

**The following changes are made to the version of Police & Criminal Evidence (Northern Ireland)
Order 1989 - Code E that came into effect on 31 May 2015.**

1. Click on underlined links in the table below to view relevant revised text of the Code.
2. The changes tracked in **green** indicate deletions, and those in **purple** indicate new/revised text.

Item No.	Paragraph	Summary of changes, reason/purpose
1	<u>Commencement</u>	Commencement date to be updated.
2	<u>E1.1</u>	Addition of Appropriate Adults and Solicitors to the list of people who are entitled to access the codes in police stations, for consistency across Codes.
3	<u>E1.2</u>	Paragraph amended to clarify the position regarding Annexes and Notes for Guidance for consistency across the codes.
4	<u>E1.4</u>	Paragraph amended to clarify that suspects interviewed under the Terrorism Act 2000 (TACT) and the National Security Act 2023 (NSA) must be video recorded with sound in accordance with the provisions of the separate Code of Practice issued under the respective legislation.
5	<u>E1.5</u>	Amended to reflect revisions to Code C concerning the definition of vulnerable adult.
6	<u>E1.5A</u>	Amended and extended to point out the safeguards that audio and visual recording of interviews provide for suspects and police.
7	<u>E1.5B</u>	Text moved from previous paragraph <u>E4.1</u> which has now been deleted and replaced.
8	<u>E1.5C</u>	Text moved from previous paragraph <u>E4.2</u> which has now been deleted and replaced.
9	<u>E1.6(a) (i-iii)</u>	New and revised text to define two types of authorised recording device.
10	<u>E1.6(b)</u>	Amended text regarding 'designated person' for consistency with Code C1.12(a).
11	<u>E1.6A</u>	Amendment to paragraph summarising sections 2 to 6 of the code.
12	<u>E1.8</u>	Text amended to reflect wording in <u>E1.7</u> .
13	<u>E1.9</u>	Paragraph amended and extended for references to notebook to include electronic devices and information added regarding the responsibility of the Chief Constable.
14	<u>E1.11</u>	Not used as a consequence of other amendments which deal with the application of the Code to voluntary interviews.
15	<u>E1.12 & Note 1B</u>	Allows interviewers not to disclose name in the interest of personal safety. Text taken from deleted <u>E2.3 & Note 2B</u> .

Item No.	Paragraph	Summary of changes, reason/purpose
		Wording amended to reflect police identification number for consistency across the Codes.
16	<u>E Note 1A</u>	Paragraph amended to clarify scenarios when to consult with sergeant regarding the place or location of the interview.
17	<u>Note 1C</u>	Text moved from previous <u>Note 3D</u> which has now been deleted and replaced.
18	<u>Section 2</u> (Interviews etc. to be audio recorded)	New heading & provisions <u>E2.1</u> to <u>E2.6</u> taken from <u>section 3</u> (Interviews to be audio recorded) <u>E3.1</u> to <u>E3.6</u> and Notes <u>3A</u> to <u>3F</u> which are amended/re-numbered to form a new <u>section 2</u> . Requires audio recording if a device is available and can be used, otherwise a decision made by the 'relevant officer' not to delay the interview and make a written record is required.
19	<u>E2.1</u> and <u>E2.2</u>	Requirement for audio recording of all suspect interviews.
20	<u>E2.3</u>	Allows for a written record to be made if the 'relevant officer' so decides.
21	<u>E2.4</u> and <u>E2.5</u>	New headings. Defines 'relevant officer' and duties of 'relevant officer'.
22	<u>E2.6</u>	New provision that incorporate remote monitoring and safeguards for interviews.
23	<u>Note 2A</u>	Text relocated from <u>Note 3A</u> and amended. Reference to interviews deleted.
24	<u>Note 2B</u>	Text relocated from <u>Note 3B</u> and updated to support and summarise <u>E2.2</u> table in <u>Note 2B</u> .
25	<u>Note 2C</u>	Text relocated from <u>Note 3E</u> .
26	<u>Note 2D</u>	Text relocated from <u>Note 3F</u> with added clarification.
27	<u>Note 2E</u>	New paragraph in relation to delaying voluntary interview to enable recording, supports <u>E2.3(c)</u> .
28	<u>Note 2F</u>	New paragraph with regard to objections, supports <u>E2.3(d)</u> .
29	<u>Section 3</u> (Interview recording using removable recording media device)	Applies to the devices described in <u>E1.6(a)(ii)</u> . New headings and provisions <u>E3.1</u> to <u>E3.37</u> taken from provisions of: <ul style="list-style-type: none"> • <u>section 2</u> paragraph <u>2.2</u> and <u>Note 2A</u>; • <u>section 4</u> (The interview) paras E4.1 to E4.16 and <i>Notes 4A to 4H</i> and <i>6A to 6E</i>; • section 5 (After the interview) paras E5.1 to 5.8 and <i>Note 5A</i>; and • section 6 (Master recording security) paras E6.1 to 6.4 and <i>Notes 6A to 6E</i>. These are amended/re-numbered to form a new section 3.
	<u>E3.18</u>	Taken from previous E4.15 and amended for consistency with the operation of the recording device in question in the event of device failure.
	<u>Notes 3A to 3N</u>	From previous <i>Notes 4A to 4H</i> , <i>5A</i> and <i>6A to 6E</i> with headings added.

Item No.	Paragraph	Summary of changes, reason/purpose
30	E3.1	Additional sentence to clarify working copy.
31	E3.2 , E3.25 , E3.27 , Notes 3G , 3O and 3P , E4.11 , 4.12(c) and Note 4A	Amended pronouns for grammar consistency across the codes.
32	E3.3	Additional text added in relation to the commencement of interviews.
33	E3.4	Additional paragraphs regarding: <ul style="list-style-type: none"> • Copies of records. • Written notice setting out the right to a copy of the recording. • Remote recording.
34	E3.10	Additional text added regarding the relevant officers role with objections / complaints.
35	E3.18	Additional text regarding the resumption of interviews after equipment failure.
36	E3.32 , E4.16 and Note 4A	The term legal representative has been replaced with solicitor for consistency across the codes.
37	E3.35	Addition of 'to visually record the procedure'.
38	Note 3A	Additional text added regarding the interviewer explaining the recording process.
39	Note 3B & 3H	New headings.
40	Note 3D	Wording amended, interviewer has been replaced with 'relevant officer' and 'remember' has been replaced with 'be aware'.
41	Note 3F	Additional text in relation to complaints.
42	Note 3G	The interviewing officer has been replaced with the 'interviewer'.
43	Note 3I	New paragraph in relation to written records of audio files.
44	Note 3J	Addition of the words "copy recordings".
45	Section 4 (Interview recording using secure digital recording network device)	Applies to the devices described in E1.6(a)(iii) . New heading & provisions taken from previous section 7 (Recording of interviews by Secure Digital Network) paras.
46	E4.2	Additional text added regarding the interview location and manufacturer's instructions.
47	E4.3 & E4.4	Paragraph updated regarding obligations of interviewer when starting a recording.
48	E4.5 , E4.6 & E4.7	New headings.
49	E4.9	Taken from previous E7.10 and amended for consistency with the operation of the recording device in question in the event of device failure.
50	E4.12(d)	Taken from previous E7.13(d) and amended for consistency with the operation of the recording device in question for the conclusion of the interview.

Item No.	Paragraph	Summary of changes, reason/purpose
51	E4.13	Additional text regarding recording requirements.
52	E4.15	Amended paragraph to reflect the use of remote network file servers.
53	E4.16	Additional wording added for clarification.
54	Note 4A	Addition of 'identification number, filename or other reference'.
55	Annex	<p>New annex defines the four indictable offence types for which E2.3(c) and 2.4(c)(iii) allow the interviewer as the 'relevant officer', to decide to make a written interview record of a voluntary interview elsewhere than at a police station in accordance with PACE NI Code C, section 11.</p> <p>Uses two conditions, to describe the four types of indictable offence to which the Annex applies. These are possession of cannabis; possession of khat; and certain low value retail theft and criminal damage offences.</p> <p>Part 2 of the Annex sets out the provisions and safeguards applicable to <i>all</i> voluntary interviews by virtue of paragraphs 3.21 to 3.22B of Code C.</p>



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POLICE & CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1989

CODE E

Code of Practice on Audio Recording of Interviews with Suspects

Commencement – Transitional Arrangements

This Code applies to interviews carried out after midnight on **XX Month 2024**, notwithstanding that the interview may have been commenced before that time.

Section 1 General

1.0 The procedures in this Code must be used fairly, responsibly, with respect for the people to whom they apply and without unlawful discrimination on the grounds of religious belief, political opinion, racial group, age, marital status, sexual orientation, gender, and disability.

1.1 This Code of Practice must be readily available for consultation by:

- police officers;
- police staff;
- detained persons;
- appropriate adults;
- solicitors;
- members of the public.

1.2 The Notes for Guidance included are not provisions of this Code. The provisions of this Code:

- Include the Annexes
- do not include the Notes for Guidance, which form guidance to police officers and others about its application and interpretation.

1.3 Nothing in this Code shall detract from the requirements of Code C, the Code of Practice for the detention, treatment and questioning of persons by police officers.

1.4 The interviews to which this Code applies are described in [section 3](#). This Code does not apply to the conduct and recording in Northern Ireland, of:

- interviews of persons detained under section 41 of, or Schedule 7 to, the Terrorism Act 2000 (TACT); or
- interviews of persons detained under section 27 of the National Security Act 2023 (NSA).

Interviews of persons detained under section 41 of, or Schedule 7 to, the TACT, must be video recorded with sound in accordance with the provisions of the separate Code of Practice issued under paragraph 3 of Schedule 8 to the TACT.

Interviews of persons detained under section 27 of the NSA must be video recorded with sound in accordance with the provisions of the separate Code of Practice issued under paragraph 3(2)(a) of Schedule 6 to the NSA.

If, during the course of an interview or questioning under this Code, it becomes apparent that the interview or questioning should be conducted under a separate Code, the interview should only continue in accordance with that Code.

Note: The provisions of this Code and Code F which govern the conduct and recording of interviews do not apply to interviews with, or taking statements from, witnesses.

1.5 The term:

- 'appropriate adult' has the same meaning as in Code C, paragraph 1.7.
- 'vulnerable person' has the same meaning as described in Code C paragraph 1.12(d).
- 'solicitor' has the same meaning as in Code C, paragraph 6.11
- 'interview' has the same meaning as in Code C, paragraph 11.1A.

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

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

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

1.5B (4.1) The provisions of Code C:

- sections 10 and 11, and the applicable Notes for Guidance apply to the conduct of interviews to which this Code applies.
- paragraphs 11.7 to 11.14 apply only when a written record is needed.

1.5C (4.2) Code C, paragraphs 10.10, 10.11 and Annex C describe the restriction on drawing adverse inferences from an arrested suspect's failure or refusal to say anything about their involvement in the offence when interviewed or after being charged or informed they may be prosecuted, and how it affects the terms of the caution and determines if and by whom a special warning under Articles 5 and 6 of the Criminal Evidence (Northern Ireland) Order 1988 (as amended) can be given.

1.6 In this Code:

- (a) in relation to the place where an interview of a suspect to which this Code or (as the case may be) Code F, applies, is conducted and recorded (see Note 1A):

- (i) 'authorised' in relation to the recording devices described in (ii) and (iii), means any such device that the chief officer has authorised interviewers under their direction and control to use to record the interview in question at the place in question, provided that the interviewer in question has been trained to set up and operate the device, in compliance with the manufacturer's instructions and subject to the operating procedures required by the chief officer;
- (ii) (aa) 'removable recording media device' means any recording device which, when set up and operated in accordance with the manufacturer's instructions and the operating procedures required by the Chief Constable, uses removable, physical audio recording medium media (such as magnetic tape, optical disc or solid state memory card) for the purpose of making a clear and accurate, audio recording or (as the case may be) audio-visual recording, of the interview in question which can be played back and copied using that device or any other device. A sign or indicator on the device which is visible to the suspect must show when the device is recording;
- (iii) (c) 'secure digital recording network device' is means a computer network system which enables an original interview recording to be stored as a digital multi media file or a series of such files, on a secure file server which is accredited by the National Accreditor for Police Information Systems in accordance with the UK Government Protective Marking Scheme, see section 7 of this Code recording device which, when set up and operated in accordance with the manufacturer's instructions and the operating procedures required by the Chief Constable, enables a clear and accurate original audio recording or (as the case may be) audio-visual recording, of the interview in question, to be made and stored using non-removable storage, as a digital file or a series of such files that can be securely transferred by a wired or wireless connection to a remote secure network file server system (which may have cloud based storage) which ensures that access to interview recordings for all purposes is strictly controlled and is restricted to those whose access, either generally or in specific cases, is necessary. Examples of access include playing back the whole or part of any original recording and making one or more copies of, the whole or part of that original recording. A sign or indicator on the device which is visible to the suspect must show when the device is recording.
- (b) (a) 'designated person' means a person other than a police officer, who has specified powers and duties conferred or imposed on them by

designation designated under the Police (Northern Ireland) Act 2003, Part 2 who has specified powers and duties of police officers conferred or imposed on them;

- (c) (b) any reference to a police officer includes a designated person acting in the exercise or performance of the powers and duties conferred or imposed on them by their designation.

1.6A Sections 2 to 6 of this Code set out the requirement that an authorised recording device, if available, must be used to record a suspect interview and when such a device cannot be used, it allows a 'relevant officer' (see *paragraph 2.3(c)*) to decide that the interview is to be recorded in writing in accordance with Code C. For detained suspects, the 'relevant officer' is the custody officer and for voluntary interviews, the officer is determined according to the type of offence (indictable or summary only) and where the interview takes place (police station or elsewhere). Provisions in sections 3 and 4 deal with the conduct and recording of interviews according to the type of authorised recording device used. Section 3 applies to removable recording media devices (see *paragraph 1.6(a)(i)*) and section 4 applies to secure digital recording network devices (see *paragraph 1.6(a)(ii)*). The Annex applies when a voluntary interview is conducted elsewhere than at a police station about one of the four offence types specified in the Annex. For such interviews, the relevant officer is the interviewer. procedures and requirements which apply to all interviews together with the provisions which apply only to interviews recorded using removable media. Section 7 sets out the provisions which apply to interviews recorded using a secure digital network and specifies the provisions in sections 2 to 6 which do not apply to secure digital network recording.

1.7 Nothing in this Code prevents the custody officer, or other officer given custody of the detainee, from allowing police staff who are not designated persons to carry out individual procedures or tasks at the police station if the law allows. However, the officer remains responsible for making sure the procedures and tasks are carried out correctly in accordance with these Codes. Any such civilian must be:

- (a) a person employed by the Northern Ireland Policing Board and under the control and direction of the Chief Constable; or
- (b) employed by a person with whom the Northern Ireland Policing Board has a contract for the provision of services relating to persons arrested or otherwise in custody.

1.8 Designated persons and others mentioned in sub-paragraphs (a) and (b) of paragraph 1.7 other police staff must have regard to any relevant provisions of the Codes of Practice.

1.9 References to the officer's official notebook shall include any official report book or electronic device issued to police officers or other police staff that enables a record

required to be made by any provision of this Code (but which is not an audio record to which *paragraph 2.1* applies) to be made and dealt with in accordance with that provision. References in this Code to written records, forms and signatures include electronic records and forms and electronic confirmation that identifies the person making the record or completing the form.

The Chief Constable must be satisfied as to the integrity and security of the devices, records and forms to which this paragraph applies and that use of those devices, records and forms satisfies relevant data protection legislation.

1.10 References to a custody officer include those performing the functions of a custody Officer as in paragraph 1.9 of Code C.

~~1.11 Not used. In the application of this Code to the conduct and recording of an interview of a suspect who has not been arrested:~~

~~(a) references to the 'custody officer' include references to an officer of the rank of sergeant or above who is not directly involved in the investigation of the offence(s);~~

~~(b) if the interview takes place elsewhere than at a police station, references to 'interview room' include any place or location which the interviewer is satisfied will enable the interview to be conducted and recorded in accordance with this Code and where the suspect is present voluntarily (see Note 1A); and~~

~~(c) provisions in addition to those which expressly apply to these interviews shall be followed insofar as they are relevant and can be applied in practice.~~

1.12 Nothing in this Code requires the identity of officers or police staff conducting interviews to be recorded or disclosed if the interviewer reasonably believes recording or disclosing their name might put them in danger. In these cases, the officers and staff should use their police identification number and the name of their police station. Such instances and the reasons for them shall be recorded in the custody record or the interviewer's notebook (See *Note 1B*.)

~~(a) in the case of enquiries linked to the investigation of terrorism, see paragraph 3.2; or~~

~~(b) if the interviewer reasonably believes recording or disclosing their name might put them in danger.~~

~~In these cases interviewers should use their police service identification number and the name of their police station. Such instances and the reasons for them shall be recorded in the custody record or the interviewer's pocket book. See Note 2B.~~

Notes for Guidance

1A *An interviewer who is not sure, or has any doubt, about whether a place or location elsewhere than a police station is suitable for carrying out an interview of a juvenile or vulnerable person, using a particular recording device the suitability of a place or location of an interview to be carried out elsewhere than at a police station, should*

consult an officer of the rank of sergeant or above for advice. See Code C paragraphs 3.21, 3.22 and Note 3I

1B (2B) The purpose of paragraph 2.3(b) 1.12 is to protect those involved in serious organised crime investigations or arrests of particularly violent suspects when there is reliable information that those arrested or their associates may threaten or cause harm to those involved. In cases of doubt, an officer of the rank of inspector or above should be consulted.

1C (3D) Attention is drawn to the provisions set out in Code C about the matters to be considered when deciding whether a detained person is fit to be interviewed.

Section 2 ~~Recording and sealing master recordings~~ Interviews and other matters to be audio recorded under this Code

(A) Requirement to use authorised audio-recording device when available.

2.1 ~~Not used. (3.1)~~ Subject to paragraphs 3.3 and 3.5 2.3, if an authorised recording device (see paragraph 1.6(a)) in working order and an interview room or other location (see Note 1A) suitable for that device to be used, are available, then that device shall be used to record the following matters: 3.3 and 3.5 below audio recording shall be used at a police station for any interview

(a) any interview with a person cautioned under Code C, section 10 in respect of any summary offence or indictable offence, which includes any offence triable either way, when: except where that person has been arrested and the interview takes place elsewhere than at a police station in accordance with Code C paragraph 11.1 for which a written record would be required. See Note 3A.

(i) that person (the suspect) is questioned about their involvement or suspected involvement in that offence and they have not been charged or informed they may be prosecuted for that offence; and

(ii) exceptionally, further questions are put to a person about any offence after they have been charged with, or told they may be prosecuted for, that offence (see Code C, paragraph 16.5 and Note 2C).

(b) when a person who has been charged with, or informed they may be prosecuted for, any offence, is told about any written statement or interview with another person and they are handed a true copy of the written statement or the content of the interview record is brought to their attention in accordance with Code C, paragraph 16.4 and Note 2D which takes place as a result of an interviewer exceptionally putting further questions to a suspect about an offence described in paragraph

3.1(a) after they have been charged with, or told they may be prosecuted for, that offence, see Code C, paragraph 16.5.

- (c) Not used. when an interviewer wants to tell a person, after they have been charged with, or informed they may be prosecuted for, an offence described in paragraph 3.1(a), about any written statement or interview with another person, see Code C, paragraph 16.4

(See [Note 2A](#)).

- 2.2 (3.6) The whole of each of the matters described in [paragraph 2.1](#) interview shall be audio recorded, including the taking and reading back of any statement. One recording, the master recording, will be sealed in the suspect's presence. A second recording will be used as a working copy. The master recording is any of the recordings used by a multi-deck/drive machine or the only recording made by a single deck/drive machine. The working copy is one of the other recordings made by a multi-deck/drive machine or a copy of the master recording made by a single deck/drive machine. See [Note 2A](#).

[This paragraph does not apply to interviews recorded using a secure digital network, see paragraphs 7.4 to 7.6].

- 2.3 A written record of the matters described in [paragraph 2.1\(a\) and \(b\)](#) shall be made in accordance with Code C, section 11, only if;
- (a) an authorised recording device (see [paragraph 1.6\(a\)](#)) in working order is not available; or
 - (b) such a device is available but a location suitable for using that device to make the audio recording of the matter in question is not available; and
 - (c) the 'relevant officer' described in [paragraph 2.4](#) considers on reasonable grounds, that the proposed interview or (as the case may be) continuation of the interview or other action, should not be delayed until an authorised recording device in working order and a suitable interview room or other location become available (see [Note 2E](#)) and decides that a written record shall be made;
 - (d) if in accordance with [paragraph 3.10](#), the suspect or the appropriate adult on their behalf, objects to the interview being audibly recorded and the 'relevant officer' described in [paragraph 2.4](#), after having regard to the nature and circumstances of the objections (see [Note 2F](#)), decides that a written record shall be made;

- (e) in the case of a detainee who refuses to go into or remain in a suitable interview room and in accordance with Code C paragraphs 12.5 and 12.11, the custody officer directs that interview be conducted in a cell and considers that an authorised recording device cannot be safely used in the cell.

Note: When the suspect appears to have a hearing impediment, this paragraph does not affect the separate requirement in paragraphs 3.8 and 4.4 for the interviewer to make a written note of the interview at the same time as the audio recording.

~~Nothing in this Code requires the identity of officers or police staff conducting interviews to be recorded or disclosed:~~

- ~~(a) in the case of enquiries linked to the investigation of terrorism, see paragraph 3.2; or~~
- ~~(b) if the interviewer reasonably believes recording or disclosing their name might put them in danger.~~

~~In these cases interviewers should use their police service identification number and the name of their police station. Such instances and the reasons for them shall be recorded in the custody record or the interviewer's pocket book. See Note 2B.~~

(B) Meaning of 'relevant officer'

2.4 In paragraph 2.3(c):

- (a) if the person to be interviewed is arrested elsewhere than at a police station for an offence and before they arrive at a police station, an urgent interview in accordance with Code C paragraph 11.1 is necessary to avert one or more of the risks mentioned in sub-paragraphs (a) to (c) of that paragraph, the 'relevant officer' means the *interviewer*, who may or may not be the arresting officer, who must have regard to the time, place and urgency of the proposed interview.
- (b) if the person in question has been taken to a police station after being arrested elsewhere for an offence or is arrested for an offence whilst at a police station after attending voluntarily and is detained at that police station or elsewhere in the charge of a constable, the 'relevant officer' means the *custody officer at the station where the person's detention was last authorised*. The custody officer must have regard to the nature of the investigation and in accordance with Code C paragraph 1.1, ensure that the detainee is dealt with expeditiously, and released as soon as the need for their detention no longer applies.

(c) In the case of a voluntary interview (see *Code C paragraph 3.16 to 3.17*) which takes place:

(i) at a police station and the offence in question is an indictable offence, the 'relevant officer' means *an officer of the rank of sergeant or above*, in consultation with the investigating officer.

(ii) at a police station and the offence in question is a summary offence, the 'relevant officer' means *the interviewer* in consultation with the investigating officer if different.

(iii) elsewhere than at a police station and the offence is one of the four indictable offence types which satisfy the conditions in Part 1 of the Annex to this Code, the 'relevant officer' means *the interviewer* in consultation with the investigating officer, if different.

(iv) elsewhere than at a police station and the offence in question is an indictable offence which is not one of the four indictable offence types which satisfy the conditions in Part 1 of the Annex to this Code, the 'relevant officer' means *an officer of the rank of sergeant or above*, in consultation with the investigating officer.

(v) elsewhere than at a police station and the offence in question is a summary only offence, the 'relevant officer' means *the interviewer* in consultation with the investigating officer, if different.

(See *Note 2B – Summary table – relevant officer for voluntary interviews.*)

(C) Duties of the 'relevant officer' and the interviewer

2.5 When, in accordance with *paragraph 2.3*, a written record is made:

(a) the relevant officer must:

(i) record the reasons for not making an audio recording and the date and time the decision in *paragraph 2.3(c)* or (as applicable) *paragraph 2.3(d)* was made; and

(ii) ensure that the suspect is informed that a written record will be made.

(b) the interviewer must ensure that the written record includes:

(i) the date and time the decision in *paragraph 2.3(c)* or (as applicable) *paragraph 2.3(d)* was made, who made it and where the decision is recorded; and

(ii) the fact that the suspect was informed.

(c) the written record shall be made in accordance with Code C, section 11;

(See [Note 2B.](#))

(D) Remote monitoring of interviews

2.6 If the interview room or other location where the interview takes place is equipped with facilities that enable audio recorded interviews to be remotely monitored as they take place, the interviewer must ensure that suspects, their solicitor and any appropriate adults are fully aware of what this means and that there is no possibility of privileged conversations being listened to. With this in mind, the following safeguards should be applied:

(a) The remote monitoring system should only be able to operate when the audio recording device has been turned on.

(b) The equipment should incorporate a light, clearly visible to all in the interview room, which is automatically illuminated as soon as remote monitoring is activated.

(c) Interview rooms and other locations fitted with remote monitoring equipment must contain a notice, prominently displayed, referring to the capacity for remote monitoring and to the fact that the warning light will illuminate whenever monitoring is taking place.

(d) At the beginning of the interview, the interviewer must explain the contents of the notice to the suspect and if present, to the solicitor and appropriate adult and that explanation should itself be audio recorded.

(e) The fact that an interview, or part of an interview, was remotely monitored should be recorded in the suspect's custody record or, if the suspect is not in detention, the interviewer's notebook. That record should include the names of the officers doing the monitoring and the purpose of the monitoring (e.g. for training, to assist with the investigation, etc).

Notes for guidance

- 2A (3A) Nothing in this Code is intended to preclude audio recording at police discretion of interviews at police stations or elsewhere when persons are charged with, or told they may be prosecuted for, an offence or they respond after being so charged or informed. with people cautioned in respect of offences not covered by paragraph 3.1, or responses made by persons after they have been charged with, or told they may be prosecuted for, an offence, provided this Code is complied with.
- 2B (3B) A decision made in accordance with paragraph 2.3 not to audio record an interview for any reason may be the subject of comment in court. The authorising 'relevant officer responsible' should be prepared to justify that decision. The purpose of paragraph 2.3(b) is to protect those involved in serious organised crime investigations or arrests of particularly violent suspects when there is reliable information that those arrested or their associates may threaten or cause harm to those involved. In cases of doubt, an officer of inspector rank or above should be consulted.

Table: Summary of paragraph 2.4(c) – relevant officer for voluntary interviews:

	Location of voluntary interview	Offence type	Relevant Officer
(i)	Police station	Any indictable offence	Sergeant or above ⁺
(ii)	Police station	Any summary only offence	Interviewer ⁺
(iii)	Elsewhere than at a police station	Indictable offence type defined by the Annex	Interviewer ⁺
(iv)	Elsewhere than at a police station	Indictable offence type not defined by the Annex	Sergeant or above ⁺
(v)	Elsewhere than at a police station	Summary only	Interviewer ⁺

⁺ = in consultation with the investigating officer

- 2C (3E) Code C sets out the circumstances in which a suspect may be questioned about an offence after being charged with it.
- 2D (3F) Code C sets out the procedures to be followed when a person's attention is drawn after charge, to a statement made by another person. One method of bringing the content of an interview with another person to the notice of a suspect may be to play them a recording of that interview. The person may not be questioned about the statement or interview record unless this is allowed in accordance with paragraph 16.5 of Code C.

2E A voluntary interview should be arranged for a time and place when it can be audio recorded and enable the safeguards and requirements set out in Code C paragraphs 3.16 to 3.17B to be implemented. It would normally be reasonable to delay the interview to enable audio recording unless the delay to do so would be likely to compromise the outcome of the interview or investigation, for example if there are grounds to suspect that the suspect would use the delay to fabricate an innocent explanation, influence witnesses or tamper with other material evidence.

2F Objections for the purpose of paragraphs 2.3(d) and 3.10 are meant to apply to objections based on the suspect's genuine and honestly held beliefs and to allow officers to exercise their discretion to decide that a written interview record is to be made according to the circumstances surrounding the suspect and the investigation. Objections that appear to be frivolous with the intentions of frustrating or delaying the investigation would not be relevant.

DRAFT

Section 3 Interview recording using *removable recording media device* **Interviews to be audio recorded**

(A) Recording and sealing master recordings – general

- 3.1 ~~(2.2)~~ When using an authorised *removable recording media device* (see paragraph 1.6(a)(i)), one recording, the master recording, will be sealed in the suspect's presence. A second recording will be used as a working copy. The master recording is any of the recordings used by a multi-deck/drive machine or the only recording made by a single deck/drive machine. **The working copy is one of the other recordings made by a multi-deck/drive machine or a copy of the master recording made by a single deck/drive machine.**

The working copy is one of the other recordings made by a multi-deck/drive machine or a copy of the master recording made by a single deck/drive machine. See Note 2A.

[This paragraph does not apply to interviews recorded using a secure digital network, see paragraphs 7.4 to 7.6].

Subject to paragraphs 3.3 and 3.5 below audio recording shall be used at a police station for any interview:

- ~~(a)~~ **with a person cautioned under Code C, section 10 in respect of any indictable offence, which includes any offence triable either way, except where that person has been arrested and the interview takes place elsewhere than at a police station in accordance with Code C paragraph 11.1 for which a written record would be required. See Note 3A.**
- ~~(b)~~ **which takes place as a result of an interviewer exceptionally putting further questions to a suspect about an offence described in paragraph 3.1(a) after they have been charged with, or told they may be prosecuted for, that offence, see Code C, paragraph 16.5.**
- ~~(c)~~ **when an interviewer wants to tell a person, after they have been charged with, or informed they may be prosecuted for, an offence described in paragraph 3.1(a), about any written statement or interview with another person, see Code C, paragraph 16.4**

- 3.2 ~~(2A)~~ The purpose of sealing the master recording **in the suspect's presence is to show the recording's** before it leaves the suspect's presence is to establish **their** confidence that the recording's integrity is preserved. If a single deck/drive machine is used the working copy of the master recording must be made in the suspect's presence and without the master recording leaving their sight. The working copy shall be used for making further copies if needed.

The Terrorism Act 2000 makes separate provision for a Code of Practice for the video recording with sound of interviews of those arrested under Section 41 or detained under Schedule 7 of the Act.

The provisions of this Code do not apply to such interviews. See Note 3C.

(B) Commencement of interviews

- 3.3 ~~(4.3)~~ When the suspect is brought into the interview room or arrives at the location where the interview is to take place, the interviewer shall, without delay but in the suspect's sight, ~~unwrap or open the new recording media,~~ load the recording device with new recording media and set it to record.

~~The recording media must be unwrapped or opened in the suspect's presence.~~

~~[This paragraph does not apply to interviews recorded using a secure digital network, see paragraphs 7.4 and 7.5].~~

~~If the conditions in paragraph 3.3A are satisfied, authority not to audio record an interview to which paragraph 3.1 applies may be given when it is by:~~

- ~~(a) the custody officer in the case of a detained suspect, or~~
- ~~(b) an officer of the rank of sergeant or above in the case of a suspect who has not been arrested and to whom paragraphs 3.16 and 3.17 of Code C (Persons attending a police station or elsewhere voluntarily) apply.~~

- 3.3A ~~Not used.~~ ~~The conditions referred to in paragraph 3.3 are:~~

- ~~(a) it is not reasonably practicable to audio record, or as the case may be, continue to audio record, the interview because of equipment failure or the unavailability of a suitable interview room or recording equipment; and~~
- ~~(b) the authorising officer considers, on reasonable grounds, that the interview or continuation of the interview should not be delayed until the failure has been rectified or until a suitable room or recording equipment becomes available.~~

~~In these cases:~~

- ~~• the interview must be recorded or continue to be recorded in writing in accordance with Code C, section 11; and~~
- ~~• the authorising officer shall record the specific reasons for not audio recording~~

~~and the interviewer is responsible for ensuring that the written interview record shows the date and time of the authority, the authorising officer and where the authority is recorded. See Note 3B.~~

3.4 ~~Not used.~~ (4.4) The interviewer must ~~should tell the suspect about the recording process and~~ point out the sign or indicator which shows that the recording equipment is activated and recording. ~~See paragraph 1.6(a)(i) and shall then:~~

- (a) tell the suspect ~~explain~~ that the interview is being audibly recorded ~~using an authorised removable recording media device and outline the recording process (see Note 3A);~~
- (b) subject to paragraph ~~2.3~~ 1.12, give their name and rank and that of any other interviewer present;
- (c) ask the suspect and any other party present (e.g. the appropriate adult, a solicitor, or interpreter) to identify themselves; ~~(see Note 3A);~~
- (d) state the date, time of commencement and place of the interview;
- (e) ~~state the suspect will be given a notice about what will happen to copies of the recording. [This sub-paragraph does not apply to interviews recorded using a secure digital network, see paragraphs 7.4 and 7.6 to 7.7]. See Note 4A.~~
tell the suspect that:
 - they will be given a copy of the recording of the interview in the event that they are charged or informed that they will be prosecuted but if they are not charged or informed that they will be prosecuted they will only be given a copy as agreed with the police or on the order of a court; and
 - they will be given a written notice at the end of the interview setting out their right to a copy of the recording and what will happen to the recording; and
- (f) if equipment for remote monitoring of interviews as described in paragraph 2.6 is installed, explain the contents of the notice to the suspect, solicitor and appropriate adult as required by paragraph 2.6(d) and point out the light that illuminates automatically as soon as remote monitoring is activated.

3.5 ~~Not used.~~ If a detainee refuses to go into or remain in a suitable interview room, see Code C, paragraph 12.5, and the custody officer considers, on reasonable grounds, that the interview should not be delayed the interview may, at the custody officer's discretion, be conducted in a cell using portable recording equipment or, if none is available, recorded in writing as in Code C, section 11. The reasons for this shall be recorded.

3.6 (4.4A) Any person entering the interview room after the interview has commenced shall be invited by the interviewer to identify themselves for the purpose of the audio recording and state the reason why they have entered the interview room. The whole of each interview shall be audio recorded, including the taking and reading back of any statement.

3.7 (4.5) The interviewer shall:

- caution the suspect, see Code C, section 10; and
- if they are detained remind them of their entitlement to free legal advice, see Code C, paragraph 11.2.

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

3.8 (4.6) The interviewer shall put to the suspect any significant statement or silence; see Code C, paragraph 11.3.

(C) Interviews with suspects who appear to have a hearing impediment

3.9 (4.7) If the suspect appears to have a hearing impediment, the interviewer shall make a written note of the interview in accordance with Code C, at the same time as audio recording it in accordance with this Code. (See Notes 43B and 43C.)

(D) Objections and complaints by the suspect

3.10 (4.8) If the suspect or an appropriate adult on their behalf, objects to the interview being audibly recorded at the outset, during the interview or during a break, the interviewer shall explain that the interview is being audibly recorded and that this Code requires the suspect's objections to be recorded on the audio recording. When any objections have been audibly recorded or the suspect or the appropriate adult have refused to have their objections recorded, the relevant officer shall decide in accordance with paragraph 2.3(d) (which requires the officer to have regard to the nature and circumstances of the objections) whether a written record of the interview or its continuation, is to be made and that audio recording should be turned off. Following a decision that a written record is to be made, the interviewer shall say they are turning off the recorder and shall then make a written record of the interview as in Code C, section 11. If, however, following a decision that a written record is not to be made, the interviewer may proceed to question the suspect with the audio recording still on. This procedure also applies in cases where the suspect has previously objected to the interview being visually recorded, see Code F paragraph 2.7, and the investigating officer has decided to audibly record the interview. (See Notes 2F and 3D.) interviewer shall say they are turning off the recorder, give their reasons and turn it off. The interviewer shall then make a written record of the interview as in Code C, section 11. If, however, the interviewer reasonably considers they may

proceed to question the suspect with the audio recording still on, the interviewer may do so. The suspect's attention shall be drawn to the fact that the audio recorder is still operating. This procedure also applies in cases where the suspect has previously objected to the interview being visually recorded, see Code F, paragraph 4.8, and the investigating officer has decided to audibly record the interview. See Note 4D

- 3.11 (4.9) If in the course of an interview a complaint is made by or on behalf of the person being questioned concerning the provisions of this or any other Codes, or if it comes to the interviewer's notice that the person may have been treated improperly, the interviewer shall act as in Code C, paragraph 12.9. (See Notes 43E and 43F.)
- 3.12 (4.10) If the suspect indicates they want to tell the interviewer about matters not directly connected with the offence of which they are suspected and they are unwilling for these matters to be audio recorded, the suspect should be given the opportunity to tell the interviewer about these matters after the conclusion of the formal interview.

(E) Changing recording media

- 3.13 (4.11) When the recorder shows the recording media have only a short time left to run, the interviewer shall so inform the person being interviewed and round off that part of the interview. If the interviewer leaves the room for a second set of recording media, the suspect shall not be left unattended. The interviewer will remove the recording media from the recorder and insert the new recording media which shall be unwrapped or opened in the suspect's presence. The recorder should be set to record on the new media. To avoid confusion between the recording media, the interviewer shall mark the media with an identification number immediately after it is removed from the recorder.
- [This paragraph does not apply to interviews recorded using a secure digital network as this does not use removable media, see paragraphs 1.6(c), 7.4 and 7.14 to 7.15.]

(F) Taking a break during interview

- 3.14 (4.12) When a break is taken, the fact that a break is to be taken, the reason for it and the time shall be recorded on the audio recording.
- 3.15 (4.12A) When the break is taken and the interview room vacated by the suspect, the recording media shall be removed from the recorder and the procedures for the conclusion of an interview followed. See paragraph 3.20. 4-18.
- 3.16 (4.13) When a break is a short one and both the suspect and an interviewer remain in the interview room, the recording may be stopped. There is no need to remove the recording media and when the interview recommences the recording should continue

on the same recording media. The time the interview recommences shall be recorded on the audio recording.

- 3.17 (4.14) After any break in the interview the interviewer must, before resuming the interview, remind the person being questioned of their right to legal advice if they have not exercised it and that they remain under caution or, if there is any doubt, give the caution in full again. (See Note 4.3G.)

[Paragraphs 4.12 to 4.14 do not apply to interviews recorded using a secure digital network, see paragraphs 7.4 and 7.8 to 7.10.]

(G) Failure of recording equipment

- 3.18 (4.15) If there is an equipment failure which can be rectified quickly, e.g. by inserting new recording media, the interviewer shall follow the appropriate procedures as in paragraph 3.13 4.11. When the recording is resumed the interviewer shall explain what happened and record the time the interview recommences. If, however, it will not be possible to continue recording using the same recording device or by using a replacement device, the interview should be audio-recorded using a secure digital recording network device as in paragraph 4.1, if the necessary equipment is available. If it is not available, the interview may continue and be recorded in writing in accordance with paragraph 2.3 as directed by the 'relevant officer'. (See Note 3H).

(A) recording on that recorder and no replacement recorder is readily available, the interview may continue without being audibly recorded. If this happens, the interviewer shall seek the authority as in paragraph 3.3 of the custody officer, or as applicable, a sergeant or above. See Note 4I.

(B) [This paragraph does not apply to interviews recorded using a secure digital network, see paragraphs 7.4 and 7.11.]

(H) Removing recording media from the recorder

- 3.19 (4.16) Recording media which is removed from the recorder during the interview, shall be retained and the procedures in paragraph 3.13 4.13 followed.

[This paragraph does not apply to interviews recorded using a secure digital network as this does not use removable media, see 1.6(c), 7.4 and 7.14 to 7.15.]

(I) Conclusion of Interview

- 3.20 (4.17) At the conclusion of the interview, the suspect shall be offered the opportunity to clarify anything they have said and asked if there is anything they want to add.

- 3.21 (4.18) At the conclusion of the interview, including the taking and reading back of any written statement, the time shall be recorded and the recording shall be stopped. The interviewer shall seal the master recording with a master recording

label and treat it as an exhibit in accordance with police general orders. The interviewer shall sign the label and ask the suspect and any third party present during the interview to sign it. If the suspect or third party refuse to sign the label an officer of at least the rank of inspector who is not involved in the investigation, or if not available the custody officer, or if the suspect has not been arrested, a sergeant shall be called into the interview room and asked, subject to paragraph [1.12 2-3](#), to sign it.

3.22 [\(4.19\)](#) The suspect shall be handed a notice which explains:

- (i) how the audio-recording will be used;
- (ii) the arrangements for access to it;
- (iii) that if they are charged or informed they will be prosecuted; a copy of the audio recording shall be supplied as soon as practicable or as otherwise agreed between the suspect and the police or on the order of a court.

[\[Paragraphs 4.17 to 4.19 do not apply to interviews recorded using a secure digital network, see paragraphs 7.4 and 7.12 to 7.13\]](#)

(J) After the interview

3.23 [\(5.1\)](#) The interviewer shall make a note in their official notebook that the interview has taken place and that it was audibly recorded, the time it commenced, its duration and the date and identification number of the master recording ([see Note 3J](#)).

3.24 [\(5.2\)](#) If no proceedings follow in respect of the person whose interview was recorded the recording media must be kept securely in accordance with paragraph [3.23 6.4](#) and Note [3J 6A](#).

[\[Paragraphs 5.1, 5.2 and Note 5A do not apply to interviews recorded using a secure digital network, see paragraphs 7.4 and 7.14 to 7.15\]](#)

3.25 [\(5.3\)](#) Subject as mentioned at paragraph [5.6 3.27](#), where criminal proceedings do follow or are under consideration the interviewing officer shall prepare or have prepared on [their his](#) behalf a summary of the interview which shall be signed by the interviewing officer. (See Note [3O](#).)

3.26 [\(5.4\)](#) Any written statement of evidence prepared by the interviewing officer in relation to what took place at the interview shall refer to the fact that the interview was audio-recorded and refer to the master recording as an exhibit to the statement.

- 3.27 (5.5) Subject to paragraph 5.6 3.28, the summary of interview shall be exhibited to any written statement of evidence prepared by the interviewing officer at paragraph 5.4 3.25. If the summary of interview is prepared by a person other than an interviewing officer, the interviewing officer must check that the summary is correct before they he signs it and their his written statement must contain a reference to the fact that they have he has been shown the summary, checked it, found it to be correct and signed it.
- 3.28 (5.6) The Chief Constable or, where applicable, the Public Prosecution Service may direct that, in circumstances which they shall specify, a summary of interview will not be required to be included in files submitted for the decision of the District Commander or, where applicable, the Public Prosecution Service. Accordingly, where the specified circumstances arise, paragraphs 5.3 3.24 and 5.5 3.26 shall not apply unless the District Commander or, where applicable, the Public Prosecution Service after receipt of the file directs that a summary of interview be prepared in that individual case.
- 3.29 (5.7) The court shall be made aware of any transcription of the audio recorded interview which has been made.
- 3.30 (5.8) Reference to the Public Prosecution Service in this part of the Code shall be taken to include any other body or person, other than police, with a statutory responsibility for prosecution to whom the police report the investigation of any criminal offence.

(K) Master Recording security

(i) General

3.31 (6.1) The officer in charge of each police station at which interviews with suspects are recorded, or as the case may be, where recordings of interviews carried out elsewhere than at a police station are held, shall make arrangements for master recordings to be kept securely and their movements accounted for on the same basis as material which may be used for evidential purposes, in accordance with police service orders. (See Note 3J). 6A.

(ii) (B) Breaking master recording seal for criminal proceedings

3.32 (6.2) An officer has no authority to break the seal on a master recording which is required for criminal trial or appeal proceedings. If it is necessary to gain access to the master recording, the officer shall arrange for its seal to be broken in the presence of a representative of the Public Prosecution Service. The defendant or their solicitor legal adviser should be informed and given a reasonable opportunity to be present. If the defendant or their solicitor legal representative is present they shall be invited to

re-seal and sign the master recording. If either refuses or neither is present this should be done by the representative of the Public Prosecution Service. (See Notes [3K](#) [6B](#) and [3L](#) [6C](#).)

(iii) Breaking master recording seal: other cases

- 3.33 [6.3](#) The Chief Constable is responsible for establishing arrangements for breaking the seal of the master copy where no criminal proceedings result, or the criminal proceedings to which the interview relates, have been concluded and it becomes necessary to break the seal. These arrangements should be those which the Chief Constable considers is reasonably necessary to demonstrate to the person interviewed and any other party who may wish to use or refer to the interview record that the master copy has not been tampered with and that the interview record remains accurate. (See Note [3M](#) [6D](#).)
- 3.34 [6.3A](#) Subject to paragraph [3.36](#) [6.3C](#), a representative of each party must be given a reasonable opportunity to be present when the seal is broken and the master recording copied and re-sealed.
- 3.35 [6.3B](#) If one or more of the parties is not present when the master copy seal is broken because they cannot be contacted or refuse to attend or paragraph [3.36](#) [6.6](#) applies, arrangements should be made for an independent person such as a custody visitor, to be present. Alternatively, or as an additional safeguard, arrangement should be made [to visually record the procedure for a film or photographs to be taken of the procedure.](#)
- 3.36 [6.3C](#) Paragraph [3.35](#) [6.3A](#) does not require a person to be given an opportunity to be present when;
- (a) it is necessary to break the master copy seal for the proper and effective further investigation of the original offence or the investigation of some other offence; and
 - (b) the officer in charge of the investigation has reasonable grounds to suspect that allowing an opportunity might prejudice any such an investigation or criminal proceedings which may be brought as a result or endanger any person. (See Note [3N](#) [6E](#).)

(iv) Documentation

- 3.37 [6.4](#) When the master recording seal is broken, a record must be made of the procedure followed, including the date, time, place and persons present.

[This section \(paragraphs 6.1 to 6.4 and Notes 6A to 6C\) does not apply to interviews recorded using a secure digital network, see paragraphs 7.4 and 7.14 to 7.15\]](#)

Notes for guidance

Commencement of interviews

3A ~~(4A)~~ When outlining the recording process, the interviewer should refer to paragraph 1.6(a)(ii) and (iii) and briefly describe how the recording device being used is operated and how recordings are made. For the purpose of voice identification the interviewer should ask the suspect and any other people present to identify themselves.

~~3A Nothing in this Code is intended to preclude audio recording at police discretion of interviews at police stations or elsewhere with people cautioned in respect of offences not covered by paragraph 3.1, or responses made by persons after they have been charged with, or told they may be prosecuted for, an offence, provided this Code is complied with.~~

Interviews with suspects who appear to have a hearing impediment (paragraph 3.9)

3B ~~(4B)~~ This provisions is to give a person who is deaf or has impaired hearing equivalent rights of access to the full interview records as far as this is possible using audio recording.

~~3B A decision not to audio record an interview for any reason may be the subject of comment in court. The authorising officer should be prepared to justify that decision.~~

3C ~~(4C)~~ The provisions of Code C on interpreters for suspects who do not appear to speak or understand English, or who appear to have a hearing or speech impediment, continue to apply.

Objections and complaints by the suspect (paragraph 3.10)

3D ~~(4D)~~ The ~~interviewer~~ relevant officer should ~~remember~~ be aware that a decision to continue recording against the wishes of the suspect may be the subject of comment in court.

3E ~~(4E)~~ If the custody officer, or in the case of a person who has not been arrested, a sergeant, is called to deal with the complaint, the recorder should, if possible, be left on until the custody officer has entered the room and spoken to the person being interviewed. Continuation or termination of the interview should be at the interviewer's discretion pending action by an inspector under Code C, paragraph 9.2.

~~3E Code C sets out the circumstances in which a suspect may be questioned about an offence after being charged with it.~~

3F ~~(4F)~~ If the complaint is about a matter not connected with this Code or Code C, the decision to continue is at the interviewer's discretion. When the interviewer decides to

continue the interview, they shall tell the suspect that at the conclusion of the interview, the complaint will be brought to the attention of the custody officer, or in the case of a person who has not been arrested, a sergeant. ~~the complaint will be brought to the custody officer's attention at the conclusion of the interview.~~ When the interview is concluded the interviewer must, as soon as practicable, inform the custody officer about the existence and nature of the complaint made.

~~3F Code C sets out the procedures to be followed when a person's attention is drawn after charge, to a statement made by another person. One method of bringing the content of an interview with another person to the notice of a suspect may be to play them a recording of that interview.~~

- 3G ~~(4G)~~ In considering whether to caution again after a break in an interview, the interviewer interviewing officer should bear in mind that ~~he~~ they may have to satisfy a court that the suspect understood ~~they were~~ ~~he was~~ still under caution when the interview resumed. The interviewer should also remember that it may be necessary to show to the court that nothing occurred during a break or between interviews which influenced the suspect's recorded evidence. After a break or at the beginning of a subsequent interview, the interviewer should consider summarising on the record the reason for the break and confirming this with the suspect.

Failure of recording equipment (paragraph 3.18)

- 3H ~~(4H)~~ Where the interview is being recorded and the media or the recording equipment fails, the interviewer should stop the interview immediately. Where part of the interview is unaffected by the error and is still accessible on the media, that part shall be copied and sealed in the suspect's presence as a master copy and the interview recommenced using new equipment / media as required. Where the content of the interview has been lost in its entirety the media should be sealed in the suspect's presence and the interview begun again. If the recording equipment cannot be fixed or no replacement is immediately available, subject to paragraph 2.3, the interview should be recorded in accordance with Code C, section 11.
- 3I Any written record of an audio recorded interview should be made in accordance with PSNI guidelines for police officers and police staff concerned with the preparation, processing and submission of files to the Public Prosecution Service.

Master Recording security (paragraphs 3.31 to 3.37)

- 3J ~~(6A)~~ This section is concerned with the security of the master recording sealed at the conclusion of the interview. Care must be taken of working ~~copies of recordings~~ copy recordings because their loss or destruction may lead unnecessarily to the need to access master recordings.

Breaking master recording seal for criminal proceedings (paragraph 3.32)

- 3K (6B) If the master recording has been delivered to the court for their keeping the public prosecutor will apply to the official appointee of the appropriate court for its release for unsealing by the public prosecutor.
- 3L (6C) Reference to the Public Prosecution Service in this part of the Code shall be taken to include any other body or person, other than police, with a statutory responsibility for the proceedings for which the police recorded interview is required.

Breaking master recording seal: other cases (paragraphs 3.33 to 3.36)

- 3M (6D) The most common reasons for needing access for master copies that are not required for criminal proceedings arise from civil actions and complaints against police and civil actions between individuals arising out of allegations of crime investigated by police.
- 3N (6E) Paragraph 3.36(b) could apply, for example, when one or more of the outcomes or likely outcomes of the investigation might be;
- (i) the prosecution of one or more of the original suspects;
 - (ii) the prosecution of someone previously not suspected, including someone who was originally a witness, and
 - (iii) any original suspect being treated as a prosecution witness and when premature disclosure of any police action, particularly through contact with any parties involved, could lead to a real risk of compromising the investigation and endangering witnesses.

General

- 3O (5A) Prior to preparing the summary of the interview or to checking a summary of interview which has been prepared on their his behalf by another person, the interviewing officer may refresh their his memory by listening to the working copy of the audio recording.
- 3P (5B) A person preparing a summary of interview on behalf of the interviewing officer shall be a police officer, or other person who has received appropriate training in the preparation of summaries of interview. They He should prepare the summary after listening to the audio recording and if necessary after consultation with the interviewing officer.

3Q (5C) *The summary of interview shall be prepared on the basis that it shall be exhibited to the interviewing officer's statement of evidence and that it will be used for the following purposes:*

- (i) *to enable the District Commander or the Public Prosecution Service to make informed decisions about the case on the basis of what was said at the interview;*
- (ii) *for use pursuant to any rule of law permitting the admission of written statements as evidence in court (for example Article 33 of the Magistrates' Courts (Northern Ireland) Order 1981);*
- (iii) *where applicable, for use as a basis for the conduct of the case by the prosecution, the defence and the court without the necessity for the master recording to be played in court.*

The summary shall, therefore, comprise a balanced account of the interview, including points in mitigation and/or defence made by the suspect. Where an admission is made the question as well as the answer containing the admission shall be recorded verbatim in the summary. Care should be taken to bring to the attention of the District Commander and/or Public Prosecution Service, by means of a covering report, any material on the recording which might be regarded by a court as prejudicial or inadmissible.

[This section (Paragraphs 5.1 to 5.8 3.25 to 3.30 and Notes 5A to 5C 30 to 3Q do not apply to interviews recorded using a secure digital network, see section 4 paragraphs 7.4 and 7.14 to 7.15]

Section 4 The Interview 7. Recording of Interviews Recording using Secure Digital Recording Network Device

(A) General

4.1 (7.1) An authorised secure digital recording network device (see paragraph 1.6(a)(iii)) does not use removable media and this section specifies the provisions which will apply when such a device a secure digital network is used. For ease of reference, it repeats in full some of the provisions of section 3 that apply to both types of recording device.

(B) Commencement of Interview

4.2 (7.5) When the suspect is brought into the interview room, or arrives at the location where the interview is to take place, the interviewer shall without delay and in the sight of the suspect, switch on the recording equipment and in accordance with the manufacturer's instructions enter the information necessary to log on to the secure network and start recording.

4.3 (7.6) The interviewer must then inform the suspect that the interview is being recorded using a secure digital network and that recording has commenced.

(7.7) In addition to the requirements of paragraph 4.4 (a) to (d) above the interviewer must inform the person that:

- they will be given access to the recording of the interview
- in the event that they are charged or informed that they will be prosecuted but if they are not charged or informed that they will be prosecuted they will only be given access as agreed with the police or on the order of a court; and
- they will be given a written notice at the end of the interview setting out their rights to access the recording and what will happen to the recording.

The interviewer must point out the sign or indicator which shows that the recording equipment is activated and is recording (see paragraph 1.6(a)(iii)) and shall then:

(a) tell the suspect that the interview is being audibly recorded using an authorised *secure digital recording network device* and outline the recording process (see Note 3A);

(b) subject to paragraph 1.12, give their name and rank and that of any other interviewer present;

(c) ask the suspect and any other party present, e.g. the appropriate adult, a solicitor or interpreter, to identify themselves (see [Note 3A](#));

(d) state the date, time of commencement and place of the interview; and

(e) inform the person that:

- they will be given access to the recording of the interview in the event that they are charged or prosecuted but if they are not charged or prosecuted, they will only be given access as agreed with the police or on the order of a court; and
- they will be given a written notice at the end of the interview setting out their rights to access the recording and what will happen to the recording.

(f) If equipment for remote monitoring of interviews as described in paragraph [2.6](#) is installed, explain the contents of the notice to the suspect, solicitor and appropriate adult as required by paragraph [2.6\(d\)](#) and point out the light that illuminates automatically as soon as remote monitoring is activated.

4.4 Paragraphs [3.6](#) to [3.8](#) apply.

(C) Interviews with suspects who appear to have a hearing impediment

4.5 Paragraph [3.9](#) applies.

(D) Objections and complaints by the suspect

4.6 Paragraphs [3.10](#), [3.11](#) and [3.12](#) apply.

(E) Changing recording media

4.11 When the recorder shows the recording media have only a short time left to run, the interviewer shall so inform the person being interviewed and round off that part of the interview. If the interviewer leaves the room for a second set of recording media, the suspect shall not be left unattended. The interviewer will remove the recording media from the recorder and insert the new recording media which shall be unwrapped or opened in the suspect's presence. The recorder should be set to record on the new media. To avoid

confusion between the recording media, the interviewer shall mark the media with an identification number immediately after it is removed from the recorder.

[This paragraph does not apply to interviews recorded using a secure digital network as this does not use removable media, see paragraphs 1.6(c), 7.4 and 7.14 to 7.15.]

(E) Taking a break during interview

4.7 (7.8) When a break is taken, the fact that a break is to be taken, the reason for it and the time shall be recorded on the audio recording. The recording shall be stopped and the procedures in paragraphs 7.12 4.11 and 7.13 4.12 for the conclusion of an interview followed.

4.8 (7.9) When the interview recommences the procedures in paragraphs 7.5 to 7.7 4.2 and 4.3 for commencing an interview shall be followed to create a new file to record the continuation of the interview. The time the interview recommences shall be recorded on the audio recording.

4.9 (7.10) After any break in the interview the interviewer must, before resuming the interview, remind the person being questioned of their right to legal advice if they have not exercised it and that they remain under caution or, if there is any doubt, give the caution in full again. (See Note 4 3G.)

(F) Failure of recording equipment

4.10 (7.11) If there is an equipment failure which can be rectified quickly, e.g. by commencing a new secure digital network recording using the same device or a replacement device, the interviewer shall follow the appropriate procedures as in paragraphs 7.8 4.7 to 7.10 4.9 (Taking a break during interview). When the recording is resumed the interviewer shall explain what happened and record the time the interview recommences. If, however, it is not possible to continue recording on the same device or by using a replacement device, the secure digital network the interview should be audio-recorded on removable media as in paragraph 3.3, if the necessary equipment is available. If it is not available, paragraph 4.3 unless the necessary equipment is not available. If this happens the interview may continue and be recorded in writing in accordance with paragraph 2.3 as directed by the 'relevant officer'. (See Note 3H.) may continue without being audibly recorded and the interviewer shall seek the custody officer's authority as in paragraph 3.3. See Note 4H.

(G) Conclusion of interview

4.11 (7.12) At the conclusion of the interview, the suspect shall be offered the opportunity to clarify anything he or she has they have said and asked if there is anything they want to add.

4.12 (7.13) At the conclusion of the interview, including the taking and reading back of any written statement:

- (a) the time shall be orally recorded
- (b) the suspect shall be handed a notice (see [Note 7.4A](#)) which explains:
 - how the audio recording will be used;
 - the arrangements for access to it; and
 - that if they are charged or informed that they will be prosecuted, they will be given access to the recording of the interview either electronically or by being given a copy on removable recording media, but if they are not charged or informed that they will be prosecuted, they will only be given access as agreed with the police or on the order of a court.
- (c) the suspect must be asked to confirm that ~~he or she has~~ they have received a copy of the notice at sub-paragraph (b) above. If the suspect fails to accept or to acknowledge receipt of the notice, the interviewer will state for the recording that a copy of the notice has been provided to the suspect and that ~~he or she has~~ they have refused to take a copy of the notice or has refused to acknowledge receipt.
- (d) the time shall be recorded and the interviewer shall ensure that the interview record is saved to the device in the presence of the suspect and any third party present during the interview and notify them accordingly. The interviewer must then explain that the record will be transferred securely to the remote secure network file server (see paragraph 4.15). If the equipment is available to enable the record to be transferred there and then in the suspect's presence, then it should be so transferred. If it is transferred at a later time, the time and place of the transfer must be recorded. The suspect should then be informed that the interview is terminated. ~~notify the suspect that the recording is being saved to the secure network. The interviewer must save the recording in the presence of the suspect. The suspect should then be informed that the interview is terminated.~~

(H) (F) After the interview

4.12A ~~Not used. When the break is taken and the interview room vacated by the suspect, the recording media shall be removed from the recorder and the procedures for the conclusion of an interview followed. See paragraph 4.18.~~

4.13 (7.14) The interviewer shall make a note in their official notebook that the interview has taken place and that it was audibly recorded, the time it commenced, its duration, the date and identification number, filename or other reference for the recording (see Note 3I). of the original recording.

4.14 (7.15) If no proceedings follow in respect of the person whose interview was recorded, the recordings must be kept securely as in paragraphs 7.16 4.15 and 7.17 4.16. See Note 5A.

(I) Security of secure digital network interview records

4.15 (7.16) Interview record files are stored in read only format on non-removable storage devices, for example, hard disk drives, to ensure their integrity. The recordings are first saved locally on the device before being transferred to the remote network file server system (see paragraph 1.6(a)(iii)). The recording remains on the local device until the transfer is complete. If for any reason the network connection fails, the recording will be transferred when the network connection is restored (see paragraph 4.12(d)). The interview record files are stored in read only form on non-removable storage devices, for example, hard disk drives, to ensure their integrity. to a secure non-removable device before being transferred to the remote network device. If for any reason the network connection fails, the recording remains on the local device and will be transferred when the network connections are restored.

4.16 (7.17) Access to interview recordings, including copying to removable media, must be strictly controlled and monitored to ensure that access is restricted to those who have been given specific permission to access for specified purposes when this is necessary. For example, police officers and prosecution lawyers involved in the preparation of any prosecution case, persons interviewed if they have been charged or informed they may be prosecuted and their solicitors legal representatives.

4.17 Not used. At the conclusion of the interview, the suspect shall be offered the opportunity to clarify anything they have said and asked if there is anything they want to add.

4.18 Not used. 4.18 At the conclusion of the interview, including the taking and reading back of any written statement, the time shall be recorded and the recording shall be stopped. The interviewer shall seal the master recording with a master recording label and treat it as an exhibit in accordance with police general orders. The interviewer shall sign the label and ask the suspect and any third party present during the interview to sign it. If the suspect or third party refuse to sign the label an officer of at least the rank of inspector who is not involved in the investigation, or if not available

the custody officer, or if the suspect has not been arrested, a sergeant shall be called into the interview room and asked, subject to paragraph 2.3, to sign it.

4.19 ~~Not used.~~ 4.19 The suspect shall be handed a notice which explains:

(i) how the audio recording will be used;

(ii) the arrangements for access to it;

(iii) that if they are charged or informed they will be prosecuted; a copy of the audio recording shall be supplied as soon as practicable or as otherwise agreed between the suspect and the police or on the order of a court.

~~[Paragraphs 4.17 to 4.19 do not apply to interviews recorded using a secure digital network, see paragraphs 7.4 and 7.12 to 7.13.]~~

Notes for Guidance

4A ~~(7A)~~ The notice at paragraph ~~7.13~~ 4.12 should provide a brief explanation of the secure digital network and how access to the recording is strictly limited. The notice should also explain the access rights of the suspect, ~~his or her~~ their solicitor's legal representatives, the police and the prosecutor to the recording of the interview. Space should be provided on the form to insert the date and the identification number, filename or other reference file reference number for the interview.

4B ~~Not used.~~ This provision is to give a person who is deaf or has impaired hearing equivalent rights of access to the full interview record as far as this is possible using audio recording.

4C ~~Not used.~~ The provisions of Code C on interpreters for suspects who do not appear to speak or understand English, or who appear to have a hearing or speech impediment, continue to apply.

4D ~~Not used.~~ The interviewer should remember that a decision to continue recording against the wishes of the suspect may be the subject of comment in court.

4E ~~Not used.~~ If the custody officer, or in the case of a person who has not been arrested, a sergeant, is called to deal with the complaint, the recorder should, if possible, be left on until the custody officer has entered the room and spoken to the person being interviewed. Continuation or termination of the interview should be at the interviewer's discretion pending action by an inspector under Code C, paragraph 9.2.

4F ~~Not used.~~ If the complaint is about a matter not connected with this Code or Code C, the decision to continue is at the interviewer's discretion. When the interviewer decides

to continue the interview, they shall tell the suspect the complaint will be brought to the custody officer's attention at the conclusion of the interview. When the interview is concluded the interviewer must, as soon as practicable, inform the custody officer about the existence and nature of the complaint made.

4G **Not used.** In considering whether to caution again after a break in an interview, the interviewing officer should bear in mind that he may have to satisfy a court that the suspect understood he was still under caution when the interview resumed. The interviewer should also remember that it may be necessary to show to the court that nothing occurred during a break or between interviews which influenced the suspect's recorded evidence. After a break or at the beginning of a subsequent interview, the interviewer should consider summarising on the record the reason for the break and confirming this with the suspect.

4H Not used.

4I **Not used.** Where the interview is being recorded and the media or the recording equipment fails. The interviewer should stop the interview immediately. Where part of the interview is unaffected by the error and is still accessible on the media, that part shall be copied and sealed in the suspect's presence as a master copy and the interview recommenced using new equipment / media as required. Where the content of the interview has been lost in its entirety the media should be sealed in the suspect's presence and the interview begun again. If the recording equipment cannot be fixed or no replacement is immediately available the interview should be recorded in accordance with Code C, section 11.

Section 5 After the interview- Not Used

- 5.1 **Not used.** The interviewer shall make a note in their official notebook that the interview has taken place and that it was audibly recorded, the time it commenced, its duration and the date and identification number of the master recording.
- 5.2 **Not used.** If no proceedings follow in respect of the person whose interview was recorded the recording media must be kept securely in accordance with paragraph 6.1 and Note 6A.
- ~~[Paragraphs 5.1, 5.2 and Note 5A do not apply to interviews recorded using a secure digital network, see paragraphs 7.4 and 7.14 to 7.15]~~
- 5.3 **Not used.** Subject as mentioned at paragraph 5.6, where criminal proceedings do follow or are under consideration the interviewing officer shall prepare or have prepared on his behalf a summary of the interview which shall be signed by the interviewing officer. See Note 5A.
- 5.4 **Not used.** Any written statement of evidence prepared by the interviewing officer in relation to what took place at the interview shall refer to the fact that the interview was audio-recorded and refer to the master recording as an exhibit to the statement.
- 5.5 **Not used.** Subject to paragraph 5.6, the summary of interview shall be exhibited to any written statement of evidence prepared by the interviewing officer at paragraph 5.4. If the summary of interview is prepared by a person other than an interviewing officer, the interviewing officer must check that the summary is correct before he signs it and his written statement must contain a reference to the fact that he has been shown the summary, checked it, found it to be correct and signed it.
- 5.6 **Not used.** The Chief Constable or, where applicable, the Public Prosecutions Service may direct that, in circumstances which they shall specify, a summary of interview will not be required to be included in files submitted for the decision of the District Commander or, where applicable, the Public Prosecutions Service. Accordingly, where the specified circumstances arise, paragraphs 5.3 and 5.5 shall not apply unless the District Commander or, where applicable, the Public Prosecutions Service after receipt of the file directs that a summary of interview be prepared in that individual case.
- 5.7 **Not used.** The court shall be made aware of any transcription of the audio recorded interview which has been made.
- 5.8 **Not used.** Reference to the Public Prosecutions Service in this part of the code shall be taken to include any other body or person, other than police, with a statutory

responsibility for prosecution to whom the police report the investigation of any criminal offence.

Notes for guidance – Not Used

- 5A **Not used.** Prior to preparing the summary of the interview or to checking a summary of interview which has been prepared on his behalf by another person, the interviewing officer may refresh his memory by listening to the working copy of the audio recording.
- 5B **Not used.** A person preparing a summary of interview on behalf of the interviewing officer shall be a police officer, or other person who has received appropriate training in the preparation of summaries of interview. He should prepare the summary after listening to the audio recording and if necessary after consultation with the interviewing officer.
- 5C **Not used.** The summary of interview shall be prepared on the basis that it shall be exhibited to the interviewing officer's statement of evidence and that it will be used for the following purposes:
- (i) to enable the District Commander or the Public Prosecutions Service to make informed decisions about the case on the basis of what was said at the interview;
 - (ii) for use pursuant to any rule of law permitting the admission of written statements as evidence in court (for example Article 33 of the Magistrates' Courts (Northern Ireland) Order 1981);
 - (iii) where applicable, for use as a basis for the conduct of the case by the prosecution, the defence and the court without the necessity for the master recording to be played in court.

The summary shall, therefore, comprise a balanced account of the interview, including points in mitigation and/or defence made by the suspect. Where an admission is made the question as well as the answer containing the admission shall be recorded verbatim in the summary. Care should be taken to bring to the attention of the District Commander and/or Public Prosecutions Service, by means of a covering report, any material on the recording which might be regarded by a court as prejudicial or inadmissible.

[This section (paragraphs 5.1 to 5.8 and Notes 5A to 5C do not apply to interviews recorded using a secure digital network, see paragraphs 7.4 and 7.14 to 7.15]

Section 6 Master Recording Security – Not Used

(a) General - Not Used

6.1 **Not used.** The officer in charge of each police station at which interviews with suspects are recorded, or as the case may be, where recordings of interviews carried out elsewhere than at a police station are held, shall make arrangements for master recordings to be kept securely and their movements accounted for on the same basis as material which may be used for evidential purposes, in accordance with police service orders. See Note 6A.

(b) Breaking master recording seal for criminal proceedings – Not Used

6.2 **Not used.** A police officer has no authority to break the seal on a master recording which is required for criminal trial or appeal proceedings. If it is necessary to gain access to the master recording, the police officer shall arrange for its seal to be broken in the presence of a representative of the Public Prosecution Service. The defendant or their legal adviser should be informed and given a reasonable opportunity to be present. If the defendant or their legal representative is present they shall be invited to reseal and sign the master recording. If either refuses or neither is present this should be done by the representative of the Public Prosecution Service. See Notes 6B and 6C.

(c) Breaking master recording seal: other cases- Not Used

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

6.3A **Not used.** Subject to paragraph 6.3C, a representative of each party must be given a reasonable opportunity to be present when the seal is broken and the master recording copied and re-sealed.

6.3B **Not used.** If one or more of the parties is not present when the master copy seal is broken because they cannot be contacted or refuse to attend or paragraph 6.6 applies, arrangements should be made for an independent person such as a custody visitor, to be present. Alternatively, or as an additional safeguard, arrangement should be made for a film or photographs to be taken of the procedure.

6.3C **Not used.** Paragraph 6.3A does not require a person to be given an opportunity to be present when;

~~(a) it is necessary to break the master copy seal for the proper and effective further investigation of the original offence or the investigation of some other offence; and~~

~~(b) the officer in charge of the investigation has reasonable grounds to suspect that allowing an opportunity might prejudice any such an investigation or criminal proceedings which may be brought as a result or endanger any person. See Note 6E.~~

(d) Documentation – Not Used

6.4 ~~Not used. When the master recording seal is broken, a record must be made of the procedure followed, including the date, time, place and persons present.~~

~~[This section (paragraphs 6.1 to 6.4 and Notes 6A to 6C) does not apply to interviews recorded using a secure digital network, see paragraphs 7.4 and 7.14 to 7.15]~~

Notes for guidance – Not Used

6A ~~Not used. This section is concerned with the security of the master recording sealed at the conclusion of the interview. Care must be taken of working copies of recordings because their loss or destruction may lead unnecessarily to the need to access master recordings.~~

6B ~~Not used. If the master recording has been delivered to the court for their keeping the public prosecutor will apply to the official appointee of the appropriate court for its release for unsealing by the public prosecutor.~~

6C ~~Not used. Reference to the Public Prosecution Service in this part of the code shall be taken to include any other body or person, other than police, with a statutory responsibility for the proceedings for which the police recorded interview is required.~~

6D ~~Not used. The most common reasons for needing access to master copies that are not required for criminal proceedings arise from civil actions and complaints against police and civil actions between individuals arising out of allegations of crime investigated by police.~~

6E ~~Not used. Paragraph 6.3C could apply, for example, when one or more of the outcomes or likely outcomes of the investigation might be;~~

~~(i) the prosecution of one or more of the original suspects;~~

~~(ii) the prosecution of someone previously not suspected, including someone who was originally a witness, and~~

(iii) any original suspect being treated as a prosecution witness and when premature disclosure of any police action, particularly through contact with any parties involved, could lead to a real risk of compromising the investigation and endangering witnesses.

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Section 7 Recording of Interviews by Secure Digital Network – Not Used

7.1 **Not used.** A secure digital network does not use removable media and this section specifies the provisions which will apply when a secure digital network is used.

7.2 Not used.

7.3 **Not used.** The following requirements are solely applicable to the use of a secure digital network for the recording of interviews.

(A) Application of sections 1 to 6 of Code E- Not Used

7.4 **Not used.** Sections 1 to 6 of Code E above apply except for the following paragraphs:

- Paragraph 2.2 under “Recording and sealing of master recordings”
- Paragraph 4.3 under “(b) Commencement of interviews”
- Paragraph 4.4 (e) under “(b) Commencement of interviews”
- Paragraphs 4.11 to 4.19 under “(e) Changing recording media”, “(f) Taking break during interview”, “(g) Failure of recording equipment”, “(h) Removing recording media from the recorder” and “(i) Conclusion of interview”; and
- Paragraphs 6.1 to 6.4 and Notes 6A to 6C under “Media security”

(B) Commencement of Interview – Not Used

7.5 **Not used.** When the suspect is brought into the interview room, the interviewer shall without delay and in the sight of the suspect, switch on the recording equipment and enter the information necessary to log on to the secure network and start recording.

7.6 **Not used.** The interviewer must then inform the suspect that the interview is being recorded using a secure digital network and that recording has commenced.

7.7 **Not used.** In addition to the requirements of paragraph 4.4 (a) to (d) above the interviewer must inform the person that:

- they will be given access to the recording of the interview
- in the event that they are charged or informed that they will be prosecuted but if they are not charged or informed that they will be prosecuted they will only be given access as agreed with the police or on the order of a court; and
- they will be given a written notice at the end of the interview setting out their rights to access the recording and what will happen to the recording.

(C) Taking a break during interview – Not Used

7.8 ~~Not used.~~ When a break is taken, the fact that a break is to be taken, the reason for it and the time shall be recorded on the audio recording. The recording shall be stopped and the procedures in paragraphs 7.12 and 7.13 for the conclusion of an interview followed.

7.9 ~~Not used.~~ When the interview recommences the procedures in paragraphs 7.5 to 7.7 for commencing an interview shall be followed to create a new file to record the continuation of the interview. The time the interview recommences shall be recorded on the audio recording.

7.10 ~~Not used.~~ After any break in the interview the interviewer must, before resuming the interview, remind the person being questioned that they remain under caution or, if there is any doubt, give the caution in full again. See Note 4G.

(D) Failure of recording equipment – Not Used

7.11 ~~Not used.~~ If there is an equipment failure which can be rectified quickly, e.g. by commencing a new secure digital network recording, the interviewer shall follow the appropriate procedures as in paragraphs 7.8 to 7.10. When the recording is resumed the interviewer shall explain what happened and record the time the interview recommences. If, however, it is not possible to continue recording on the secure digital network the interview should be recorded on removable media as in paragraph 4.3 unless the necessary equipment is not available. If this happens the interview may continue without being audibly recorded and the interviewer shall seek the custody officer's authority as in paragraph 3.3. See Note 4H.

(E) Conclusion of interview – Not Used

7.12 ~~Not used.~~ At the conclusion of the interview, the suspect shall be offered the opportunity to clarify anything he or she has said and asked if there is anything they want to add.

7.13 ~~Not used.~~ At the conclusion of the interview, including the taking and reading back of any written statement:

~~(a) the time shall be orally recorded~~

~~(b) the suspect shall be handed a notice (see Note 7A) which explains:~~

~~— how the audio recording will be used~~

~~— the arrangements for access to it~~

~~that if they are charged or informed that they will be prosecuted, they will be given access to the recording of the interview either electronically or by being given a copy on removable recording media, but if they are not charged or informed that they will be prosecuted, they will only be given access as agreed with the police or on the order of a court.~~

~~(c) the suspect must be asked to confirm that he or she has received a copy of the notice at sub-paragraph (b) above. If the suspect fails to accept or to acknowledge receipt of the notice, the interviewer will state for the recording that a copy of the notice has been provided to the suspect and that he or she has refused to take a copy of the notice or has refused to acknowledge receipt.~~

~~(d) the time shall be recorded and the interviewer shall notify the suspect that the recording is being saved to the secure network. The interviewer must save the recording in the presence of the suspect. The suspect should then be informed that the interview is terminated.~~

(F) After the interview – Not Used

7.14 **Not used.** ~~The interviewer shall make a note in their official notebook that the interview has taken place and that it was audibly recorded, the time it commenced, its duration, the date and identification number of the original recording.~~

7.15 **Not used.** ~~If no proceedings follow in respect of the person whose interview was recorded, the recordings must be kept securely as in paragraphs 7.16 and 7.17. See Note 5A.~~

(G) Security of secure digital network interview records

7.16 **Not used.** ~~Interview record files are stored in read only format on non-removable storage devices, for example, hard disk drives, to ensure their integrity. The recordings are first saved locally to a secure non-removable device before being transferred to the remote network device. If for any reason the network connection fails, the recording remains on the local device and will be transferred when the network connections are restored.~~

7.17 **Not used.** ~~Access to interview recordings, including copying to removable media, must be strictly controlled and monitored to ensure that access is restricted to those who have been given specific permission to access for specified purposes when this is necessary. For example, police officers and prosecution lawyers, persons interviewed if they have been charged or informed they may be prosecuted and~~

their legal representatives.

Notes for guidance – Not Used

- 7A **Not used.** The notice at paragraph 7.13 above should provide a brief explanation of the secure digital network and how access to the recording is strictly limited. The notice should also explain the access rights of the suspect, his or her legal representative, the police and the prosecutor to the recording of the interview. Space should be provided on the form to insert the date and the file reference number for the interview.

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Paragraph 2.4(c)(iii) – four indictable offence types for which the interviewer may decide to make a written record of a voluntary interview elsewhere than at a police station when an authorised audio recording device cannot be used.

(See Note 3)

Part 1: Four specified indictable offence types – two conditions

1 The **first** condition is that the *indictable* offence in respect of which the person has been cautioned is *one* of the following:

- (a) Possession of a controlled drug contrary to section 5(2) of the Misuse of Drugs Act 1971 if the drug is cannabis as defined by that Act and in a form commonly known as herbal cannabis or cannabis resin (see Note 2);
- (b) Possession of a controlled drug contrary to section 5(2) of the Misuse of Drugs Act 1971 if the drug is khat as defined by that Act (see Note 2);
- (c) Retail theft (shoplifting) contrary to section 1 of the Theft Act (Northern Ireland) 1969 (see Note 3); and
- (d) Criminal damage to property contrary to section 3(1) of the Criminal Damage (Northern Ireland) Act 1977 (see Note 3),

and in this paragraph, the reference to each of the above offences applies to an attempt to commit that offence as defined by section 3 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983.

2 The **second** condition is that:

- (a) where the person has been cautioned in respect of an offence described in paragraph 1(a) or paragraph 1(b), the requirements of paragraphs 3 and 4 are satisfied;
- (b) where the person has been cautioned in respect of an offence described in paragraph 1(c), the requirements of paragraphs 3 and 5 are satisfied; or
- (c) where the person has been cautioned in respect of an offence described in paragraph 1(d), the requirements of paragraphs 3 and 6 are satisfied.

3 The requirements of this paragraph are that:

(i) with regard to the person suspected of committing the offence:

- they appear to be aged 18 or over;
- there is no reason to suspect that they are a vulnerable person for whom an appropriate adult is required (see paragraph 1.5 of this Code);
- they do *not* appear to be unable to understand what is happening because of the effects of drink, drugs or illness, ailment or condition;
- they do *not* require an interpreter in accordance with Code C section 13; and
- in accordance with Code G (Arrest), their arrest is *not* necessary in order to investigate the offence;

(ii) it appears that the commission of the offence:

- has *not* resulted in any injury to any person;
- has *not* involved any realistic threat or risk of injury to any person; and
- has *not* caused any *substantial* financial or material loss to the private property of any individual; and

(iii) the person is not being interviewed about any other offence.

(See Notes 1 and 5.)

4 The requirements of this paragraph are that a police officer who is experienced in the recognition of the physical appearance, texture and smell of herbal cannabis, cannabis resin or (as the case may be) khat, is able to say that the substance which has been found in the suspect's possession by that officer or, as the case may be, by any other officer not so experienced and trained:

(i) is a controlled drug being either herbal cannabis, cannabis resin or khat; and

(ii) the quantity of the substance found is consistent with personal use by the suspect and does not provide any grounds to suspect an intention to supply others.

(See Note 2.)

5 The requirements of this paragraph, are that it appears to the officer:

(i) that the stolen property has been recovered and remains fit for sale unless the items stolen comprised drink or food and have been consumed; and

(iii) that the person suspected of stealing the property is not employed (whether paid or not) by the person, company or organisation to which the property belongs.

(See [Note 1.](#))

6 The requirements of this paragraph are that it appears to the officer:

(i) that the value of the criminal damage does *not exceed* £300; and

(ii) that the person suspected of damaging the property is not employed (whether paid or not) by the person, company or organisation to which the property belongs.

(See [Note 1.](#))

Part 2: Other provisions applicable to all interviews to which this Annex applies

7 Paragraphs 3.16 to 3.19 of Code C set out the responsibilities of the interviewing officer for ensuring compliance with the provisions of Code C that apply to the conduct and recording of voluntary interviews to which this Annex applies. See [Note 4.](#)

8 If it appears to the interviewing officer that before the conclusion of an interview, any of the requirements in *paragraphs 3 to 6 of Part 1* that apply to the offence in question described in *paragraph 1* of Part 1 have ceased to apply; this Annex shall cease to apply. The person being interviewed must be so informed and a break in the interview must be taken. The reason must be recorded in the written interview record and the continuation of the interview shall be audio recorded in accordance with [section 2](#) of this Code. For the purpose of the continuation, the provisions of [paragraphs 3.3](#) and [4.2](#) (Commencement of interviews) shall apply. (See [Note 5.](#))

Notes for Guidance

- 1 *A decision in relation to a particular indictable offence that the conditions and requirements in this Annex are satisfied is an operational matter for the interviewing officer according to all the particular circumstances of the case. These circumstances include the outcome of the officer's investigation at that time and any other matters that are relevant to the officer's consideration as to how to deal with the matter.*
- 2 *Under the Misuse of Drugs Act 1971 as at the date this Code comes into force:*
 - (a) *cannabis includes any part of the cannabis plant but not mature stalks and seeds separated from the plant, cannabis resin and cannabis oil, but paragraph 1(a) applies only to the possession of herbal cannabis and cannabis resin; and*
 - (b) *khat includes the leaves, stems and shoots of the plant.*
- 3 *The power to issue a Penalty Notice for Disorder (PND) for an offence contrary to section 1 of the Theft Act (Northern Ireland) 1969 applies when the value of the goods stolen does not exceed £100 inclusive of VAT. The power to issue a PND for an offence contrary to section 1(1) of the Criminal Damage (Northern Ireland) Act 1977 applies when the value of the damage does not exceed £300.*
- 4 *The provisions of Code C that apply to the conduct and recording of voluntary interviews to which this Annex applies are described in paragraphs 3.16 to 3.19 of Code C. They include the suspect's right to free legal advice, the provision of information about the offence before the interview (see Code C paragraph 11.1A) and the right to interpretation and translation (see Code C section 13). These and other rights and entitlements are summarised in the notice that must be given to the suspect.*
- 5 *The requirements in paragraph 3 of Part 1 will cease to apply if, for example during the course of an interview, as a result of what the suspect says or other information which comes to the interviewing officer's notice:*
 - *it appears that the suspect:*
 - ~ *is aged under 18;*
 - ~ *does require an appropriate adult;*
 - ~ *is unable to appreciate the significance of questions and their answers;*
 - ~ *is unable to understand what is happening because of the effects of drink, drugs or illness, ailment or condition;*
 - ~ *requires an interpreter; or*

- *the police officer decides that the suspect's arrest is now necessary (see Code G).*

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