FIB (via a workflow on NICHE)
- Ensure that the detainee's fingerprints are checked against the Immigration Database

The investigating officer should:

- Conduct wanted and missing checks via the FIB or directly using the Interpol website: [Interpol Red Notice \(Wanted\)](#) and [Interpol Yellow Notice \(Missing\)](#)
- Contact the Local Immigration Team directly or the Home Office Command and Control – 0161 2611640, to conduct immigration checks.
- Where remand is being considered, liaise with the force Interpol Liaison Officer regarding the potential of obtaining foreign convictions whilst the detainee is in custody
- Ensure that an IM3 is served on a detainee who is charged with an offence

### **7.5.7 European Arrest Warrants**

All detainees arrested under a Trade and Cooperation Agreement Arrest Warrant (TACAA) must be placed before an extradition judge sitting at the City of Westminster Magistrates Court.

Immediately following arrival at the suite, the transport contractor must be notified and the City of Westminster Magistrates Court contacted on 02031263234 (Police Liaison) or 0203 1263248 (Customer Service) and refer to below guidance.

- All trained Officers including Support Staff can take the samples for these detainees
- Non PACE offence Samples taken only to verify ID with the authority of an inspector or with consent of the detainee.
- Contact PNC Bureau for A/S number on every occasion.
- The detainee has been asked to provide their name and date of birth prior to the taking of samples.
- Disposal - 'To Court on Warrant'



### 7.5.8 Foreign National Conviction check.

This should be carried out immediately a foreign National is booked into custody.

It should be carried out in relation to the person's nationality and not necessarily their place of birth. Consider that children of serving forces personnel born overseas are British nationals because they were born in Germany or Hong Kong they do not automatically become nationals of that country.

The form can be found on NICHE – Documents - Right click – New – ACRO – Foreign National Convictions

## 7.6 Trans-persons

[The Gender Recognition Act 2004](#) introduced legislation that allows transsexuals to gain legal recognition of their acquired gender with all of the accompanying entitlements where a Gender Recognition Certificate (GRC) has been issued ([section 9](#)), however, for the purpose of the treatment of detainees, the absence of such a certificate should not preclude the person being treated as if one had been issued where the detainee wishes it to be so.

**Transgender** people have the protected characteristics of gender reassignment. The term applies to people proposing to undergo, undergoing or who have undergone a process (or part of a process) for the purpose of reassigning their sex by changing their physiological or other attributes to that sex. A person does not have to be under medical care to meet this definition.

If a detainee arrives in custody and expresses a desire to change the way they are dressed, they should be provided with alternative clothing and, if requested, allowed access to washing facilities.

### 7.6.1 Confidentiality

[Section 22](#) of the Act defines any information relating to a person's application for, or possession of, a GRC or to their original gender as **protected information**. It is an offence for any officer or staff member, who has gained this knowledge in the course of their official duties, to disclose this information to anyone except under certain circumstances including where;

- The information does not enable the person to be identified
- The detainee consents
- The person making the disclosure does not know or believe a GRC has been issued
- It is in accordance with an order of a court or tribunal
- It is for the purpose of proceedings before a court or tribunal
- It is for the purpose of preventing or investigating crime

An offence could be committed if the existence of the GRC were recorded on the custody record and it was shown to a custody visitor or solicitor and therefore every effort should be made to avoid recording protected information on the custody record.

### 7.6.2 PNC and Gender Reassignment Markers

A person in possession of a GRC may obtain a new birth certificate recognising their acquired gender. If a detainee makes the custody officer aware of this, subject to verification, the following information should be sent to the National Intelligence Service (NIS):

- The detainee's full name
- Date of birth
- Their new gender
- CRO/PNC ID
- Confirmation that the officer has verified the GRC and birth certificate.

A gender reassignment information marker will then be added to the detainee's PNC record. A new PNC record will be created linked to the previous.

## 7.7 Naked or Exposed Detainees

A detainee who is partially clothed (to an extent that their dignity is at risk) or naked should only be observed or directly supervised by persons of the same gender. Clothing, which, if removed will leave the detainee exposed or naked, should only be removed by officers of the same gender and with no one of the opposite sex present, and if authorised by the custody officer. This may not be possible where an intervention cannot be delayed (for example, where a detainee is self-harming or an assault is taking place) or where there are no staff of the gender required available and supervision/intervention must continue until appropriate staff can be resourced (for example, where an officer is conducting constant observations (by [CCTV](#) or in [close proximity](#)) and a detainee removes their clothing). The welfare and safety of the detainee is paramount.

### 7.7.1 Self-Harm

On discovering that a detainee is using clothing to self-harm the officer/staff member must alert their colleagues so that they can assist and then the engage with the detainee and, if it is safe to do so, attempt to remove any ligature, if necessary, utilising a ligature cutter. Following the intervention, they inform the custody officer (if they are unaware) and record the intervention, in detail, on the custody record. If force has been used, complete a Use of Force Form.

The custody officer must attend an incident where a detainee is self-harming to take charge and ensure that the situation is correctly addressed and that any medical needs are addressed. Where a Custody Officer of the same gender as the detainee is not available and the detainee has removed clothing so that they are exposed or naked, this must be recorded on the custody record. In this situation, any officers of the opposite gender should be removed from the scene as soon as there is enough staff of the same gender to exercise sufficient control over the detainee. In these circumstances, the custody officer should, as far as practicable, remain where they do not have sight of the detainee but are in close proximity and audio range.

Following the incident, the custody officer must ensure;

- That they make an entry on the custody record detailing their involvement, details of the officers that were present and actions taken and post incident measures put in place
- That a near miss/adverse incident/successful intervention report is submitted
- That the officer(s) who discovered the incident make an appropriate entry on the custody record
- That all officers who have used force complete Use of Force Forms
- That the detainee's Risk Assessment is revisited and updated as necessary
- That any further control measures implemented or considered are properly documented, including;
  - Changes to observation levels
  - The provision of tear resistant clothing
  - The use of restraints (see section 4.8 - [Use of Restraint in Cells](#))
  - Transferring the detainee to another suite (where supervision by same sex staff is possible)
- That the inspector responsible for the suite is made aware of any detainee who remains naked or exposed, the control measures in place and actions being taken

Where a detainee has removed clothing to use as a ligature the custody officer must consider whether the detainee is sufficiently clothed to maintain their dignity post incident. Replacement clothing (potentially tear resistant) should be offered although the detainee cannot be made to wear it.

If the custody officer decides that all or some of the detainee's clothing is to be removed to an extent that they will be left exposed or naked, they will only authorise this once they have tried the use of restraints but it is no longer appropriate or they have considered restraining the detainee but have concluded that it is inappropriate and there are no other control measures that would be effective (the detainee's clothing cannot be removed as an alternative to placing them on [Level 3](#) or [Level 4](#) Observations). The decision to deprive a detainee of their clothing must be kept under constant review and should last no longer than is absolutely necessary.

### **7.7.2 Mental Ill Health and Exhibitionism**

Detainees who have removed their clothing but who do not exhibit any intention to self-harm should be dealt with and supervised by staff of the same gender in line with the above guidance. The custody officer must be informed and they should revisit the Risk Assessment, updating it if necessary. The inspector responsible for the station must be informed and advised about any control measures put in place where the detainee cannot be persuaded to dress themselves (force must not be used). The detainee should be seen by a HCP, if appropriate, to assess their welfare needs and to advise the custody officer. Prosecution should always be considered where it is in the public interest or, potentially, an out of court disposal may be offered or No Further Action taken if appropriate.

The advice of the HCP may assist the custody officer's decision making, for example, behaviour solely attributable to a detainee suffering from dementia would not meet the public

interest test to prosecute or caution whilst a detainee deliberately exposing themselves whilst intoxicated would most likely do so. In addition to offences that might be committed contrary to [The Public Order Act 1986](#), including sections 4 and 5 (a custody suite is a “public or private place” and not “a dwelling”) and [The Sexual Offences Act 2003, Section 66](#) (Exposure) there is a specific offence of indecent (Offence Code H4095) or violent behaviour (Offence Code H4096) in a police station contrary to [Section 29, Town Police Clauses Act 1847](#), which may be appropriate (see PNLD for current wording and penalties – One Month Imprisonable or a Fine on Summary Conviction). Custody officers should be minded that they and their staff should be afforded some degree of protection from such behaviour and that those engaging in it should face an appropriate penalty to discourage them both whilst in custody and elsewhere.

## 8 Children and Young People

Custody officers should prioritise the booking in (and other processes such as return from interview) of juveniles and young people to minimise the time that they spend in the general custody area. The decision whether or not to authorise the detention of people under the age of 18 should only be made after careful consideration of the necessity for their being in custody, the timing of the arrest (especially if it will result in their being detained overnight) and any apparent vulnerabilities (see section 2.5 – [Handover to Custody Officer](#), and [PACE s. 24](#) and [Code G](#)). The necessity to remain in custody is under constant review and the continuing necessity to detain a person under 18 must be carefully scrutinised when inspectors are conducting reviews. Whenever possible, investigation plans should be designed to ensure that the time a person under 18 spends in custody is minimised and consideration should be given RUI or bail, with or without conditions, until their attendance at the station is required, for example, while statements are obtained.

Previous sections provide additional information relating to detainee’s who are under 18 in relation to [Intimate and Strip Searches](#) (section 5.12), [Juveniles – Cell Allocation](#) (section 6.7), [Observation Levels](#) (section 6.13) and [Access to or Care by Female Staff](#) (section 7.1.1).

### 8.1 Assessing Vulnerability and Risk

Everyone working with children has a duty to keep them safe and custody officers and staff have a role to play in identifying concerns about a child’s safety and wellbeing, sharing information and taking prompt action when it is needed to protect them. Where a previously unknown or unrecognized risk to a child is identified, officers may need to make a referral or notification in line with local Safeguarding arrangements

When conducting the risk assessment, the assessor should be mindful that the persons age or physical maturity may not be an accurate reflection of their emotional maturity or their ability to engage and that they may be more vulnerable than they appear. The risk assessment should, in addition to addressing the generic risks, should also seek to identify if there are any specific risks affecting the individual child. Detailed information relating to the factors which increase risks to the safety and wellbeing of children and young adults can be seen in the College of Policing APP relating

to Custody and Detention – [Children and Young Persons](#). The following list, taken from the APP, provides a number of potential issues and risk factors that might impact on a child:

- Experience physical or mental health problems or conditions, particularly attention deficit hyperactivity disorder, conduct disorder or depression
- Need regular medication
- Be parents or expectant parents
- Have self-harmed or attempted suicide previously
- Have substance misuse problems
- Have literacy and numeracy levels below that expected nationally for their age
- Have specific difficulties with speech, language and communication
- Have difficulty expressing their views and participating in decision making
- Have low self-esteem and confidence
- Have been found to be in high levels of housing need, i.e. they may have been living in inadequate housing or placed in temporary accommodation, bed and breakfast or a hostel
- Be an unaccompanied asylum seeker
- Have been or are currently subject to child protection plans following emotional abuse, neglect, physical abuse and/or sexual abuse
- Be in care or eligible for leaving care services
- Be physically or emotionally immature
- Have a history of abuse, neglect or trauma
- Be currently, or were previously, remanded to local authority accommodation
- Be currently, or were previously, subject to a care order
- Be a victim of bullying – particularly if they present primarily as the perpetrators of harm towards others

#### **Further information**

[Working together to safeguard children: A guide to inter-agency working to safeguard and promote the welfare of children \(March 2015\) \(Working together\)](#)  
[National Concordat on Children In Custody \(Home Office Draft\)](#)

## **8.2 Complaints**

A person under 18 years of age must be made aware that they have a right to make a complaint if they do not feel that they are being treated fairly or lawfully (see also 2.20.6 [Complaints](#)).

## **8.3 Sharing Information and Duty to Cooperate**

The custody officer must ensure that concerns resulting from the detention of a person who is under 18 are relayed to the appropriate agency where they are to be released from custody and

- There are concerns about their welfare as a result of the risk assessments or other information
- There is a risk of harm to the child
- The information may allow other agencies to protect the persons welfare

The Youth Justice Board (YJB) must be informed when a person under the age of 18 is cautioned, conditionally cautioned or given a community resolution.

Officers should make referrals to the Local Safeguarding Children Boards (LSCBs) in accordance with [multi-agency arrangements for safeguarding](#).

## 8.4 Transporting Children and Young People

Detainees under the age of 18 should not be allowed to associate with adult detainees (unless the adult is jointly charged with them or a relative) while being detained, conveyed between custody and court or court and custody or awaiting transportation (except in vehicles authorised for the purpose per the 2011 Prisoner Escort and Custody Services' contract. This was issued as a seven year contract and is due for renewal. Custody staff should be mindful of this when placing young detainees in holding cells prior to their going to court or if detainees are to be transported between stations (for example, when a suite has been closed or detainees are being moved to free up space) and when they are in the general custody area.

## 8.5 Appropriate Adult Provision

All detainees under 18 years of age must be supported by an [appropriate adult](#). Initial contact with a parent or guardian should be made as soon as practicable after the detainee arrives in custody, irrespective of whether they will subsequently act as their appropriate adult (intimation of arrest cannot be delayed). An appropriate adult can attend the suite at any time and should be allowed access to the person they are supporting.

A person should be treated as being under 18 if they appear to be so and there is no clear evidence to the contrary (see section 2.20.2 [Appropriate Adults](#) and [PACE Code C](#) paragraph 1.5). Consideration should be given to having the detainee's age assessed by social services/HCP where they appear to be older than they claim. This is particularly so where the detainee may be in the UK unlawfully as there are major restrictions on how persons under 18 can be held and dealt with for immigration matters but may also be the case where a person hopes to avoid an adult sentence for a crime. If doubt remains the person should be treated as being less than 18 whilst in custody and the matter of age resolved by the court.

Whilst a parent or guardian should always be considered in the first instance, where this is not possible or appropriate ([PACE Code C](#) Guidance Note 1B see also section 2.19.2 [Appropriate Adults](#)). The choice of appropriate adult is the custody officer's. If necessary, an appropriate adult from the Appropriate Adult Scheme should be used.

For persons under who are under 18 who appear to have mental ill health or learning disabilities see section 9.2 [Provision of Appropriate Adults](#) below.

## 8.6 Detention on Remand, Warrant and Breach of Bail

For guidance on actions to be taken where a juvenile is charged and detained for court, see section 2.23.7 [Juvenile Remand](#).



Detainees of any age arrested for breach of bail ([Bail Act 1976 section 7](#)), on a warrant not backed for bail ([Magistrates' Court Act 1980 section 13](#)) must be kept in police custody.

### **8.6.1 'low risk' Juvenile Detainees**

Officers are encouraged to make use of the discreet booking in room (Euston St only) for all juvenile detainees where the risk assessment is low. This can be used for booking in, consultation and support intervention - but the juvenile must be supervised at all times by custody staff or a responsible/appropriate adult.

## **9 Mental Ill Health and Learning Disabilities**

The College of Policing has produced a dedicated [APP](#)

### **9.1 Detainees with Mental Ill Health and Learning Disabilities**

If the custody officer suspects, or is told in good faith, that a person of any age may be suffering from mental ill health or is otherwise mentally vulnerable, unless there is clear evidence to the contrary, the detainee must be treated as such ([PACE Code C](#) paragraph 1.4 and Annex E). The advice of a HCP should be sought as early as practicable to assist with establishing what control measures are required to ensure the detainee's welfare. Custody officers should prioritise the booking in (and other processes such as return from interview) of vulnerable adults to minimise the time that they spend in the general custody area.

APP guidance should be followed.

If a custody officer is concerned about the mental health of any detainee, it is important that the reasons for these concerns, together with any observations about the persons behaviour or anything relevant that they have said, should be recorded in detail in the custody record. This information should be made available to a Health Care Professional whenever a referral is made. Although it is not the role of the custody officer to decide what health care intervention is appropriate, it is legitimate to ask what is being considered.

Custody staff should know that there is a difference between a Mental Health Act assessment (which requires a Doctor and an AMHP) and is often the prelude to sectioning an individual under the Mental Health Act and a Mental Health Assessment, usually undertaken by custody health professionals, which is a diagnostic tool that assists medics to identify any mental health illnesses.

### **9.2 Appropriate Adult Provision**

An appropriate adult (see section 2.19.2 – [Appropriate Adults](#) and PACE Code C Note 1G) must be provided even if the HCP does not believe that the detainee's mental state meets the formal definition of experiencing a mental disorder where the custody officer has any doubt about the mental state or capacity of a detainee. The appropriate adult should, as far as practicable, be someone who understands the detainee's mental health condition or learning disability and has the necessary skills to communicate with them.

Where a person under 18 is identified as having mental ill health or learning disabilities or difficulties their interests might be best served by an appropriate adult who is experienced or trained in their care rather than a relative but, if the detainee would prefer a relative, their wishes should be respected if practicable.

### 9.3 Use of Force and Restraining a Detainee who is Suffering Mental Ill Health

A detainee with mental ill health or learning disabilities may suffer fear and disorientation in custody and can may also misinterpret officers intentions (for example, when placing them in a cell). Every effort must be made to engage with and calm a detainee who exhibits signs of mental distress. Where the detainee's demeanour becomes more aggressive, safe containment may be more appropriate than restraint. Restraint may escalate the situation and an individual may suffer an acute behavioural disorder (see sections 4.5 [Acute Behavioural Disturbance](#), 4.8 [Use of Restraint \(physical and mechanical - handcuffs/leg restraints\) in Cells](#), 4.9 [The Prone Position and Positional Asphyxia](#), 4.10 [Reducing the Risk](#) and 4.11 [Excited Delirium](#)).

#### Further information

Faculty of Forensic and Legal Medicine (FFLM) [guidance on managing acute behavioural disturbance](#)

### 9.4 Custody Exit and Aftercare Strategies

Where a person is in custody, they should be subject to a developing risk assessment beginning with a risk assessment being made [at or before the point of arrest](#) through to their release or transfer (see section 4 – [Risk Assessments](#) and, in particular, 4.1.6 - [Pre-release Risk Assessments/Detention Beyond PACE Clock](#)). The detainee should be assessed by a HCP as soon as practicable after their arrival. They should assess whether or not formal Mental Health Assessment is required and advise the custody officer.

Whilst mental ill health and learning difficulties do not preclude prosecution, particularly where the potential offence is serious, custody officers and staff are required to consider options for diverting mentally vulnerable offenders from the criminal justice system towards health and social care ([Home Office circular 66/90](#)). This may involve arranging a Mental Health Assessment which may result in the detainee being admitted as a voluntary or involuntary patient or referral to community health support (see section 2.21 – [Charging Decisions and Out of Court Disposals](#)).

### 9.5 Detention under Section 136 – Mental Health Act 1983

A person detained under section 136 of the Mental Health Act 1983 should be taken directly to a hospital per local force arrangements with the appropriate NHS Trust. A person under 18 years of age must be taken to a hospital.

Changes to the MHA set out in the Policing and Crime Act

Sections 80-83 of the Policing and Crime Act 2017 amend s135/6 MHA in the following ways, with the four highlighted changes having the most significant implications for the NHS:

- Section 136 powers may be exercised anywhere other than in a private dwelling.
- It is unlawful to use a police station as a place of safety for anyone under the age of 18 in any circumstances.
- A police station can only be used as a place of safety for adults in specific circumstances, which are set out in regulations.
- The previous maximum detention period of up to 72 hours will be reduced to 24 hours (unless a doctor certifies that an extension of up to 12 hours is necessary);
- Before exercising a section 136 power police officers must, where practicable, consult a health professional.
- Where a section 135 warrant has been executed, a person may be kept at their home for the purposes of an assessment rather than being removed to another place of safety (in line with what is already possible under section 136);
- A new search power will allow police officers to search persons subject to section 135 or 136 powers for protective purposes.

If a police station is used as a place of safety – under The Mental Health Act 1983

(Places of Safety) Regulations 2017 – the officer must ensure that:

the person's welfare is checked by a healthcare professional at least once every thirty minutes, and any appropriate action is taken for their treatment and care; and so far as is reasonably practicable, a healthcare professional is present and available to the person throughout the period in which they are detained at the police station.

If either of these conditions cannot be met arrangements must be made for the person to be taken to another place of safety.

- The custody officer must review at least hourly whether the circumstances which warranted the use of a police station still exist. If they do not, the person must be taken to another place of safety that is not a police station.
- A person does not however, need to be taken to another place of safety if this would cause a delay in carrying out a Mental Health Act assessment, which would be likely to cause them distress.

Locations in which section 136(1) powers may be applied

There are a number of locations from which a person can now normally be removed to a place of safety under section 136(1)(a), where previously that was not the case or there was confusion as to whether the public had access to the place. These include for example:

- Railway lines
- Hospital wards
- Rooftops (of commercial or business buildings)
- Police stations
- Offices
- Schools
- Gardens and car parks associated with communal residential property
- Non-residential parts of residential buildings with restricted entry

New section 136(1B) enables a police officer to enter any place in which section 136(1) applies (if necessary by force) to remove a person.

The document below published October 2017 gives full guidance of the changes to police powers.

### [Implementing Changes](#)

#### Further Information

[2013 Independent Commission on Mental Health and Policing \(Adebowale Report\)](#)

[NPIA \(2011\) Template protocol for the management of detainees who require hospital treatment](#) (scroll down the page for documents relating to police liaison)

## 9.6 Transportation

Where a detainee is to be admitted to hospital following a mental health assessment or in a medical emergency any transfer should be by ambulance with trained medical supervision unless exceptional or life-threatening circumstances require the use of a police vehicle.

The detainee must be accompanied by:

- [Per Form](#)
- Any Medical Assessment Forms and Medication Forms (where produced) under confidential cover.

Where a person is detained under section [136 of the MHA 1983](#) they should not be transported in police vehicles ([HM Government \(2014\) Mental Health Crisis Care Concordat](#)) except in cases of extreme urgency or where there is a risk of violence. In the latter case, a member of the ambulance crew should accompany the detainee in the police vehicle with an ambulance following behind. At least two staff should accompany the detainee. See section 6.16 – [Medical Emergencies](#).

## 9.7 Force Protocols (s.135, s.136 MHA 1983, conveyance, investigations etc.)

Regional Mental Health



regional mental  
health conveyance po

## 10 Alcohol and Drugs

### 10.1 Under the Influence

The term “drunkenness” has been described as; “affected by alcohol to such an extent that one is without full or proper control of one’s faculties or behaviour.” ([R v Tagg](#) [2001] EWCA Crim. 1230)

Apparent drunkenness may also mask the effects of head injuries, drug abuse or physical or mental ill health and alcohol is itself potentially lethal. An [IPCC study of deaths in custody between 1998/9 and 2008/9](#) found that 72% were linked to alcohol and/or drugs: the detainee had either been arrested for offences relating to alcohol or drugs; were intoxicated or both. The most common reasons for arrest were being drunk and disorderly, drunk and incapable, public order offences, driving offences and drug offences.

Being under the influence of alcohol or drugs must, therefore, be regarded as a significant risk when the custody officer is setting the observation level and other control measures. It should be borne in mind that some detainees may not display any signs or symptoms of impairment and may not appear to be “under the influence” and that some detainees may become more intoxicated due to recent consumption and the effects of absorption after they are booked in.

Where a person appears to be suffering from mental ill health the effects of alcohol and/or drugs this is not a reason for their being refused access to a health based place of safety  
[www.crisiscareconcordat.org.uk](http://www.crisiscareconcordat.org.uk) updated 2017

#### Further Information

[Deaths In or Following Police Custody - IPCC](#)

## 10.2 Drunk and Incapable

If a detainee has consumed alcohol to the point where:

- They cannot walk or stand unaided or
- They are unaware of their own actions or
- They are unable to understand what is being said to them

They should be considered to be drunk and incapable and to be in need of medical assistance. An ambulance should be called immediately and the detainee treated as a medical emergency (see section 6.16 - [Medical Emergencies](#)).

If the detainee refuses medical treatment they should still be taken to hospital and only brought into custody as a last resort. Children and young people must always be transferred to hospital.

#### Further Information

[NPIA \(2011\) Template Protocol for the Management of Detainees who are Intoxicated and Incapable in a Public Place](#) – Police Liaison

## 10.3 Risk assessing detainees under the Influence of Drugs or Alcohol

Where a detainee’s risk assessment establishes that they have **any degree of impairment from drugs or alcohol** which does not amount to Drunk and Incapable, they must be placed on **Level 2 Observations** (see section 6.13.2 [Level 2 – Intermittent Observations](#)) for at least 2 hours as a minimum. All detainees believed to be under the influence of drugs must be seen by a HCP.

If the degrees of intoxication (or other factors) lead to the detainee being placed on [Level 3](#) or [Level 4](#) observations they must still be roused in accordance with [PACE Code C](#) Annex H. This will help ensure that, if they have any underlying medical condition or are affected by recent absorption after being placed in a cell, it is identified as soon as practicable.

A refusal to cooperate when being risk assessed should be treated as an additional risk factor.

## 10.4 HCP Consultation and Medical Emergencies

A HCP must always be consulted if:

- A risk assessment concludes that [Level 3](#) or [Level 4](#) Observations are required
- An evidential breath test registers more than 150 micrograms of alcohol
- The custody officer has concerns about a detainee who has consumed alcohol or drugs and they have been physically restrained
- The detainee experiences an [epileptic seizure](#)
- The detainee shows signs of alcohol withdrawal, especially [delirium tremens](#) (DT's) which can include
  - Hallucinations (auditory, visual or olfactory)
  - Confusion
  - Delusions
  - Severe agitation

If a detainee suffers from a seizure or appears to be suffering from delirium tremens and a HCP is not immediately available the detainee must be transferred to hospital as a medical emergency (see section 6.16 - [Medical Emergencies](#)).

An ambulance must be called (and the assistance of a HCP sought) if:

- The detainee appears to be suffering from [hypothermia](#) (a particular risk in cold weather where persons affected by alcohol or drugs, wearing inappropriate clothing for the conditions, may have spent too long in the cold). Initial symptoms can include:
  - Shivering
  - Tiredness
  - Fast breathing
  - Cold or pale skin
- Progressing to:
  - More violent shivering (which will stop completely as the condition worsens)
  - Delirium
  - Difficulty breathing
  - Difficulty moving
  - Loss of consciousness
- The detainee appears to be suffering from [Hypoglycaemia](#) (which can be caused by binge drinking) which may include:
  - Hunger
  - Trembling or shakiness
  - Sweating



- In more severe cases
  - Confusion
  - Difficulty in concentrating
  - Loss of consciousness

If a detainee is vomiting and they have an impaired level of consciousness they should be transferred to hospital because of the increased risk of choking or their aspirating vomit.

## 10.5 Alcohol consumed but not (or no longer) under the influence

Unless absolutely certain that a detainee who has consumed alcohol or drugs prior to arrival in custody is not affected by it (bearing in mind the potential for further absorption whilst in custody) the detainee should be treated as per section 10.3 - [Risk assessing detainees under the Influence of Drugs or Alcohol](#) and placed on at least [Level 2 Observations and Rouses](#). Increased frequency of visits should always be considered even if rouses are not deemed to be necessary.

Once the effects of intoxication have worn off it will cease to be necessary to rouse the detainee unless there are other medical reasons to continue to do so. The decision for reducing the heightened checks must be based on a current up-to-date risk assessment and must be recorded on the custody record.

## 10.6 Additional Risks and Considerations

The health of a detainee affected by alcohol or drugs may deteriorate more quickly than would be the case if they were not and staff may miss medical issues, particularly when dealing with detainees who are known to have alcohol or drug related issues. The effects of alcohol or drugs may mask [underlying health conditions](#) such as [head injuries](#), [diabetes](#) and heart [disease](#).

A drugs overdose may prove fatal and alcohol is itself a poison which can cause death either through alcohol poisoning or withdrawal. Detainees who appear affected by alcohol may also have taken drugs and the symptoms of an overdose presumed to be alcohol related.

In addition, detainees who are intoxicated, withdrawing from alcohol or drugs or who's alcohol or drug consumption causes them to be problematic are at a heightened risk of self-harm and suicide. They are also more likely to suffer from mental ill-health and other medical conditions.

Not only should PNC checks be conducted to establish if there are any warning markers relating to the detainee's health and self-harm risk but PNC must be updated with new warning markers via the custody system (even where previous ones exist) regarding any issues that have occurred during the current period of detention to assist in the future.

## 10.7 Swallowed or Packed Drugs Packages

A detainee may have concealed drugs internally either as a means of smuggling them into the country or a prison or in order to avoid them being found during a search, for example, if they are stop searched or arrested. Detainees suspected or claiming to have swallowed or packed drugs

should be transferred immediately to hospital without being brought into custody (section 2.2 - [Risk Assessment on Arrest](#)), however, if it only becomes apparent after they arrive at the suite, the detainee should be treated as a [medical emergency](#) (see section 6.16). If a custody record has not been created, one should be opened but the detainee's departure must not be delayed.

### Further information

[NPIA \(2011\) Template Protocol for the Management of Detainees who are Suspected of Swallowing or Having Packed Drugs or Foreign Objects into Body Orifices or Cavities](#)

## 10.8 Drugs Overdose

If a detainee arrives in custody stating that they have taken an overdose or having refused to be taken to hospital to be treated for a suspected overdose, they must be treated as a [medical emergency](#) (see section 6.16). In the latter case, they may have been given Narcan to counter the effects of an opiate overdose and may have a card here in their possession.

Symptoms of a drugs overdose may include:

- Agitation/Anxiety
- Seizures
- Chest pains
- Nausea or Vomiting
- Dilated or Pinprick pupils
- Loss of Consciousness/drowsiness
- Hallucinations
- High temperature/sweating
- Rapid/irregular heartbeat
- Shallow breathing
- Difficulty rousing



## 10.9 Hospital Return (Packers/Swallowers/Over Doses) & Refusal of Treatment

When returned to custody the procedure at 6.17 - [Return from Hospital](#) should be followed. The custody officer should also consider that a detainee who has concealed drugs may still have packages in their body that have not been detected and that there is an on-going risk of deterioration which may come quite suddenly if such a package was to burst.

If, following transportation to hospital, the detainee has refused treatment or was not treated, for either suspected concealed drugs or a drugs overdose, then the procedure described in section 6.18 - [Actions When Treatment Refused](#) should be followed.

**THREAT TO HEALTH NOTIFICATION**

It is suspected by officers that you have swallowed or internally concealed a Class A drug.

Doctor/Nurse (name)..... has examined you and advised that you should attend hospital for a period of assessment and treatment, if required.

The doctor/nurse has explained to you the possible consequences of not taking the medical advice, which may be serious illness or death.

You have declined to accept the medical advice given.

Please sign the declaration below to confirm that you understand the possible outcome should you refuse medical advice.

If at any time whilst you are in police custody you require a doctor/nurse it will be arranged. Your refusal of help at this time will not affect your right to ongoing medical care.

I ..... (Name) confirm that I have been examined by a doctor/nurse called to see me by police officers and been advised to attend hospital.

The consequences of my refusal to accept medical advice has been explained to me.

I am refusing to consent to further medical help at this time>

Signed ..... Date .....

Witness .....

In all cases (unless it has been established medically that the detainee has not or no longer has concealed drugs nor have they taken an overdose) the detainee must be placed on Level 4 Observations with irregular rousing and the immediate attendance of an FME requested to assist with a care plan. Any deterioration in the detainee’s health should be treated as a medical emergency.

Where treatment has been refused the detainee should be asked to sign the custody record confirming, if possible, why they have refused treatment and the detainee should be served with a

Threat to Health Notification (Form G930 or local equivalent – example above). Any refusal to sign the record must be recorded by the custody officer.

**10.10 Intimate and Strip Searches, X-Rays and Ultrasound**

See section 5.12 - Intimate and Strip Searches. In addition, PACE s. 55A allows a detainee to be examined by means of an Ultrasound with their consent and if authorised by an officer of at least inspector rank who believes that the detainee has swallowed a Class A drug AND was in possession of it with intent to supply prior to their arrest. An adverse inference can be drawn from a refusal to consent (see PACE Code C Annex K). X-rays should no longer be performed due to their low specificity. An LDCT scan should be considered/requested.

In the case of those who require an appropriate adult, consent must be given in the presence of the appropriate adult. A juvenile’s consent is only valid if their parent or guardian’s consent is also obtained unless they are under 14 when the parent of guardian’s consent alone is sufficient.

The grounds for the authorisation, the details of the authorising officer and fact that the appropriate consent as above was given should be recorded on the custody record. Where a detainee is not legally represented, they must be reminded of this right and this must be recorded on the record.

The legislation is specific to Class A drugs that have been swallowed. Consequently, the use of Ultrasound to investigate suspected packing or of drugs/items other than Class A drugs that may have been swallowed is not legislated for and any refusal would not lead to an adverse inference, however, the use of the technology is not prohibited where the detainee consents to it.

The advice of a HCP should be sought before any approach is made to a hospital for them to conduct the above procedure.

Nothing in this section will prevent the detainee from being taken to hospital as a medical emergency (as per section 10.7) in relation to swallowed or packed drugs nor will it hinder the treatment the detainee receives at the direction of hospital staff.

The Police and Criminal Evidence Act 1984 (PACE), as amended by the Drugs Act 2005 and the Authorised Professional Practice (APP) from the College of Policing, recommend that an individual is transported straight to hospital as a medical emergency whenever an officer suspects a detainee has concealed drugs.

The detainee will remain under arrest with officers maintaining a close watch to prevent re-swallowing or disposal of the evidence. However, a patient has the right to speak confidentially to a doctor and suitable arrangements, i.e. hospital security, should be available to enable this if the police are asked to leave. Intimate searches are **NOT** recommended as they may be risky and non-specific.

Body stuffers should be observed for **8 hours** post ingestion in A&E or longer if symptomatic. If they refuse treatment they can be observed in A&E (observation units) as they are not being treated until that period is over. Abdominal pain is an indication for transfer back to hospital.

### **10.11 Recovery of Swallowed or Internally Concealed Items**

It is imperative that detainees are prevented from recovering items that they have swallowed or concealed and that evidence is recovered. Where available, the detainee should be placed in a cell fitted with a recovery toilet or, if none is available, a cell without a toilet and disposable toilet pans provided. Whilst handcuffs cannot be used as an alternative to close proximity observations they should be considered as a means of preventing swallowing or re-concealment in conjunction with [Level 4 Observations](#) (see section 4.8 - [Use of Restraint \(physical and mechanical - handcuffs/leg restraints\) in Cells](#)).

Officers recovering Items should wear appropriate PPE and follow up any contact with bodily fluids and waste in accordance with the relevant parts of section 4.13.2 - [Universal Precautions](#). Recovered items should be patted dry with paper towels unless either the packaging is split or damaged or the packaging itself is required for examination to prove it was concealed in a body cavity. Under no circumstances should the recovered item be washed. It should then be sealed in a Tamper proof bag and may be wrapped in further sealed, but not tamper proof bags to contain any odour before being placed in a bio hazard bag.

Exhibit labels stating “unwashed package from internal body cavity” should be attached to the outer bag (to avoid contamination if the inner packaging should break) together with a Bio-Hazard label.

Field tests should not be conducted on items recovered from internal concealment.

The responsibility for the recovery and packaging of such items rests with the police officer or CSI present at the search or when the package is recovered.

The inspector responsible for the station where the detainee is being held must be made aware of the situation and should liaise with the custody officer, SIO and HCP regarding the welfare of the suspect. Any consideration of releasing a detainee from custody where there is a possibility that

they have drugs concealed internally can only be made after careful consideration of the risks and must be fully documented. Not a CSI Matter unless cannot identify who the item came from.

EMSOU advice as of October 2108

## 10.12 Investigation

In all cases where internal concealment or swallowing of drugs is suspected, the Detective Chief Inspector for the Division concerned will be responsible for identifying who will supervise the investigation. In their absence the on duty tactical Detective Inspector will assume responsibility.

## 10.13 Drug and Alcohol Workers

Drug and alcohol workers are available to support detainees and to conduct assessments of those who test positive for Class A drugs following drugs testing. Currently, each force has its own local arrangements with service providers who offer varying degrees of cover and availability, operate their own referral systems and services.

Detainees who test positive for Class A drugs or who require a referral should be supported in line with local arrangements.

# 11 Death or Serious Injury and Successful Interventions

## 11.1 Deaths in Custody

There are five categories described in the [College of Policing APP on Detention and Custody](#) which define a death in custody or death following contact with police with categories 3 and 4 most relevant to this guide:

- **Category 3:** Deaths in or following police custody including deaths that occur while a person is being arrested or taken into detention and deaths of people who have been arrested or detained under the [Mental Health Act \(MHA\) 1983](#). The death may have taken place on police, private or medical premises, in a public place or in a police or other vehicle. This includes:
  - Deaths that occur during or following police custody where injuries that contributed to the death were sustained during the period of detention
  - Deaths that occur in or on the way to hospital (or other medical premises) following or during transfer from scene of arrest or police custody
  - Deaths that occur as a result of injuries or other medical problems that are identified or that develop while a person is in custody
  - Deaths that occur while a person is in police custody having been detained under [section 136](#) of the Mental Health Act 1983 or other related legislation

This does not include:

- Suicides that occur after a person has been released from police custody
- Deaths that occur where the police are called to assist medical staff to restrain individuals who are not under arrest

- **Category 4** – apparent suicides that occur within two days of release from police custody and apparent suicides that occur beyond two days of release from custody where the period spent in custody may be relevant to the subsequent death.

#### **Further Information**

[IPOC report on deaths during or following police contact 2017/18](#)

## **11.2 Deaths and Serious Injuries**

Deaths and serious injuries (DSI) to detainees must be referred to the IOPC ([Schedule 3 of the Police Reform Act 2002](#)). [Section 29](#) of the Act defines a serious injury as being ‘...a fracture, a deep cut, a deep laceration or an injury causing damage to an internal organ or the impairment of any bodily function.’ The latter has been taken by the IOPC to include loss of consciousness. It may not be immediately apparent that an injury is serious or life threatening and, once medical intervention has been provided, the custody officer should make the inspector responsible for the suite aware of the circumstances and actions taken so they can review the situation and steps can be taken to prevent the loss of evidence (see also section 11.4 - [Successful Interventions and/or Adverse Incident](#)).

#### **Further Information**

[IPOC Statutory guidance to the police service on handling complaints, specifically Death and serious injury and Referrals](#)

## **11.3 Actions following a Death or Serious Injury**

### **11.3.1 Initial Response**

The first priority is to ensure that every effort is made to provide medical assistance to the detainee (see section 6.16 - [Medical Emergencies](#)). Immediately following this, or during the process if circumstances permit, the inspector responsible for the station at that time should be informed.

### **11.3.2 Post Initial Response**

The custody officer, in conjunction with the duty inspector (if immediately available), will consider what actions are necessary based on the seriousness, or potential seriousness, of any harm as determined during the initial response and any likely outcome. These actions should not be delayed for the inspector to attend as to do so might jeopardise potential evidence.

The following actions will be a priority:

- Identify all potential scenes and secure as appropriate (as well as any cell or holding area where the detainee may have been, depending upon the circumstances, any vehicle they may have been transported in may also be a scene)
- Identify witnesses/potential witnesses.
- Print the “whiteboard” using the Niche Print > Whiteboard function



- Ensure that the incident and subsequent actions are recorded on the custody record (if not contemporaneously, noting the times when the incident and subsequent actions occurred).
- Commence an incident log/report via the control room and commence a scene log.
- Consider closing the suite (see section 1.10.4 [Emergency / Temporary Closure \(Custody Officer Decision\)](#)) and moving the detainees either to another suite or to another area of a larger suite (ensuring that detainees who may be witnesses are kept separate.)

The duty inspector should review the above actions as soon as practicable (if not already present) and ratify them as appropriate. They should also consider whether or not to relieve any of the custody staff involved although they shouldn't be released from duty until any initial investigative actions have been completed.

### 11.3.3 Less Time Critical Actions

It should be recognised that a death or serious injury in custody will impact on all involved; this includes the family of the detained person and officers/staff involved.

The following actions should be considered as soon as practicable once the time critical actions above have been completed and may take place simultaneously depending upon the situation:

- Inform the Control Room Manager who will agree with the duty Inspector the completion of the following actions
- [APP Steps that should be taken](#)
  - Inform the next of kin of the Death or Serious Injury
  - Inform PSD (by contacting the On Call if out of hours)
  - Inform the Senior CID officer on division and Divisional Commander (or on call) if appropriate.
  - Inform the Head or Deputy Head of custody if appropriate.
  - Activate the PIP procedure. Inform the relevant Police Federation and/or staff association so that they can provide appropriate support to their members.
  - Arrange a debriefing, which should only be conducted after any investigative needs have been met and may only be possible once any investigation is completed.

In a case where a death has occurred, the following actions will be required:

- The custody record must not be closed without PSD authorising it. Once it is known that the detainee is deceased, after any entry regarding those present at the incident and actions taken (and any entries made prior to officers knowing), an entry should be made recording that a scene log is being completed and that the record is now suspended.
- An inspector must attend the scene.
- Identify the last person to see the detainee alive and the person who first saw them deceased and ensure that they are available as witnesses.

- Should the detainee be pronounced dead elsewhere than a hospital or ambulance, the scene should be preserved and the body left in situ for forensic examination as directed by the SIO.
- Any equipment (defibrillators, first aid kits etc.) should be left in-situ as part of the scene preservation until its removal is authorised by the SIO. If equipment has been moved prior to the severity of the situation being recognised, it should be identified and preserved untouched pending recovery by the investigation team.

## 11.4 Successful Interventions and/or Adverse Incident

The [APP](#) defines the terms ‘successful intervention’ and/or ‘adverse incident’ as meaning any incident which, if allowed to continue to its ultimate conclusion, could have resulted in death or serious injury to any person. Such an incident may result in a referral to the IOPC if a potential conduct matter is involved and, although death or serious injury was avoided, the gravity is such that a referral is appropriate ([Schedule 3 of the Police Reform Act 2002](#) section 13). Adverse incidents should be reported to the inspector responsible for the suite as if a DSI had occurred and consideration given to the actions described above for such an event. The inspector will establish to what extent, if any, any investigation is required and that any evidence needed to do this is preserved and that appropriate action has been taken to prevent further harm. They must also ensure that an Adverse Incident Report is submitted by the custody officer involved through the creation of an Occurrence on NICHE and that they record their actions on the inspector’s template as appropriate. Subsequent actions/comments by PSD, the custody manager, the custody chief inspector and, potentially, the head of PSD, will be recorded on the appropriate templates. If the inspector decides that the incident meets the criteria of a [Critical Incident](#) they will be responsible ensuring that the area Silver Commander is informed.

## 11.5 Near Misses

Incidents in custody where the potential outcome is less severe than that of an adverse incident will be classified as a “health and safety near miss” and recorded using the relevant local recording system with the duty inspector responsible for assessing if any further investigation or actions are required.

## 12 Special Category Detainees

The Nottingham Custody Suite has the capacity to house special category detainees in a high security wing whilst maintaining general custody functionality in the remainder of the building. The suite can be used to house detainees who meet the criteria from Leicestershire.

### 12.1 Spontaneous Arrests

Where a spontaneous arrest has been made that requires the provision of high security accommodation the inspector responsible for the Nottingham Custody Suite at that time should be contacted and informed.

As far as practicable, they must be briefed sufficiently to allow them to ensure any necessary control measures are in place and with as much notice as possible to allow them to make the necessary arrangements. If not already at the suite, they should make their way there. If they are unable to do so a custody officer will be required to provide initial assistance. A procedural guide relating to the detention of special category detainee's is located in the Inspector's Office at the Nottingham Custody Suite to assist officers carrying out their duties.

### **12.1.1 Transporting Officers**

The officers transporting the detainee(s) should attend the secure gates to the rear of the Nottingham Custody Suite from where they will be directed to the secure van dock. Once there they will be assisted by custody staff. The officers should be aware that they may have to wait some considerable time before their prisoner can be escorted into the suite.

### **12.1.2 Staffing**

Nottinghamshire Police will provide initially staffing in the case of spontaneous arrests and will continue to do so until any other arrangements take effect.

### **12.2 Planned Arrests**

Liaison at appropriate levels and advance briefing, where practicable, will minimise delays and ensure that the High Security Wing is prepared and staffed in advance of the detainee's arrival. Entry to the suite will be as for spontaneous arrests.

## **12.3 Terrorism Act Detainees**

The Nottingham Custody Suite is the designated police station for all East Midlands detainees arrested under terrorism legislation unless otherwise directed. The high security wing is equipped for this purpose and there are suitably trained staff based at the suite, appropriate guides and documentation. Detainees detained under the legislation must be kept in accordance with [PACE Code H](#) - code of practice in connection with detention, treatment and questioning by police officers under the [Terrorism Act 2000](#).

### **12.3.1 Spontaneous and Planned Arrests – Terrorism Act Detainees**

The procedures described above for spontaneous and planned arrests above should be followed but, in addition, Nottinghamshire control room must also be contacted and made aware of any spontaneous arrest as there are actions that this will trigger.

## **12.4 Operation Safeguard**

### **Introduction**

Prisoners can be accommodated in police accommodation in two sets of circumstances

- Prison Lockouts

These occur in the event that due to time constraints prisoners from courts are unable to be received in the designated prison establishments. 'Lockouts' can arise from a number of factors, including late court sittings, which can compromise the contractors' ability to deliver the prisoner to the appropriate prison establishment prior to the designated reception closure time. The accommodation of such prisoners is usually overnight but can be longer at weekends.

In the event of spontaneous Prison Lockout situations of low numbers, it is normal practice that they are taken to the most convenient custody suite providing they have the operational capacity to receive the prisoners.

- Operation Safeguard

Operation Safeguard is the formal arrangement for the use of police cells to accommodate prisoners when Prison Service accommodation has reached its operational capacity. Prison Population Management Service (PMS) are responsible for the short-term tactical planning of prisoner movements from courts to prisons and are therefore key to driving the activation or deactivation of Safeguard. Decisions on activation and deactivation will be made in conjunction with Prisoner Escorts Management, NPCC and individual forces.

#### Prison Lockouts

In the event of spontaneous Prison Lockout situations of low numbers it is normal practice that they are taken to the most convenient custody suite providing they have the operational capacity to receive the prisoners.

## 13 Orders and Injunctions

### 13.1 Non-Molestation Orders

[Family Law Act 1996, Section 42](#) allows a court to issue a Non-Molestation Order to protect a person associated with the respondent or a relevant child. A breach of a Non-Molestation order issued after the 1<sup>st</sup> of July 2007 is an offence punishable on conviction on indictment to a prison term not exceeding 5 years or on summary conviction 12 months unless the conduct in question has already been dealt with as a contempt of court and similarly contempt proceedings cannot be brought after a person has been convicted of the offence.

The suspect must be aware of the existence of the order when the conduct in question takes place but it need not have been physically served on them. If the order was made ex-parte and they are aware of its existence but have evaded service or made no effort to ascertain its terms, they may still commit an offence.

Custody officers must note that denied EW offences (with few exceptions), offences not suitable for disposal at the Magistrates Court and/or Domestic Offences must be submitted to the CPS for charging advice and should be charged to the appropriate court (unless remanded in custody).

Where the order predates the 1<sup>st</sup> of July 2007, the detainee should be placed before the County Court (where they will be considered for contempt of court) and the record finalized as "to Court Breach of Injunction".

## 13.2 ASBO's, CrASBO's and CBO's

Breach of an Anti-Social Behaviour Order ([ASBO](#)) or a post-conviction Criminal ASBO (CrASBO) replaced from the 20<sup>th</sup> of October 2014 by the Criminal Behaviour Order ([CBO](#)) amounts to an offence punishable on conviction on indictment to a prison term not exceeding 5 years or on summary conviction 6 months. See 13.1 regarding charging considerations and CPS advice.

## 13.3 Anti-Social Behaviour Injunction

[The Crime and Policing Act 2014](#) allows a court to issue an Anti-Social Behaviour Injunction with or without a power of arrest. The person who applied for the injunction may also apply for a warrant to be issued if they believe that the respondent has breached the injunction.

Where a power of arrest is attached to a provision of the injunction, a constable may arrest the respondent without warrant if they have reasonable cause to suspect that the respondent is in breach of the provision and they must inform the person who applied for the injunction.

A person arrested under these circumstances must, within the period of 24 hours beginning with the time of their arrest, be brought before:

- a) A judge of the High Court or a judge of the county court, if the injunction was granted by the High Court;
- b) A judge of the county court, if
  - I. the injunction was granted by the county court, or
  - II. the injunction was granted by a youth court but the respondent is aged 18 or over;
- c) A justice of the peace, if neither paragraph (a) nor paragraph (b) applies.

Where a warrant has been issued by a judge of the High Court the respondent must be brought before that court and, similarly, if by a judge of the county court they must be brought before that court.

A warrant issued by a justice of the peace must require the respondent to be brought before:

- a) The youth court that granted the injunction, if the person is aged under 18;
- b) The county court, if the person is aged 18 or over

A constable who arrests a person under a warrant issued under this section must inform the person who applied for the injunction.

The custody record should be finalised as "to Court Breach of Injunction".

## 13.4 Domestic Violence Protection Notices and Orders

[Section 24 of the Crime and Security Act 2010](#) allows a police Officer of at least superintendent rank to authorise a DVPN to secure the immediate protection of an individual who is believed to be the victim of domestic violence where a suspect who is 18 years old or over and they are not going to be charged with an offence or bailed for further enquiries (in which case remand or conditions are

available). The possibility that a request may be made should be an on-going consideration during the investigation.

Where a DVPN is authorised, the OIC will inform the custody officer and serve the notice on the detainee in accordance with section 25 of the Act. The custody officer should finalise the custody record using the “DVPN” finalisation on Niche.

The OIC is responsible for updating PNC. An application for a DVPO must be heard by the magistrates court within 48 hours (excluding weekends and bank holidays). If the application is adjourned the conditions of the notice will remain in effect.

A person who is believed to have breached a DVPN may be arrested and brought before the magistrate’s court for the hearing of the application for the DVPO (which must take place within 24 hours of the suspect’s arrest disregarding bank holidays, Christmas Day and any Sunday). The court may adjourn the application and remand the suspect.

If a DVPO is issued by the magistrates and the suspect is believed to be in breach, they may be arrested. They must be placed before the court within 24 hours of their arrest (with the same exclusions of bank holidays etc. as above).

#### **Further Advice**

[College of Policing APP – Major Investigations and Public Protection – Domestic Abuse – Arrest and Other Positive Approaches – Domestic Violence Protection Notices and Domestic Violence Protection Orders](#)

### **13.5 Payment of Court Orders, Fines etc.**

Payments of court orders and fines cannot be accepted at police stations and anyone attempting to make payment must follow the directions provided with the order or notice.